



## Lesson 2: The Road to Brown

### *Students Handouts and Supporting Materials for Teachers*

Equal Opportunity for All..... Page 2

#### Topics and Links

- Black Codes & Jim Crow ..... Page 3
- The Fourteenth Amendment ..... Page 4
- Civil Rights Acts of 1866 and 1875..... Page 4
- Plessy v. Ferguson..... Page 5
- The National Association of Colored People (NAACP)..... Page 5
- Thurgood Marshall..... Page 6
- Key Court Challenges..... Page 7
- Brown v. Board of Education..... Page 9

## **Equal Opportunity for All?**

### **A Brief Timeline of Segregation in U.S. Public Education**

**1779** Thomas Jefferson proposes a two-track educational system, with different tracks, in his words, for “the laboring and the learned.” Scholarship would allow a very few of the laboring class to advance, Jefferson says, by “raking a few geniuses from the rubbish.”

**1830s** Most southern states have “slave codes,” making it illegal to teach Blacks to read or write. Thus, roughly 5 percent of the slave population is literate at the time of the Civil War.

**1840s** While Irish Catholic people number over 100,000 in New York City (25% of the total population), the Protestant bible is a standard teaching tool in public education, as are textbooks and instruction that is anti-Irish and anti-Catholic. Controversy over the use of the Protestant Bible in public schools escalates nationwide. During the “Philadelphia Bible Riots” of 1843, a Catholic church is burned to the ground and thirteen people are killed. In 1850, John Hughes is named archbishop of New York and uses his considerable power to help create a privately funded national system of Catholic schools. It becomes the major alternative school system in the United States.

**1859** The Chinese are excluded from San Francisco public schools. In 1885 a family sues the school board to enroll their Chinese daughter in a public school. San Francisco responds by building a new segregated “Oriental School.” It is not until 1905 that the U.S. Supreme Court requires California to extend public education to the children of Chinese immigrants.

**1864** Congress makes it illegal for Native Americans to be taught in their native languages. Native children as young as four years old are taken from their parents and sent to Bureau of Indian Affairs off-reservation boarding schools, whose goal, as one BIA official put it, is to “kill the Indian to save the man.”

**1896** In *Plessy v. Ferguson*, the U.S. Supreme Court rules that the state of Louisiana has the right to require “separate but equal” railroad cars for Blacks and Whites, thereby officially recognizing segregation as legal. One result is that southern states pass laws requiring racial segregation in public schools, which remain in place for almost 60 years.

**1941** Following the attack on Pearl Harbor, President Roosevelt authorizes the internment of 120,000 persons of Japanese ancestry. These Japanese Americans—half of whom are children—are forced to evacuate their homes, jobs, and schools and are incarcerated for up to four years in camps surrounded by barbed wire and armed guards. Schools are not part of the original construction plans in many camps, so classes are held in mess halls and other makeshift structures. It is difficult to recruit outside educators because of the harsh living conditions, so access to adequate teaching staff is limited.

**1975** The Individuals with Disabilities Education Act (IDEA) is passed. Prior to its implementation, approximately 1 million children with disabilities were shut out of schools and hundreds of thousands more were denied appropriate services. Ninety percent of children with developmental disabilities were previously housed in state institutions.

## The Road to *Brown*: Topics and Links

### Topics

1. Black Codes & Jim Crow
2. The Fourteenth Amendment
3. Civil Rights Acts of 1866 and 1875
4. Plessy v. Ferguson
5. The National Association of Colored People (NAACP)
6. Thurgood Marshall
7. Key Court Challenges
  - (a) Berea College v. Commonwealth of Kentucky (1908)
  - (b) Gong Lum v. Rice (1927)
  - (c) State of Missouri ex rel. Gaines v. Canada (1938)
  - (d) Mendez v. Westminster (1946)
  - (e) Sweatt v. Painter (1950)
8. Brown v. Board of Education

### Links to Informational Resources on the Internet

#### 1. Black Codes & Jim Crow

The Black Codes (eventually known as Jim Crow) refers to the laws passed by southern state governments after the Civil War. These laws—a recreation of the old “slave codes” that pretended to protect the rights of African Americans—imposed severe restrictions on freed slaves, such as prohibiting their right to vote, forbidding them to sit on juries, limiting their right to testify against white men, and preventing them from carrying weapons in public places and working in certain occupations. These laws mark the beginning of segregation, including in educational settings.

#### *Sources:*

- **Black Codes** (on Spartacus Educational at <http://www.spartacus.schoolnet.co.uk/USASblackcodes.htm>)
- **Black Codes and Jim Crow Laws** (on the South Carolina Information Highway Web site at <http://www.sciway.net/afam/reconstruction/blackcodes.html>)
- **Freedom: A History of US** (on the PBS Web site at <http://www.pbs.org/wnet/historyofus/web07/segment2b.html>)
- **Jump Jim Crow or, What Difference did Emancipation Make?** (from Bancroft Library, University of California, Berkeley at <http://sunsite.berkeley.edu/CalHeritage/Jimcrow/glossary.html#codes>)
- **The Southern “Black Codes” of 1865-66** (from the Constitutional Rights Foundation at [http://www.crf-usa.org/bria/bria15\\_2.html](http://www.crf-usa.org/bria/bria15_2.html))

## 2. The Fourteenth Amendment

In 1866, Congress ratified The Fourteenth Amendment to the Constitution, which granted citizenship to freed slaves, prohibited the States from denying or abridging the fundamental rights of every citizen, and required the States to grant all persons equal protection and due process. The Fourteenth Amendment was later used as an argument against segregation and played an important role in *Brown v. Board of Education*.

### Sources:

- **Actual Text of Amendment Fourteen** (from LawForKids.org LawDocs at <http://www.lawforkids.org/LawDocs/ViewAmendment.cfm?ID=14>)
- **The Fourteenth Amendment Ratified** (from The Rise and Fall of Jim Crow, PBS at [http://www.pbs.org/wnet/jimcrow/stories\\_events\\_14th.html](http://www.pbs.org/wnet/jimcrow/stories_events_14th.html))
- **The Fourteenth Amendment** (on Spartacus Educational at <http://www.spartacus.schoolnet.co.uk/USAS14.htm>)
- **The Fourteenth Amendment** (from Encarta Africana at [http://www.africana.com/blackboard/bb\\_his\\_000140.htm#mat](http://www.africana.com/blackboard/bb_his_000140.htm#mat))
- **The Fourteenth Amendment** (from The Columbia Encyclopedia at <http://www.bartleby.com/65/fo/Fourteenth.html>)

## 3. Civil Rights Acts of 1866 and 1875

Between the years of 1866 and 1875, the U.S. government passed a series of civil rights laws in order to enforce the thirteenth, fourteenth and fifteenth amendments to the Constitution. The Civil Rights Act of 1866 granted black citizens equal rights to contract, to sue and be sued, to marry, travel, and own property. It made all citizens subject to “like punishment, pains and penalties.” The Civil Rights Act of 1875 prohibited discrimination in public accommodations, such as hotels, transportation and theaters. It granted African Americans the right to sue for personal damages, and allowed any qualified person to serve as a juror. The prohibition against discrimination in public accommodations and the right to seek legal redress in the courts are important precursors to the battle over school desegregation.

### Sources:

- **1866 Civil Rights Act** (on Spartacus Educational at <http://www.spartacus.schoolnet.co.uk/USAcivil1866.htm>)
- **The 1866 Civil Rights Act** (from Reconstruction: The Second Civil War, PBS at [http://www.pbs.org/wgbh/amex/reconstruction/activism/ps\\_1866.html](http://www.pbs.org/wgbh/amex/reconstruction/activism/ps_1866.html))
- **The 1875 Civil Rights Act** (from Reconstruction: The Second Civil War, PBS at [http://www.pbs.org/wgbh/amex/reconstruction/activism/ps\\_1875.html](http://www.pbs.org/wgbh/amex/reconstruction/activism/ps_1875.html))
- **Civil Rights Acts** (from the National Civil Rights Museum at <http://www.civilrights museum.org/gallery/civilrights.asp>)
- **Civil Rights Act (1875)** (on Spartacus Educational at <http://www.spartacus.schoolnet.co.uk/USAcivil1875.htm>)
- **Civil Rights Act (1875)** (from The Rise and Fall of Jim Crow, PBS at [http://www.pbs.org/wnet/jimcrow/stories\\_events\\_civil.html](http://www.pbs.org/wnet/jimcrow/stories_events_civil.html))

#### 4. Plessy v. Ferguson

In 1892, a shoemaker named Homer Plessy (who was one-eighth black and seven-eighths white) was jailed for sitting in the white car of the East Louisiana Railroad. The arrest was part of a planned challenge to the 1890 Louisiana Separate Car Act by the “Citizens’ Committee to Test the Constitutionality of the Separate Car Law,” a small group of black professionals in New Orleans. In 1896, the U.S. Supreme Court ruled that the Louisiana law mandating “separate but equal” accommodations for Blacks and Whites on intrastate railroads was constitutional. The defense argued that Plessy was denied his equal protection rights under the Fourteenth Amendment, and that his arrest violated the Thirteenth Amendment by perpetuating the essential features of slavery. The Court upheld the “separate but equal” principle, thereby providing legal justification for racial segregation until the *Brown v. Board of Education* decision in 1954.

#### Sources

- **Plessy v. Ferguson** (from ClassBrain.com at [http://www.classbrain.com/artteenst/publish/article\\_95.shtml](http://www.classbrain.com/artteenst/publish/article_95.shtml))
- **Plessy v. Ferguson** (from Encarta Africana at [http://www.africana.com/blackboard/bb\\_his\\_000140.htm#mat](http://www.africana.com/blackboard/bb_his_000140.htm#mat))
- **Plessy v. Ferguson** (from Watson.org at <http://www.watson.org/~lisa/blackhistory/post-civilwar/plessy.html>)
- **Plessy v. Ferguson (1892)** (from North Park University Web site at <http://campus.northpark.edu/history/WebChron/USA/PlessyFerguson.html>)
- **Plessy v. Ferguson (1896)** (from Landmark Cases at <http://www.landmarkcases.org/plessy>)
- **Plessy v. Ferguson (1896)** (from The Rise and Fall of Jim Crow, PBS at [http://www.pbs.org/wnet/jimcrow/stories\\_events\\_plessy.html](http://www.pbs.org/wnet/jimcrow/stories_events_plessy.html))

#### 5. The National Association for the Advancement of Colored People (NAACP)

The National Association for the Advancement of Colored People (NAACP) was founded in 1909 in response to a devastating race riot that had taken place the year before in Springfield, Illinois. A group of multiracial activists issued a call for a meeting on racial justice and the formation of an organization that would defend the thirteenth, fourteenth and fifteenth amendments to the Constitution. The original founders of the NAACP (originally called the National Negro Committee) included Ida Wells-Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villiard, and William English Walling. Later members of the NAACP included the attorneys Hamilton Houston and Thurgood Marshall, who devised legal strategies that helped to end racial segregation in the U.S.

#### Sources

- **NAACP** (from Africaonline at [http://www.africanaonline.com/orga\\_naacp.htm](http://www.africanaonline.com/orga_naacp.htm))
- **NAACP Founded (1909)** (from The Rise and Fall of Jim Crow, PBS at [http://www.pbs.org/wnet/jimcrow/stories\\_events\\_naacp.html](http://www.pbs.org/wnet/jimcrow/stories_events_naacp.html))
- **NAACP History and Timeline** (from the NAACP Web site at [http://www.naacp.org/past\\_future/index.html](http://www.naacp.org/past_future/index.html))
- **NAACP Legal Defense and Educational Fund** (from Encarta Africana at [http://www.africana.com/blackboard/bb\\_his\\_000140.htm#mat](http://www.africana.com/blackboard/bb_his_000140.htm#mat))

## 6. Thurgood Marshall

Thurgood Marshall, the great-grandson of a slave, was the first African American Supreme Court justice. As a young man, he was denied admission to the University of Maryland's all-white law school (an institution he later challenged and defeated). He attended law school at Howard University, where he met Charles H. Houston, the school's Vice Dean, who became the NAACP's first chief counsel and the first African American to win a case before the U.S. Supreme Court. After law school, Marshall went to work for Houston at the NAACP, where he was a key force in eradicating racial segregation in education, housing, transportation, electoral politics and criminal justice. Marshall represented Linda Brown in the *Brown v. Board of Education* case, in which he argued that racial segregation itself—and not just unequal “accommodation”—was inherently unconstitutional.

### Sources

- **Landmark Case Biography: Thurgood Marshall (1908–1993)** (from Landmark Cases at <http://www.landmarkcases.org/brown/marshall.html>)
- **This Person In Black History** (from the MIT Web site at [http://www.ai.mit.edu/~isbell/HFh/black/events\\_and\\_people/html/001.thurgood\\_marshall.html](http://www.ai.mit.edu/~isbell/HFh/black/events_and_people/html/001.thurgood_marshall.html))
- **Thurgood Marshall** (from Encarta Africana at [http://www.africana.com/research/encarta/tt\\_112.asp](http://www.africana.com/research/encarta/tt_112.asp))
- **Thurgood Marshall** (from the History Channel at <http://www.historychannel.com/exhibits/portchicago/marshall.html>)
- **Thurgood Marshall.com** (speeches, articles, interviews, and photos at <http://www.thurgoodmarshall.com/home.htm>)
- **Thurgood Marshall, Supreme Court Justice** (from the Center for History and New Media, George Mason University at <http://chnm.gmu.edu/courses/122/hill/marshall.htm>)

## 7. Key Court Challenges

From *Dred Scott* in 1857 to *Brown v. Board of Education* in 1954, numerous judicial battles shaped public attitude and policy regarding segregation and the status of non-Whites in U.S. society. Below are just a few of the many cases that directly addressed segregation in education, and set the stage for the *Brown* decision and ultimate collapse of legal segregation in the U.S.

### (a) *Berea College v. Commonwealth of Kentucky* (1908)

Berea College was founded in 1855 specifically to educate black and white students together. In 1904, the Kentucky state legislature passed the “Day Law,” mandating segregation in every “college, school or institution.” Berea College challenged the law, but the Supreme Court upheld the Kentucky regulation forbidding interracial instruction.

#### *Sources*

- **Berea College v. Commonwealth of Kentucky** (From Selected Moments of the 20th Century, The Ontario Institute for Studies in Education of the University of Toronto at [http://fcis.oise.utoronto.ca/~daniel\\_schugurensky/assignment1/1908deangelo.html](http://fcis.oise.utoronto.ca/~daniel_schugurensky/assignment1/1908deangelo.html))
- **Lincoln Hall, Berea College** (from *We Shall Overcome, Historic Places of the Civil Rights Movement*, on the National Parks Services Web site at <http://www.cr.nps.gov/nr/travel/civilrights/ky1.htm>)

### (b) *Gong Lum v. Rice* (1927)

In this case, a Chinese grocer claimed that his daughter was illegally classified as “colored” after she was barred from a Whites-only public school. The Supreme Court held that the state’s classification was within its right in regulating the education of its youth at public expense. The Court extended the “separate but equal” doctrine of *Plessy v. Ferguson* to the public schools, and upheld Mississippi’s longstanding policy “to preserve the white schools for members of the Caucasian race alone.”

#### *Sources*

- **Gong and Martha Lum Case--Chinese Discrimination** (from *Chickenbones: A Journal for Literary and Artistic African American Themes*, ChickenBones Education, Arts, and Literary Society, Inc. at <http://www.nathanielturner.com/educationhistorynegro29.htm>)
- **Gong Lum v. Rice** (from the Augustana College Web site at <http://www.augustana.edu/Users/Podehnel/cases/GONGLUM.htm>)

**(c) State of Missouri ex rel. Gaines v. Canada (1938)**

The University of Missouri refused to admit a black student, Lloyd Gaines, to its law school and offered instead to pay his expenses for law school outside the state. The U.S. Supreme Court ruled that Gaines should either be admitted to the Law School of the University of Missouri, or the state of Missouri should build a law school for Blacks equal to that of Whites. By making “separate but equal” schooling a more difficult and expensive proposition, the *Gaines* case helped to weaken the foundation of segregation.

**Sources**

- **Lloyd Gaines v. Canada, a Step Toward Desegregation in Education** (from Selected Moments of the 20th Century, The Ontario Institute for Studies in Education of the University of Toronto at [http://fcis.oise.utoronto.ca/~daniel\\_schugurensky/assignment1/1938gaines.html](http://fcis.oise.utoronto.ca/~daniel_schugurensky/assignment1/1938gaines.html))
- **The Supreme Court** (from The Rise and Fall of Jim Crow, PBS at [http://www.pbs.org/wnet/jimcrow/struggle\\_court2.html](http://www.pbs.org/wnet/jimcrow/struggle_court2.html))

**(d) Mendez v. Westminster (1946)**

In 1944, Gonzalo Mendez moved to an asparagus farm he agreed to manage while its Japanese owners were interned. When the Mendez children were refused admission to the local school, Gonzalo and four other parents sued. The families won the case and Governor Earl Warren later signed legislation prohibiting segregation in the state. The Mendez case sent ripple effects across the nation and had important connections to *Brown v. Board of Education*. Thurgood Marshall, the prosecuting attorney in *Brown*, filed briefs in *Mendez v. Westminster* for the NAACP; Governor Earl Warren of California would later become Chief Justice of the U.S. Supreme Court and preside over *Brown*.

**Sources**

- **The Case of Mendez et al.v. Westminster (CA) School District, 1946: Segregation of Mexican-American Students in California Schools** (from Berkeley Digital Library SunSITE at <http://sunsite.berkeley.edu/calheritage/latinos/mendez.html>)
- **MENDEZ V. WESTMINSTER, A Look At Our Latino Heritage** (sponsored by KOCE-TV, creators of award-winning documentary, *Mendez vs. Westminster: For All the Children/Para Todos los Ninos* at <http://www.mendezvwestminster.com/>)

### (e) **Sweatt v. Painter (1950)**

In 1946, Herman Marion Sweatt applied for admission to the University of Texas Law School, but was rejected because he was Black. When Sweatt and the NAACP sued, the state continued the case to give the state an opportunity to establish a “separate but equal” law school for African American students, and a temporary facility for “Negroes” was created. The case eventually went to the U.S. Supreme Court, which held that the Equal Protection Clause required that Sweatt be admitted to the university. The Court argued that the separate school would be inferior in a number of areas, and found that the mere separation from the majority of law students harmed students’ abilities to compete in the legal arena.

#### *Sources*

- **Archival and Textual Sources** (University of Denver College of Law at <http://www.law.du.edu/russell/lh/sweatt/>)
- **Courage and the Refusal To Be Swayed** (from the University of Texas at Austin at <http://txtell.lib.utexas.edu/stories/s0010-full.html>)
- **Sweatt v. Painter** (from the Handbook of Texas Online, the University of Texas at Austin at <http://www.tsha.utexas.edu/handbook/online/articles/view/SS/jrs1.html>)

### **8. Brown v. Board of Education**

In Topeka, Kansas, an African American third-grader named Linda Brown had to walk one mile through a railroad switchyard to get to her black elementary school. After Linda was denied entry to a white elementary school only seven blocks away, her father joined with the NAACP to challenge segregation in the Topeka public schools. The court ruled in favor of the Board of Education, and the NAACP appealed to the U.S. Supreme Court. The Brown case was combined with four other cases that challenged school segregation in Washington, DC, Delaware, Virginia and South Carolina. On May 17, 1954, Chief Justice Earl Warren delivered the now famous decision: “...We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place...” Though the ruling abolished segregation in U.S. public schools, it did not address segregation in other public venues or provide a timeline or process for the integration of schools.

#### *Sources*

- **Brown v. Board of Education** (from Freedom: A History of US at [http://www.pbs.org/wnet/historyofus/web13/segment8\\_p.html](http://www.pbs.org/wnet/historyofus/web13/segment8_p.html))
- **Brown v. Board of Education (1954)** (from Landmark Cases at <http://www.landmarkcases.org/brown/home.html>)
- **Brown v. Board of Education (1954)** (from The Rise and Fall of Jim Crow at [http://www.pbs.org/wnet/jimcrow/stories\\_events\\_brown.html](http://www.pbs.org/wnet/jimcrow/stories_events_brown.html))
- **Brown v. Board of Education—Issue: Racial Segregation in Public Schools** (from PBS at <http://www.pbs.org/jefferson/enlight/brown.htm>)
- **Dialogue on Brown v. Board of Education** (from the American Bar Association Division for Public Education at <http://www.abanet.org/publiced/conversations/brownvboard.pdf>)
- **Horizons of Opportunities: Celebrating 50 Years of Brown v. Board of Education** (from the National Educational Association at <http://www.nea.org/brownvboard/overview>)