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From *Plessy v. Ferguson* to *Brown v. Board of Education*: The Supreme Court Rules on School Desegregation

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Stories of racial tension and racial violence abound in the news. The controversy over forced desegregation and busing is again getting top billing in the newspapers. Should the United States government legislate desegregation? Is racial mixing desirable and/or necessary in our educational system? As a teacher I feel that these issues must be brought into the classroom in such a way that students can understand the different positions and can figure out their opinions. For adolescents, learning to work with and relate to people of all different backgrounds are important skills. For urban children, racial questions are of immediate concern. Schools are a major focal point for them. For this reason, I have chosen to study the history of school desegregation legislation with my students.

This unit has been organized for students with a high school reading level. Since 1982, when I prepared it, it has been used as a segment of a course at the High School in the Community, an inner city magnet high school which is teacher run and very supportive to teacher initiated curriculum. I first used the unit as the history half of an interdisciplinary course in English and history. The English component focused on forming opinions and writing essays. The class meet daily for three hours. I have since used this unit in conjunction with other subjects such as statistics and poll making, drama in the courtroom, and philosophy as reflected in various legal systems throughout history. Since this course has proven to be very stimulating for the students, I have also expanded it into a larger course on the American Legal System.

Although I have planned this course for a particular context, I feel that both the material content and the format can be applied in many other school set-

tings. This course has stimulated student interest in history, current events and the power of the American legal system. Using primary sources such as legal documents, newspaper and magazine articles, and autobiographical essays, students are exposed to many different points of view. They learn that history is alive and powerful in their world. The legal system works with decisions made in the past, applies them to the present and then reshapes the future. The students in these classes have found that they really enjoyed studying and debating the legal issues that I have raised as they pertain to many different aspects of American life today.

INTRODUCTION: THE SIGNIFICANCE OF *BROWN V. THE BOARD OF EDUCATION, TOPEKA, KANSAS*

The Supreme Court decision in *Brown v. The Board of Education of Topeka, Kansas* has been credited with much significance. For some, it signaled the start of the civil rights movement of the 1950s and 1960s, while for others, it represented the fall of segregation. Even in the footnotes of the decision, however, the Court raised questions as to how much authority it had and how to proceed toward getting compliance. In the brief summary of events that follows, I have drawn primarily from Kluger's study, *Simple Justice*.

The Brown decision was a landmark because it overturned the legal policies established by the *Plessy v. Ferguson* decision that legalized the practices of "separate but equal". In the *Plessy* decision, the 14th Amendment was interpreted in such a way that equality in the law could be met through segregated facilities. Jim Crow laws were passed throughout the South and they established separate facilities for Blacks and Whites in everything from schools to restrooms, drinking fountains to witness stands in courtrooms.

For many years, the Civil Rights movement during the first 50 years of the 20th Century accepted this policy of "separate but equal" in its struggle for access into the society. It fought in many communities for equal pay for teachers and for equal school facilities. It fought for equal libraries, recreational facilities, and health services. Plessy defined the terms of the struggle.

The Brown decision came about after a series of Supreme Court decisions on specific educational challenges. The first was that universities must admit Blacks to graduate facilities if a desired course of study was not available in a Black institution. Then in *Sipuel v. Board of Regents of the University of Oklahoma*, in 1948, the Court ruled that Blacks must be admitted to state universities because they offered many opportunities not available in Black institutions. In 1950 in

Sweatt v. Painter, the Court ruled that a separate Black law school, established for Sweatt after he sued for admission to the University of Texas Law School, was unequal not only in physical facilities and curriculum but in reputation and opportunity for stimulating professional contact. In *Laurin v. Oklahoma State Regents*, also in 1950, the Court ruled that the state violated the "separate but equal" doctrine when it required isolated cafeteria and classroom seating for Black students because it produced unequal educational opportunity.

The *Brown* decision established that separate schools were ipso facto unequal. It allowed proponents for better opportunities for Blacks to fight for positive gains and full equality. But the fact that there were few means to implement these decisions became clear as it became obvious that few gains were being seen by 1960, the year that a new student Civil Rights movement was founded.

Immediately after the *Brown* decision, many attempts were made to begin desegregation. NAACP chapters encouraged Black parents to send their children to "White" schools, and there had been retaliation against those who did. There had also been three mass marches on Washington on the school issue. On May 18, 1957, the anniversary of the *Brown* decision, about 35,000 attended a prayer pilgrimage for integrated schools sponsored by both northern and southern civil rights leaders, a first joint effort. In 1959, 400,000 signatures were presented to Congressman Charles Diggs petitioning the President and Congress for a program to insure the orderly and speedy integration of schools.

The legal struggle for integrated schools dragged on in the years following the *Brown* decision. Southern school boards and state governments brought suit after suit challenging it and then created a variety of ways to get around the intent of the decision. In those few localities where there was at least minimum compliance, intimidation and violence were used to keep the White schools White.

Nevertheless, the *Brown* decision did provide a setting for major confrontations between the federal government and the states, and between the Black and White populations of several Southern cities. Anthony Lewis, a reporter for *The New York Times*, in a study of school desegregation, pointed out that there were rapid steps taken toward desegregation in Kansas, Arizona, Washington, D.C. and Baltimore. In 1954, 1955, and 1956 hundreds of school districts began to abandon racially segregated school classes. But then reaction seemed to set in and most Southern political leaders began to take defensive positions.

There were many examples of this reaction. In Clinton, Tennessee, the school board and other White citizens faced down a mob in 1956. The high school was bombed in 1958. In 1956 the presence of Autherine Lucy set off

rioting at the University of Alabama so the University officials asked her to withdraw. The federal government did not respond to the University's request for aid. In 1962, James Meredith entered the University of Mississippi despite serious rioting. In this case President Kennedy had sent in federal troops. This event was publicized throughout the world. Another shocking reaction was that of Prince Edward County. There, the public schools were closed down for 5 years, from 1959 to 1964. This county in Virginia closed their schools rather than desegregating them. The schools were not reopened until the Supreme Court ruled that they had to be reopened. 1700 Black school children had no schooling from 1959 until 1963 when a Free School was opened. It remained open until June, 1964, when the county was forced to operate public schools again.

Little Rock, Arkansas, was the site of a confrontation of major significance to the future of changing racial attitudes. The whole world read about the 15 year old Black child who was turned away from the Little Rock Central High School by the National Guardsmen into a mob of screaming White people. They were screaming, "Lynch her, lynch her!"

This short history raises some important questions for Americans still today. Our schools are still by and large not integrated—and probably not even desegregated. All over America people are calling for "quality" education and "neighborhood schools" rather than for forced integration. Today few people say that "separate but equal" is legally acceptable but de facto segregation has again become a reality.

OBJECTIVES

I have five objectives for this unit.

The *first* objective is to show students that racial issues can be discussed openly. By giving them exposure to an historical approach to the crucial aspect of American life, I want them to learn to articulate their ideas and share them in class.

The *second* objective is to show students how decisions made by the Supreme Court on the constitutionality of lower court decisions can directly influence people's lives.

The *third* objective is to teach students that historical times shape people's ideas and behavior.

The *fourth* objective is to teach students how to use primary sources for understanding history.

The *fifth* objective is to expose students to the methods used to shape legal thinking and argumentation.

STRATEGIES

Primary sources will be used extensively in this class.

Understanding them and interpreting their meaning in different historical contexts will help students see how history shapes thinking and influences people's lives. Each week one primary source will be read, summarized and discussed in class. Background information will be added through readings from a text book, *These United States*, and from lectures in class. Each Friday there will be a quiz given and students will be asked to interpret the significance of the primary source. During the final week, the students will be asked to take a position on a topic which had been discussed in class and present their argument to the class orally and in essay form. Here is an outline of the weeks:

Week 1: The 14th Amendment

Week 2: Plessy v. Ferguson and Justice Harlan's Dissent

Week 3: Living with Jim Crow: Richard Wright Remembers

Week 4: Brown v. Board of Education of Topeka, Kansas

Week 5: Working for Desegregated Schools: Daisy Bates and Robert Coles

Week 6: Busing and Forced Desegregation: I Believe

WEEK 1: THE 14TH AMENDMENT

This week's work will focus around reading and understanding the 14th Amendment to the Constitution of the United States. In this amendment, all citizens of the United States, either by birth or naturalization, are assured *equal protection of the law*. No person can hold office if they have engaged in a rebellion against the federal government. The government is not responsible for debts accrued by state governments during a rebellion—this includes the costs involved in the loss of emancipated slaves. It is also clearly stated that the Congress shall have the power to enforce this amendment by appropriate legislation.

We will also look into the distinctions made between the three post-Civil War Amendments. While the 13th abolished slavery and the 15th established the right to suffrage, it was the 14th which was to guarantee civil rights. The stipulations of section 1 of the 14th Amendment left much of the jurisdictional issues vague as to

the limits of federal and state laws. (So for example, it was not until the Civil Rights Act of 1964 that housing was brought under the jurisdiction of this amendment.)

This amendment consolidated the power of the radical Republicans in the South. By protecting the rights of Black Americans they hoped to keep them loyal to the Republican Party and the newly formed federal government. However, the amendment has been interpreted in contradictory ways—to legislate both segregation and integration. By granting Blacks and Whites equality in the eyes of the law, the 14th Amendment undermined the Black Codes in the South passed during reconstruction and reasserted the right of the federal government to intercede if states blocked their rights.

The signing of the 14th Amendment became a requirement for reentry into the Union after the Civil War. It consolidated the power of the Northern states and the Republicans. But their power was soon undermined as the southern states started passing new segregation laws and the advent of Jim Crow policies again denied Blacks equal rights and opportunities.

Students will also be assigned readings in the school American History textbook for background information on this.

Week 1: Assignments (in class / homework)

Monday: Introduction to Course; Time Line / Read text, *These United States*, pp. 330-352. Define terms.

Tuesday: Discuss readings, review definitions / Read *Constitution* and 14th amendment

Wednesday: Discuss *Constitution* and Supreme Court / Write summary of 14th Amendment

Thursday: Read summaries / Review week

Friday: Quiz and in-class essay

Major Discussion Topics:

1. Why were most slaves in the South?
2. Why did the South secede?
3. How are the powers of the state and Federal governments determined?
4. What powers does the Supreme Court have?
5. How can the Supreme Court enforce its decisions?
6. What does the 14th Amendment really say?

WEEK 2: PLESSY V. FERGUSON AND JUSTICE HARLAN'S DISSENT

This week we concentrate on the *Plessy v. Ferguson* case and Justice Harlan's dissent. These documents may be found Gerald Gunther's book, *Cases and Materials on Constitutional Law*. In this decision the Supreme Court decided that "separate but equal" accommodations for Whites and Colored railroad passengers did not violate the rights established in the 14th Amendment. Justice Brown gave the majority decision and he explained that although the Amendment was "undoubtedly to enforce the absolute equality of the two races before the law, it could not legislate the abolition of all distinctions. Laws requiring the separation of the races simply reflected the culture of the people and as long as facilities were equal they were not prejudicial". Separation need not imply inferiority of either race. Brown did not feel that social prejudice could be overcome by legislation: "If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals."

On July 19, 1890, the Louisiana General Assembly passed an act that provided equal but separate accommodations for each race for the comfort of all the passengers. The law was denounced by the American Citizen's Equal Rights Association of Louisiana Against Class Legislation. This group of well-to-do Blacks raised money and challenged the constitutionality of the law. But it was not until Adolph Plessy entered a train and sat in a "For Whites" car that a test case was brought to the Supreme Court. The presiding Judge, Judge Ferguson, of the Criminal District Court of New Orleans found the law constitutional as did the Louisiana Supreme Court. The case was heard in the Supreme Court in 1896. During this period many new Jim Crow laws had been passed throughout the South. Alabama, Arkansas, Georgia, and Tennessee passed laws requiring railroads to separate the races. Mississippi and South Carolina already denied the vote to Blacks and many other states were preparing to take the same steps.

There were real differences of opinion within the Black community over these rulings. On one side were those Blacks who felt that they must adjust to the growing sentiment against their civil rights by developing the economic standing of Blacks before working for equal rights. So Booker T. Washington delivered a speech at the Atlanta Exposition in 1895 stating: "In all things that are purely social, we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress. The opportunity to earn a dollar in a factory just now is worth infinitely more than the opportunity to spend a dollar in an opera house." He urged Blacks to become experts in var-

ious economic positions so that the Black man could win a place in the White man's world.

On the other hand, W.E.B. DuBois argued for full, legal equality immediately. He felt that Washington's position relocated Blacks to half manhood—a worker with no civil rights. Thus he led the Niagra Movement which declared, “We want full manhood suffrage and we want it now.” This organization grew into the National Association for the Advancement of Colored Peoples (NAACP), the organization which led the struggle against segregated schools and for civil rights for Blacks.

Seven Justices ruled against Plessy, but one, Justice Harlan, dissented. He asserted that justice should be color blind and that the enforcement of “separate but equal” interferes with the personal freedoms of individuals by legally forcing separation. As he stated, “Sixty million whites are in no danger from the presence of eight millions of Blacks . . . The destinies of the two races in this country are indissolubly linked together, and the interest of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law.” He foresaw that the decision would lead to a pattern of behavior which would be very dangerous and undermine a basic sense of justice.

Week 2: Assignments (in class / homework)

Monday: Review Friday's quiz / Read *Plessy* and Harlan's Dissent

Tuesday: Discuss decision and dissent / Write summary of each document

Wednesday: Read summaries in class / Rewrite and correct

Thursday: See movie on life in segregated South / Write reaction to movie

Friday: Quiz

Major Discussion Topics:

1. What were the arguments for “separate but equal” legislation?
2. What were the arguments against this legislation?
3. Does separate but equal imply inferiority?
4. How can equal facilities be determined?
5. What is a dissent?
6. What are the implications of Harlan's dissent? Should the government tell people how to live or make rules that reflect how they live?

WEEK 3: LIVING WITH JIM CROW

The two readings for this week are about Jim Crow legislation and how it felt to live within these restrictions. In the excerpt from *The Strange Case of Jim Crow*, C. Vann Woodward discusses the expansion of “separate but equal” legislation throughout the South. After quoting a Southern critic of the policy who pointed out the absurdity of the legislation, he reviews the major restrictions passed in this period. These laws restricted travel, housing, use of private and public facilities, amusement parks and other recreational areas, and of course schools and institutions of higher learning.

The second reading is an excerpt from Richard Wright’s *Uncle Tom’s Children*. In “The Ethics of Living Jim Crow”, Wright describes how he learned to live with the double standards implied by “separate but equal.” Out of fear for her son’s life, Richard’s mother beats him for standing up to White children. He learned the same lesson when he tried to assert his rights on his job—he wanted to learn information which certain White workers felt was not his place to learn. This autobiographical sketch is an excellent introduction to the consequences of Jim Crow legislation and attitudes.

Week 3: Assignments (in class / homework)

Monday: Review quiz / Read Woodward

Tuesday: Discuss reading / Answer questions on Woodward

Wednesday: Review homework / Read Wright

Thursday: Discuss reading / Answer questions

Friday: Quiz

Major Discussion Topics:

1. What was the purpose of the Jim Crow laws?
2. Why were they predominantly in the South?
3. Did these laws affect Blacks and Whites in the same ways?
4. What does it “mean” to be a member of a minority group?
5. Why would a person write an autobiography? Why would someone want to share such pain?

WEEK 4: *BROWN V. THE BOARD OF EDUCATION OF TOPEKA, KANSAS*

During this week we will study the *Brown* decision of 1954 and the reaction of a group of dissenting Southern congressmen. In this decision the Supreme Court concluded that in the field of education, the doctrine of “separate but equal” was unacceptable. Segregation is a denial of equal protection of the laws as defined in the 14th Amendment.

After hearing a series of cases brought on behalf of Black students in segregated schools, the Court reviewed the circumstances surrounding the adoption of the 14th Amendment. This research proved inconclusive because it was clear that each side of the ratification debate had different goals. The proponents wanted to eliminate all legal distinctions while opponents wanted to limit the applicability of the Amendments.

They found, however, that after reviewing the history of public education since the ratification of the Amendment, they had a basis upon which to declare “separate but equal” legislation unconstitutional. Education is one of the most important functions of government. Compulsory education and public expenditures for education demonstrate this importance. The right to a good, equal education was fundamental to our democratic society. They thus asked the question, “Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities?” Their answer was clear and unequivocal—“We believe it does.” Separate educational facilities are inherently unequal.

This decision came at the culmination of a series of court cases challenging segregated schools. Initially, the NAACP fought against segregated graduate school facilities. In this case, however, the plaintiffs were Black children of elementary school age residing in Topeka, Kansas. This action was brought to the United States District Court for the District of Kansas to enjoin the enforcement of a Kansas statute which permits but does not require cities of more than 15,000 population to maintain separate school facilities for Black and White students. Based on that authority, the Board of Education of Topeka elected to establish segregated elementary schools. Other public schools were run on a nonsegregated basis. The three judge District Court found that segregated public schools had a detrimental effect upon Black children, but denied relief because they found that the schools were essentially equal with respect to buildings, curriculum, transportation, and the educational qualifications of teachers.

Other related District Court decisions were *Briggs v. Elliott* in South Carolina, *Davis v. County School Board* in Virginia, and in Delaware, *Gebhart v. Belton*. In *Briggs v. Elliott* and the *Davis v. County School Board*, the Courts ordered that the schools be equalized, having established that the facilities and curriculum were unequal. In Delaware, however, after recognizing that the Black schools were inferior with respect to teacher training, pupil-teacher ratio, extra-curricular activities, physical plant, and time and distance of travel, the Court ordered immediate admission of Black plaintiffs into previously all White schools. It should be noted that although the Chancellor of the Delaware Court maintained that segregation itself resulted in an inferior education for Black children, he did not base his decision on this finding.

A group of Southern politicians declared their feelings about the *Brown v. Board of Education* decision in the Southern Manifesto, the second reading for this week. Essentially they declared that it represents a clear abuse of judicial power. They felt that the federal judiciary was encroaching on the rights of the people. Education has not been mentioned in the Constitution nor in the 14th Amendment or any other amendment. They felt that this action would destroy the amicable relationship between the White and Black races that had been created over the last century. Forcing the races to change their relationship could only produce misunderstanding and hostility.

Week 4: Assignments (in class / homework)

Monday: Review Friday's quiz / Read text: *These United States*, pp. 624-643

Tuesday: Introduction to the 1950s / Read *Brown* and answer questions

Wednesday: Discuss *Brown* / Read *Southern Manifesto*

Thursday: Discuss *Southern Manifesto* / Study for quiz

Friday: Quiz

Major Discussion Topics:

1. What does "inherent" mean?
2. Why would segregated schools be inherently unequal?
3. What is equality in education?
4. Can laws create equality?
5. Can people be forced to mix?
6. Why would Southern Congressmen feel more hostility to the *Brown* decision than Northerners?

WEEK 5: WORKING FOR DESEGREGATED SCHOOLS

As stated in the introduction, the Brown decision has been seen by some as a turning point. In any case, the decision produced some earthshaking events in the United States. The struggle for desegregated schools and then general civil rights turned out to be a painful one, both physically and mentally. During this week two short excerpts about the early attempts at desegregation will be read.

The first is a brief description of the events leading up to the school desegregation in Little Rock, Arkansas written by Daisy Bates, the president of the state NAACP. In this section of her book, *Thee Long Shadow of Little Rock*, she describes how it came to pass that one Black school child was refused entrance to the high school because of the presence of National Guardsmen.

It first appeared that Little Rock would join many other moderate cities in the south and desegregate their schools with relatively little difficulty. Nine Black students were chosen to attend the formerly all White high school in September, 1957. However, Governor Faubus called out the National Guard to prevent the children from attending the school. This caused a clash between state and federal powers. In reaction to Faubus' acts, President Eisenhower had to call federal troops to force desegregation. Black students attended the high school under guard for the year 1957-1958. The following year the schools were closed. The next year, however, the schools were opened on a desegregated basis. The whole world watched these events on television.

In the second reading students will learn how a psychiatrist recorded the effects of forced desegregation on the children who fought the struggle. Robert Coles studied these children in his book, *Farewell to the South*. Both Black and White children and their parents were affected by these changes. Children seemed to adjust easily and quickly to each other if left to explore together. They did not, however, remain unaffected by the crowds of yelling adults and the presence of soldiers. In Coles' essay, "In the South These Children Prophesy", he reviews the experiences of a few children and gives a real personal touch by adding his feelings and observations.

Week 5: Assignments (in class / homework)

Monday: Review Friday's quiz / Read Bates

Tuesday: Discuss reading / Answer questions

Wednesday: Share answers / Read Coles

Thursday: Discuss reading / Answer questions

Friday: Review answers; quiz.

Major Discussion Topics:

1. Why would people send their children into these situations?
2. How did sympathetic Whites react?
3. Is prejudice the same as recognizing differences among people?
4. How can one find oneself if one is forced to act a certain way?
5. Can people change? How?

WEEK 6: BUSING AND FORCED DESEGREGATION: I BELIEVE

In this, the final week, we will work on shaping the students' opinions. Before working on position papers, the class will be asked to read a recent article from *The New York Times*, "Rulings on School Integration Key Target for Conservatives". Today, almost twenty years after the *Brown* decision, many of the same issues are still being debated and legislated. In this article, the reporter discusses the recent take-over by conservatives of control of the executive branch and the Senate and their growing influence in the House of Representatives. They are attacking the Federal Courts for intruding into the basic fabric of American life by making decisions which these conservatives claim are beyond their jurisdiction. The management of school desegregation through busing is their favorite target. Charlotte-Mecklenburg, North Carolina, was the first school system ordered desegregated by the use of busing. It is cited as a successful example. Boston, Mass. is presented as a city whose designs for school desegregation by busing have only produced a more tense and segregated school system. At least part of the cause has to do with "white flight", an issue viewed from many different perspectives. Some feel that busing causes more problems than it solves. This article raises many of the issues raised throughout the course—and brings the debate up to date.

It should be noted that updating should be a continuous process for this course. So, for example, I found an excellent article that brought up the same debates but now in 1991. In January, 1991, the Supreme Court once again limited its jurisdiction in school desegregation cases. This was reported on the front page of *The New York Times* on January 16, 1991.

During this week students will be asked to choose a topic relevant to the issues discussed in this course and to present both oral and written position papers. I will distribute a list of topics and a form which will help the students organize their thoughts and show them how to complete the assignment. The list of topics will be drawn from in class discussions and readings.

Week 6: Assignments (in class / homework)

Monday: Review Friday's quiz, discuss class presentations / Read NYT article, distribute topics and forms

Tuesday: Discuss article, discuss presentations / Prepare outline for presentation

Wednesday: Review outlines, start presentations / Write up position paper

Thursday: Presentations

Friday: Presentations, summary of class

Major Discussion Topics:

1. What do the words "conservative" and "liberal" mean?
2. Is busing a solution to segregation in schools?
3. What factors maintain segregated schools?
4. Should school desegregation be a major concern in this country when the economy is so weak?
5. Is school integration really important to all of us?

Classroom Materials

- Week 1:* J. Benson, J. Shenton, R. Jakoubek, *These United States—Constitution of the United States*. Boston: Houghton Mifflin Co., 1978.
- Week 2:* Gerald Gunther, *Cases and Materials on Constitutional Law*, "The Separate But Equal Doctrine." Mineola, N.Y.: The Foundation Press Inc., 1980, 754-757.
- Week 3:* C. Vann Woodward, "Capitulation to Racism", from *The Strange Career of Jim Crow*. New York: Oxford University Press, 1966, 67-69, 97-109.
Richard Wright, "The Ethic of Living Jim Crow", from *Uncle Tom's Children*. New York: Harper and Row, 1937, 1-17.
- Week 4:* Gerald Gunther, *Op. Cit.*, "Brown v. Board of Education", 757-764. "The Southern Manifesto", from Joanne Grant's anthology *Black Protest*. Greenwich, Connecticut: Fawcett, 1968, 268-271.
- Week 5:* Daisy Bates, "Little Rock Prepares for Desegregation Segregation", from *Thee Long Shadow of Little Rock*. New York: David McKay Company, Inc., 1962, 59-68.

Robert Coles, "In the South These Children Prophesy", from *Farewell to the South*. Boston: Little, Brown and Co., 1972, 148-162.

Week 6: Dudley Clandinen, "Rulings on School Integration Key Target for Conservatives", *The New York Times*. (May 17, 1982) A1:1-2.

Linda Greenhouse, "Justices Rule Mandatory Busing May Go, Even if Races Stay Apart", *The New York Times*. (January 16, 1991) A1+.

SAMPLE LESSON PLANS

Week 2: Writing a summary: *Plessy v. Ferguson* and Justice Harlan's Dissent

Answer these questions carefully and with full sentences. Then write a brief summary of the two documents.

I. *Plessy v. Ferguson*

What does the 13th Amendment state?

According to Justice Brown and the majority opinion:

- a. separation does not imply inferiority (explain in your own words),
- b. separation is generally within the competency of the state legislatures in the exercise of power (explain in your own words). Give three examples listed in which state legislation has sustained separation.

Define reasonable malice power as it is stated in the decision.

What is the underlying fallacy of the plaintiff's argument?

Define inferiority.

Define natural affinities.

Define voluntary consent.

Explain this statement: "(Legislation) is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation."

When was this decision made and what was Mr. Plessy complaining about?

Write a brief summary.

II. Justice Harlan's Dissent

Who is Justice Harlan?

What is a dissent?

What is Harlan's fundamental objection to the decision?

What is Harlan's view of legal distinctions based on racial considerations?

What does he feel will be the consequences of this decision?
Write a brief summary.

Week 2: Form for note taking in class

Separate but equal:

Jim Crow legislation:

Rapid change of status for Blacks in the South after the Civil War.

Antebellum South

Reconstruction

Carpetbaggers

Plantations

Industrialization

Urbanization

Mr. Plessy takes a train ride.

Judge Ferguson's decision on Louisiana

Blacks divided over growth of Jim Crow policies.

Booker T. Washington

W.E.B. DuBois

Dissent as a concept.

Justice Harlan's Dissent seems to foresee the problems with the "separate but equal" doctrine.

Consider these questions so we can discuss them in class:

Does separate but equal necessarily imply inferiority?

How can equal facilities be determined?

Should the government make rules that tell people how to live or make rules that reflect how they do live?

Week 6: My position paper—Outline form

Title:

I believe: (State clearly and precisely your opinion about the issue.)

Reason 1: (You can give as many reasons as you would like to support your thoughts but there must be at least three.)

Conclusion:

This is to be presented orally in class and written in paragraph form to be handed in to the teacher.

Annotated Teacher Bibliography

- Bates, Daisy. *Thee Long Shadow of Little Rock*. New York: David McKay company, 1962. Personal account of events in Little Rock, Arkansas in 1957 around the desegregation struggle.
- Clandinen, Dudley. "Rulings on School Integration Key Target for Conservatives." *The New York Times* (May 17, 1982): A1:1-2. An article about recent growth of conservatives' control of the executive branch, the Senate and the House and their attack on the federal courts.
- Coles, Robert. *Children of Crisis*. New York: A Delta Book, 1967. A psychiatrist's personal account of the effects of the desegregation struggle on both Black and White children. A warm, humane discussion.
- . *Farewell to the South*. Boston: Little Brown and Co., 1972. A further discussion on the effects of desegregation on the people of the South.
- Grant, Joanne (ed.). *Black Protest*. Greenwich, Connecticut: A Fawcett Premier Book, 1968. An interesting collection of primary sources on Black history—both documents and analysis.
- Greenhouse, Linda. "Justices Rule Mandatory Busing May Go, Even If Races Stay Apart." *The New York Times* (January 16, 1991): A1+.
- Gunther, Gerald. *Cases and Materials on Constitutional Law*, 10th Edition. Mineola, N.Y.: The Foundation Press, 1980. Basic collection of important Supreme Court cases used in law school classes dealing with constitutional law. It contains both the decisions and extensive commentary.
- Kluger, Richard. *Simple Justice*. New York: Vintage Books, 1975. An extremely detailed and fascinating history of the century long struggle for equal rights that led to the *Brown v. Board of Education of Topeka, Kansas*, decision.
- Lewis, Anthony. *The Second American Revolution*. New York: Random House, 1964. A *The New York Times*' reporter's first hand account of the civil rights struggle in the South.
- Miller, Loran. *The Petitioners*. New York: The World Publishing Co., 1966. A fascinating history of the Supreme Court of the United States and Black America.
- Woodward, C. Vann. *The Strange Career of Jim Crow*. New York: Oxford University Press, 1966. An historical description and analysis of the growth of Jim Crow legislation and life style in the South.

Wright, Richard. *Uncle Tom's Children*. New York: Harper and Row, 1937. A collection of stories about growing up Black in the Jim Crow South.

Annotated Film Bibliography

Eyes on the Prize, Vols. 1 and 2, Boston, Mass.: Blackside, Inc. 1986. These two volumes trace the early history of the civil rights movement in the nineteen fifties. The footage is authentic. The commentary is well presented and easy to follow. The whole set consists of six volumes that go up through the late sixties.

Annotated Student Bibliography

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Washington, Booker T. *Up From Slavery in Three Negro Classics*. New York: Avon Books, 1965. Washington's presentation of his view of the need for Blacks to work for economic opportunities before the political struggle can be realized.

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