

The Supreme Court and Civil Rights

Part II

Plessy v Ferguson

U.S. Supreme Court

7-1

1896

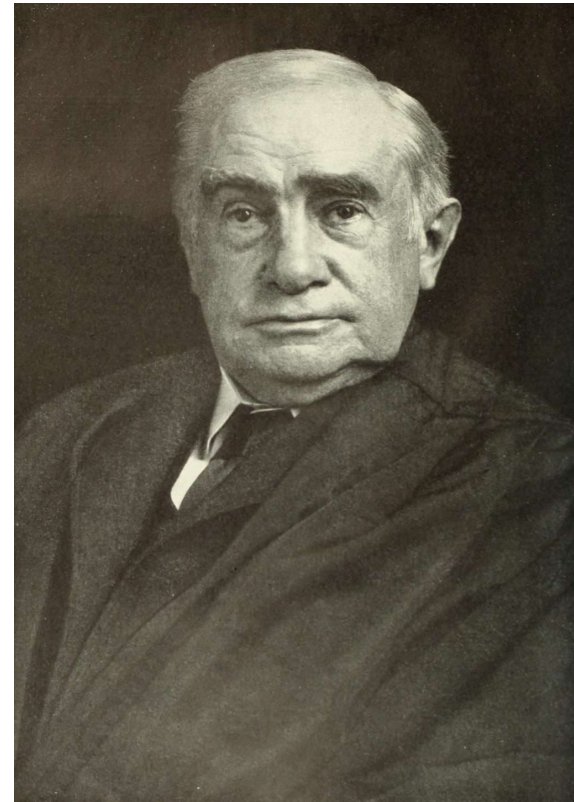
Homer Plessy



Homer Plessy

Majority Opinion

Associate Justice
Henry Billings Brown



Henry Billings Brown



Plessy
v.
Ferguson

Basic Facts

- In 1890 Louisiana adopted the Separate Car Act, which stated that “all railway companies carrying passengers in their coaches in this State shall provide equal but separate accommodations for the white and colored races...”
- A committee of black, Creole and white professionals was formed in 1891 to challenge the law under the 13th and 14th Amendments. Homer Plessy volunteered to participate in a test case.

Basic Facts (Cont.)

- Homer Plessy was a shoemaker who was black under Louisiana law but looked white. He was active in civil rights matters, well-respected and articulate.
- On June 7, 1891, Plessy bought a first-class ticket and sat in a “whites-only” car.
- He identified himself as black and, when asked, refused to move to a black car. He and was arrested, found guilty and fined \$25.

The Majority Decision

- The 14th Amendment guarantees legal equality, not social equality.
- The 13th Amendment does not prohibit segregation.
- The Constitution cannot eliminate social racial distinctions.
- Racial separation did not necessarily imply black inferiority.
- Racial separation did not necessarily mean legal inequality.

The Majority Decision

"The object of the [Fourteenth] amendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either."

The Majority Decision

"Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other..."

State Legislatures are "at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort and the preservation of the public peace and good order."

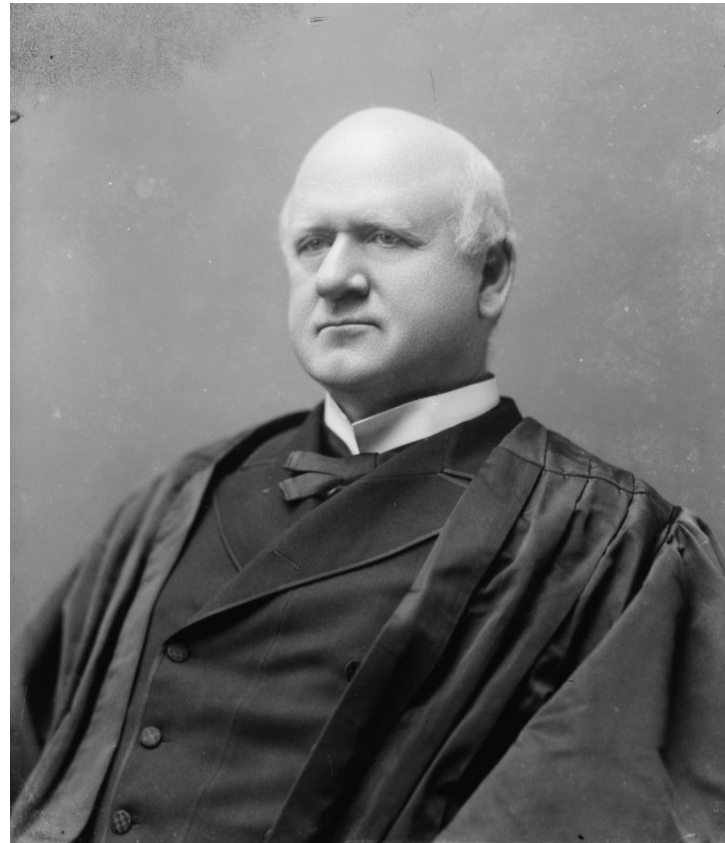
The Majority Decision

"The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured ... except by an enforced commingling of the two races. We cannot accept this proposition. 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. . ."

The Majority Decision

We consider the underlying fallacy of [Plessy's] argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it.

Harlan Dissent



Justice John Marshall Harlan
(1833 – 1911)

The Harlan Dissent

- The railroad law was intended to enforce black inferiority.
- Legally compelled segregation violates the 14th Amendment.
- Even if the black and white cars were identical, separation of the races is itself racial classification.
- The Constitution may not be able to regulate social equality, but the law is color-blind and all men are equal.

The Harlan Dissent

Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law... The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.

The Harlan Dissent

[It] seems that we have yet, in some of the States, a dominant race—a superior class of citizens, which assumes to regulate the enjoyment of civil rights, common to all citizens, upon the basis of race.

[The] real meaning of such legislation is that “colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens”.

Takeaways

- Established the “separate but equal” doctrine as law.
- Validated Jim Crow.
- Helped entrench segregation for more than half a century.
- Harlan's notion that separate facilities themselves are inherently unequal ultimately became the basis for *Brown v. Board of Education* (1954).

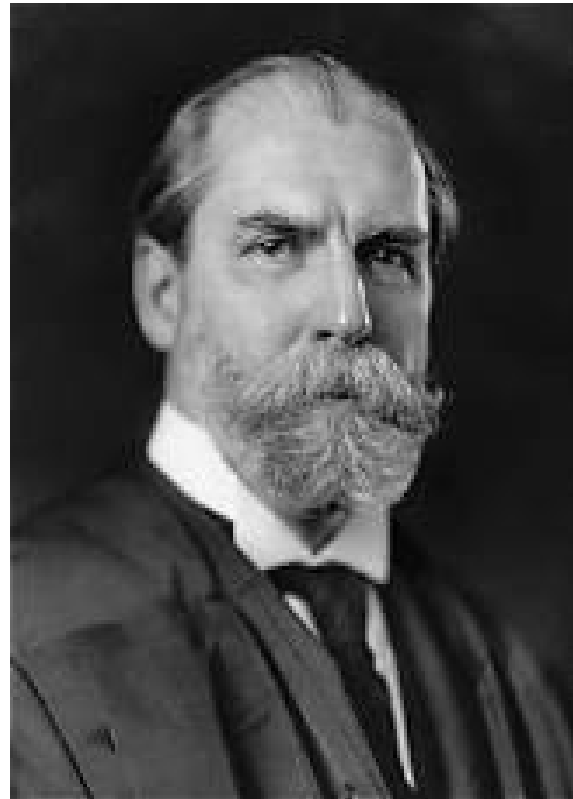
Gaines v Missouri

U.S. Supreme Court

7-2

1938

Chief Justice
Charles Evans
Hughes



Charles Evans Hughes
(1862 – 1948)

Lloyd G. Gaines



Lloyd G. Gaines

Basic Facts

Lloyd Gaines, a Missouri resident, graduated from Lincoln University, a Missouri state for blacks, in 1935 with high grades.

In 1936 he applied to the University of Missouri Law School, a state school for whites, and was rejected.

Missouri did not have a law school for blacks, but a 1921 law provided that the state would pay tuition at out of state law schools for blacks and authorized the creation of a law school for blacks "should the need arise".

The Missouri Supreme Court concluded that the arrangement satisfied the separate but equal standard because the state was prepared to build a law school for blacks but it was unreasonable to do so for just one person.

The Majority Opinion (7-2)

"The admissibility of laws separating the races in the enjoyment of privileges afforded by the State rests wholly upon the equality of the privileges which the laws give to the separated groups within the State."

"By the operation of the laws of Missouri a privilege has been created for white law students which is denied to negroes by reason of their race."

The Majority Opinion

"[P]etitioner's right was a personal one. It was as an individual that he was entitled to the equal protection of the laws, and the State was bound to furnish him within its borders facilities for legal education substantially equal to those which the State there afforded for persons of the white race, whether or not other negroes sought the same opportunity."

Takeaways

- To satisfy the “separate but equal” test, the State must provide substantially equal privileges.
- Equal protection is a personal right. It must be provided to each person seeking it.
- Each state must provide equal benefits within the state.

Sweatt v Painter

U.S. Supreme Court

(9-0)

1950

Chief Justice Fred M. Vinson



Fred M. Vinson
(1890 – 1953)

Heman Marion Sweatt



Heman Marion Sweatt

Basic Facts

In 1946 Heman Sweatt applied to the University of Texas Law School which was a whites only school. There was no black law school in Texas.

He was rejected and with the support of the NAACP sued the State in state court.

The Texas Supreme Court said that, if the State established a black law school, the Plessy test would be satisfied and paused the proceedings for six months to give the State time to do so.

Sweatt appealed to the U.S. Supreme Court arguing the new school wouldn't be equal to the newly created Texas State University for Negroes.

The Unanimous Opinion

The University of Texas School of Law is] one of the nation's ranking law schools.

In terms of number of the faculty, variety of courses and opportunity for specialization, size of the student body, scope of the library, availability of law review and similar activities, the University of Texas Law School is superior.

The Unanimous Opinion

[T]he University of Texas Law School possesses... those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige.

Takeaways

The Texas arrangement violated the Equal Protection Clause of the 14th Amendment.

The two Texas law schools were separate but not equal.

When determining whether two schools were equal, both tangible and intangible factors had to be considered.

McLaurin v. Oklahoma State Regents

U.S. Supreme Court

(9-0)

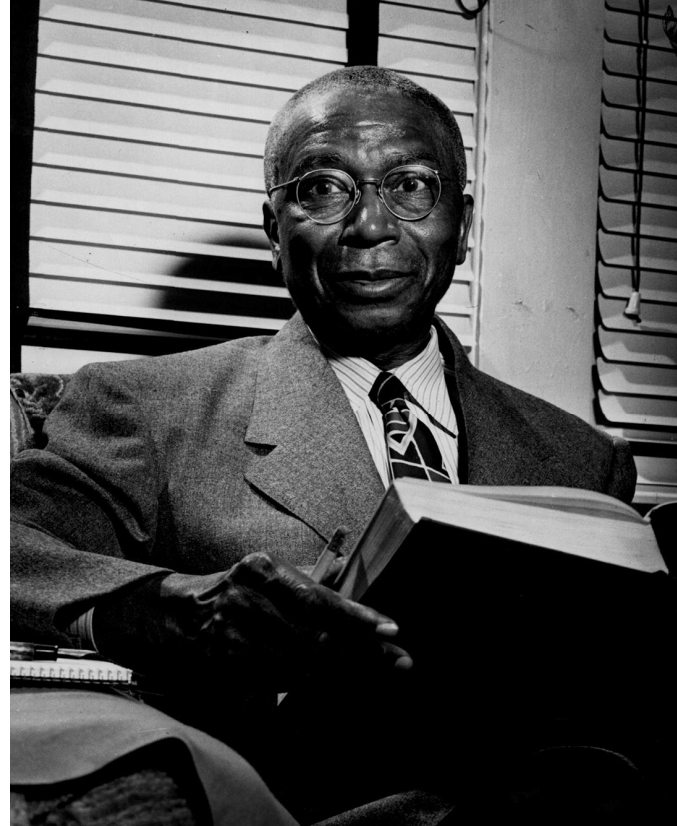
1950

Chief Justice Fred M. Vinson



Fred M. Vinson
(1890 – 1953)

George W. McLaurin



George W. McClarin

Basic Facts

George McLaurin was a retired college professor, having taught foreign languages at Langston University, a black college in Oklahoma, for many years. He had a masters degree from an out of state school.

In 1948, at the age of 54, he applied to the University of Oklahoma to study for a doctorate in education.

He was rejected because state law prohibited blacks from attending the University of Oklahoma.

Basic Facts

A Federal appeals court ordered the University to admit him. Oklahoma changed the laws to allow him to be admitted, provided he was kept segregated from the white students.

In 1949 McLaurin returned to Federal Court asserting the internal segregation violated his right to equal treatment under the 14th Amendment.

The Federal District Court rejected his argument because Plessy v Ferguson was still the law. The Federal Court of Appeals upheld the lower court decision.

McLaurin appealed to the U.S. Supreme Court which heard the case in 1950.



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George W. McLaurin, a 54-year-old African-American, sat in an anteroom, apart from the other students, as he attended class at the University of Oklahoma in 1948. The university insisted that segregation be maintained, but a U.S. Supreme Court ruling forced the institution to accept McLaurin as a student.

The Unanimous Decision of the Court

We conclude that the conditions under which this appellant is required to receive his education deprive him of his personal and present right to the equal protection of the laws. We hold that under these circumstances the Fourteenth Amendment precludes differences in treatment by the state based upon race. Appellant... must receive the same treatment at the hands of the state as students of other races.

Takeaways

- McLaurin was the first case to directly challenge the “separate but equal” doctrine of Plessy v Ferguson in 1896.
- In Gaines v. Missouri and Sweatt v. Painter the court was asked to decide if two separate schools were equal.
- In McLaurin black and white students shared the same school as white students.
- The court unanimously concluded that sharing the same graduate school was not enough.
- To provide equal benefits under the Fourteenth Amendment, the experience of attending graduate school had to be the same for both races.

From the Unanimous Opinion

These restrictions... signify that the State, in administering the facilities it affords for professional and graduate study, sets McLaurin apart from the other students.

The result is that appellant is handicapped in his pursuit of effective graduate instruction.

Such restrictions impair and inhibit his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession.

From the Unanimous Opinion

It may be argued that [McLaurin] will be in no better position when these restrictions are removed, for he may still be set apart by his fellow students.

This we think irrelevant.

There is a vast difference -- a Constitutional difference -- between restrictions imposed by the state which prohibit the intellectual commingling of students and the refusal of individuals to commingle where the state presents no such bar.

The Unanimous Opinion

[W]e cannot find substantial equality in the educational opportunities offered white and Negro law students by the State.

Briggs et al. v Elliott et al.

United States District Court
E. D. South Carolina, Charleston Division

(2-l)

1951.

Plaintiff's Arguments

The plaintiffs argued that black schools in South Carolina did not have the same facilities or provide the same educational opportunities as white schools.

They presented evidence from well respected educators and sociologists demonstrating that the mere fact of segregation, itself, had “a deleterious and warping effect upon the minds of children”.

Plaintiffs' Prayer for Relief

The plaintiffs asked the Court to find that:

1. Black schools were inferior to white schools, violating the “separate but equal rule of Plessy v. Ferguson, and

2. The Supreme Court decisions on Sweatt and McLaurin that the very existence of separate schools based on race was itself a violation of the Equal Protection Clause of the Fourteenth Amendment should be extended to all public schools.

South Carolina's Answer

The state acknowledged that Black schools were inferior to white schools and presented witnesses outlining state programs to improve the condition of black schools, arguing that this effort satisfied the “separate but equal” rule of Plessy v. Ferguson.

The state also argued that the Supreme Court may have rejected the “separate but equal” rule with respect to graduate schools but it still applied to all other public schools.

The Majority Decision

One the first issue:

“There can be no question but that where separate schools are maintained for Negroes and whites, the educational facilities and opportunities afforded by them must be equal.”

On the second issue:

“The problem of segregation as applied to graduate and professional education is essentially different from that involved in segregation in education at the lower levels.”

Julius Waties Waring

(1880 – 1968)



J. Waties Waring

District Judge Waring's Dissent

“[N]o excuse can be made to deny them these rights which are theirs under the Constitution and laws of America by the use of the false doctrine and patten called ‘separate but equal’.”

“[Even] one of ordinary ability and understanding of the English language will have no trouble in knowing that when this Amendment was adopted, it was intended to do away with discrimination between our citizens.”

Setting the Stage for Brown

The issue of equal educational opportunities for blacks was probably somewhat of an abstract issue for the Supreme Court justices.

But by focusing on graduate schools, especially law schools, Marshall gave the justices something they knew about and understand. Every justice had graduated law school.

They understood in a very personal way what students in professional training schools needed to become successful and knew that, while bright open classrooms

Setting the Stage for Brown

Well stocked libraries were important, the school's reputation, the interchange of ideas among students and the community of alumni in the professional community at large, were just as critical.

The court didn't specifically overturn Plessy v Ferguson, but by holding that racially separate graduate schools had to provide the same tangible and intangible benefits to their students, the court had made it impossible to satisfy the "separate but equal" standard.

Setting the Stage for Brown

But, having been led by Marshall to the self-realization that these factors were critical for professional education, was the Supreme Court willing to apply the same standards to other levels of public education.

Marshall's strategy had put the Court in a box.

In the Sweatt and McLaurin cases, the Court said that the only way to train black and white students to be professionals under the Fourteenth Amendment was to have them share the same facilities and educational experience.

Setting the Stage for Brown

Could the Court possibly hold that anything less would satisfy the Fourteenth Amendment when it came to educating the rest of America's student?

Sweatt and McLaurin affected thousands. Expanding the standards they established could affect millions.

Brown v Board of Education

U.S. Supreme Court

(9-0)

1954

Chief Justice Earl Warren



Earl Warren

Thurgood Marshall



Thurgood Marshall

Marshall's Strategy

After the Supreme Court decided *Sweatt* and *McLaurin*, Marshall brought suit in Kansas, South Carolina, Virginia, Delaware and the District of Columbia arguing that separating public K–12 schools by race was inherently unequal.

The lower courts in all five cases rejected Marshall's "inherently unequal" arguments, concluding that the "separate but equal" standard of *Plessy v Ferguson* still applied.

Marshall appealed all five cases to the Supreme Court.

Brown v Board of Education

U.S. Supreme Court

(9-0)

1954

Linda Brown



Linda Brown

Interpreting the Fourteenth Amendment (1)

Although it was extensively argued before the Court, it is unclear whether the 14th Amendment was intended to cover education.

Education, if there was any, was largely in the hands of private groups. Attendance at schools was not mandatory.

“It is not surprising that there should be so little in the history of the Fourteenth Amendment relating to its intended effect on public education.”

Interpreting the Fourteenth Amendment (2)

Today, education is perhaps the most important function of state and local governments. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation.

Applying Sweatt and McLaurin

The intangible considerations of Sweatt and McLaurin “apply with added force to children in grade and high schools. 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 in a way unlikely ever to be undone.”

Applying Sweatt and McLaurin

“We conclude that, in the field of public education, the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. ”

Takeaways

- The Fourteenth Amendment has to be interpreted in light of current realities.
- Education today is critical to future success in life.
- Segregated schools create a sense of inferiority in black children.
- Education is now a major function of government.
- Ergo, separate schools violate the Equal Protection clause of the Fourteenth Amendment.

Brown v Board of Education II

U.S. Supreme Court

(9-0)

1955

Basic Facts

- The Supreme Court in Brown I sent the cases back to the lower courts to implement its ruling.
- The District Courts asked the States to propose plans to end segregation.
- The States argued that ending segregated schools was a major undertaking requiring time, money and complex logistics.
- Plaintiffs argued the States were stalling to maintain segregated schools as long as possible.

The Court's Reasoning

- “At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis.”
- Courts may “properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner.”
- The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date.
- “[Federal district] courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles.”

Takeaway

The desegregation of schools will proceed with “all deliberate speed”.













