

Chapter 2

The Supreme Court Orders Desegregation

Although, by the 1950's, some progress had been made, many of the laws and attitudes behind the

Jim Crow laws had not changed significantly. Reliance on 'separate but equal' laws still segregated the races in buses, planes, and trains. Separate drinking fountains and restrooms were still required in Southern states. African-Americans were denied jobs and a place to live because of their race.

Still, there were some small victories. During World War II President Roosevelt ordered the end of job discrimination in factories making goods needed to defeat the enemy. In 1947 Jackie Robinson became the first African-American allowed to play major league baseball, and the color line gradually disappeared in sports. And in 1948, President Truman integrated the armed forces. Even though they were often broken, civil rights laws in northern states made discrimination on the account of race and religion illegal. Nevertheless, almost all African-American children in the South were segregated by the Jim Crow laws sanctioned by the *Plessy v. Ferguson* decision.

A frontal attack on the infamous Plessy decision was made in the field of public education. In carefully chosen cases, building legal precedent after precedent, the NAACP brought the famous case. *Brown v. the Board of Education* to the Supreme Court. In its landmark decision, the Supreme Court, involving four different cases of discrimination in education, ruled that racially segregated schools were "inherently unequal." This chapter tells the story of one small town involved in the case. The town, Summerton, South Carolina, was chosen because it represented racial attitudes and relations typical of the rural south.

Summerton, South Carolina

Summerton was named more than two centuries ago. Plantation owners sent their families there to escape the summer heat of the lowlands along the Santee River. In the 1950's tobacco and cotton were still the main products of Clarendon County as they had been for over a century. African-American sharecroppers and tenants farmed this county as they had since slavery ended. Their two or three room cabins housing families crowded with children dotted the countryside. And their children attended schools separated by race.

Summerton itself was a pleasant town with a population of 1,500. Old homes imitating the pre-Civil War plantation architecture stood side by side with the newer ranch houses. White children played on green lawns where African-American maids watched the younger ones. In the 1940's, whites drove cars into town to shop while black tenant farmers rode into Summerton in their horse-drawn wagons.

Briggs v. Elliot

In the 1940's, Summerton's African-American children attended the Scott Branch School. In one class, 104 youngsters were crowded into the same room. In another class, the children sat in the hall while the teacher taught from the principal's office. The school had no auditorium or facilities for teaching either science or industrial arts. Disgusted by these conditions 107 black parents petitioned the Board of Education to equalize Summerton's black and white schools. The all white school board refused to recognize these inequalities. With the aid of the National Association for the Advancement of Colored People's lawyers, the parents of one student, Harry Briggs, sued the school board that was under the leadership of R.W. Elliot. Briggs charged that the Scott Branch school was inferior and that separate schools for blacks violated the 14th Amendment to the Constitution. The school board admitted that

African-Americans received an inferior education but pleaded lack of funds to improve conditions. Faced with a threat to segregated education, the state of South Carolina came to the rescue of the Jim Crow schools. It financed a statewide construction program paid by a sales tax.

Schools for African-Americans in Summerton were still inferior to white schools five years later, but the differences were much less obvious. The case, *Briggs v. Elliot* was filed again, this time solely on the grounds that separate (even though they might otherwise be equal) schools violated African-American's rights guaranteed by the 14th Amendment.

When the Federal court in Columbia, South Carolina upheld segregation in Summerton. The decision was appealed. The Supreme Court agreed to review the case at the same time it was reviewing similar complaints concerning segregation in Kansas, Virginia, Washington, DC, and Delaware. The Supreme Court's ruling, known as *Brown v. Board of Education of Topeka*, reversed the Plessy decision.

The Origins of the Brown v. Topeka Case

An African-American third grader, Linda Brown had to walk one mile from her house through a dangerous railroad switchyard. Concerned for his daughter's safety, Linda's father petitioned to have her attend an all-white school only seven blocks from her house. When the request was denied, Brown contacted the local NAACP and took his case to court.

Summerton's Case

Summerton's school board hired S. Emory Rogers, a hometown lawyer to defend itself. With the help of two Charleston lawyers, Rogers based his brief for the Supreme Court on the *Plessy v. Ferguson* decision of 1896:

This court recognized in Plessy v. Ferguson that racial segregation is the result of racial feeling. But it wisely understood that segregation cannot be effectively destroyed without destroying its causes, and that those causes cannot be legislated out of existence. Neither can they be removed by court decree. We have learned by bitter and costly experience that a prohibition upon human conduct (such as the 14th Amendment) not acceptable by the people, although perhaps a 'noble experiment,' will inevitably fail.³

"Separate Educational Facilities are Inherently Unequal"

Chief Justice of the Supreme Court, Earl Warren, knew that his decision in this case would cause a storm wave of protest throughout the South. So he did his best to make sure that he had the entire Supreme Court behind him before writing his opinion. The decision itself, announced on May 17, 1954, made Warren the most hated man in the South.

In his famous opinion in *Brown v. Board of Education*, Warren declared that even if physical facilities were equal as far as measurable qualities were concerned (books, labs, classrooms) segregation deprives African-Americans children of equal protection under the law. The reason is that segregation implies inferiority. This affects the child's motivation and ability to learn:

To separate them from others of similar age and qualifications solely because of their race, generates a feeling of inferiority as to their status in the community that may affect their *hearts and minds* [emphasis added] in a way unlikely to ever be undone.⁴

³ quoted in John Barlow Martin, *The Deep South Says "Never,"* New York, 1957, pp. 48-49.

⁴ 347 U.S. 491-92

Warren concluded that separate schools for blacks and whites could never be equal schools:

We conclude that in the field of public education the doctrine of "separate but equal" has no place. *Separate educational facilities are inherently unequal* [emphasis added]. Therefore we hold the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection under the law guaranteed by the Fourteenth Amendment.⁵

"All Deliberate Speed"

In the fall following the Court's momentous decision, Summerton's 2,800 African-American students returned to the all-black Scotts Branch school. Summerton's 300 white pupils again attended their all-white school. Nothing had changed. Meanwhile, Attorney Rogers and others prepared a brief for Chief Justice Earl Warren to delay integration in Summerton. Warren waited over a year. His ruling of "good faith compliance" in layman's terms means "go slow." Then the Supreme Court turned desegregation cases to the same federal justices in the South that had often permitted segregation under the guidelines established in the Plessy case.

In keeping with this order, the Summerton case was quickly returned to a three-judge federal court in Columbia, South Carolina. This was the same court that had originally ruled against the NAACP. Its decision, this time, announced in July 1955, held that the Supreme Court's ruling did not require integration. It merely outlawed 'forced' segregation of schools while permitting 'voluntary' segregation. In other words, African-Americans could choose to enroll in all-white schools (if they dared) but could continue to attend segregated schools if they wished.

No Desegregation in Summerton


In September 1955, Summerton's schools opened amidst a certain amount of expectation. Would African-Americans try to enroll in the all-white school? None tried and nothing out of the ordinary happened. During the next several months many parents who had signed the original desegregation petition lost their jobs or their credit at local stores. Some were forced to leave town. The church of the minister who had gathered the signatures of the original petition left town after his church was burned to the ground and his life was threatened.

Ten years later, the Summerton schools were still as segregated as they had been in 1954.

Racial attitudes in Summerton were not much different from feelings in most of the rural South. Rather than integrate its public schools as required by the courts, Prince Edward County in Virginia shut them down completely. White children were educated in private schools and most of the county's African-American children attended no school whatsoever. In 1957, violence erupted in Little Rock, Arkansas, when nine African-Americans tried to attend previously all-white Central High School.

As late as eleven years after *Brown v. Board of Education*, the vast majority of African-American students in the Deep South attended segregated schools and only 3% attended schools with whites.

5. 347 U.S. 494



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TIFF (Uncompressed) decompressor
are needed to see this picture.

It took the National Guard to Integrate Little Rock High School

Suggested student exercises:

1. Describe conditions in Summerton, South Carolina schools both before and after the two Briggs v. Elliot decisions.
2. Contrast the Supreme Court's logic as well as the decision in the Brown case to the logic and decision of Plessy v. Ferguson.
3. Comment on Emory Rogers's logic (see Epilogue)

10-Appendix: "We Segregate all the Time and so do You

Speaking to a northern reporter, John Barlow Martin, Summerton's Attorney, Emory Rogers explained why he and his neighbors fought integration. What does this say about racial attitudes in both the North and South? There is four, five Nigra houses in my front yard. Down here they are all over our front yard and our back yard. Working with us, playing with our children. We can't possibly see our children in their schools. Then at about sixteen, they'll be, probably, a marriage.... If we desegregate the schools here, it would mean twenty-five Nigra children and three white children in every classroom. I don't think your daughter would be comfortable in that situation. I know mine wouldn't.

It goes far beyond the color of the skin, too. I wouldn't want my child to be constantly associating with Brooklyn Jews, or Harlem Puerto Ricans or Mott Street Chinese. We have a little different standard... and so do you. We segregate all the time on an economic basis, and so do you.⁶

⁶ John Barlow, op. cit., pp. 70-71.