

NYSBA/LYC Brown v. Board of Education

M.S. Lesson Activity no. 6

Observations on the Importance of *Brown v. Board of Education* Decision

Application

Students- Grades 7 and 8

Lesson Time

One class period

Objectives

At the end of this lesson, students should be able to:

1. Identify the attorneys, judges and others who made legal history by their involvement and leadership in the *Brown v. Board of Education* decision and other related litigation
2. Discuss the long-term, significant impacts of the *Brown v. Board of Education* decision on the civil rights movement and on American society
3. Evaluate the extent to which the lessons from the *Brown* decision are still relevant today in terms of the extension of civil rights to all Americans

New York State Social Studies Learning Standards

Students will describe how ordinary people and famous historic figures in the local community, State, and the United States have advanced the fundamental democratic values, beliefs, and traditions expressed in the Declaration of Independence, the New York State and United States Constitutions, the Bill of Rights, and other important historic documents

Materials

Handout:

1. **Quotations** from *Remembering Brown v. Board of Education and Related Litigation: A Tribute to the New York Attorneys Who Made Legal History- May 25, 2005*.
 - o Mr. Conrad K. Harper, ESQ. (pp. 21-24)
 - o Hon. George Bundy Smith and Hon. John A. Sandifer (pp. 24-27)
 - o Hon. George Bundy Smith and Hon. Constance Baker Motley (pp. 39-44)
 - o Hon. George Bundy Smith and Mr. Jeff L. Greenup, ESQ. (pp. 62-

67)

Activity

1. Divide the class into groups of five students. Give each group a different speaker who is discussing his or her involvement in either the *Brown* decision or related litigation. After groups have finished reading their speaker's comments, ask students to answer the following questions:
 - Who is the speaker talking about and what was that individual's role in the *Brown* decision or the civil rights movement?
 - What actions did this individual take that related to the *Brown* decision or the advancement of civil rights?
 - If they could interview the speaker or the individual he or she spoke about, what questions would they ask them about their involvement in the *Brown* decision or the civil rights movement?
2. After students have answered these questions, have each group select a spokesperson to report on the individual they read about and how that individual contributed to the *Brown* decision or the civil rights movement.
3. Ask students to discuss how the issues related to the *Brown* decision and other civil rights cases are still relevant today. Ask them to propose ways to continue the desegregation of public education. Students might investigate the effects of school vouchers and charter schools on school integration and the achievement of minority students.

1 NEW YORK STATE BAR ASSOCIATION

2 -----

3 Remembering

4 BROWN v. BOARD OF EDUCATION

5 and Related Litigation:

6

7 A Tribute to the New York Attorneys

8 Who made Legal History

9 -----

10 Wednesday, May 25, 2005

11 6:30 p.m.

12 New York Hilton Hotel

13 Avenue of the Americas

14 New York, New York

15

16 Hosted by:

17 KENNETH G. STANDARD

18 President

19

20 NEW YORK STATE BAR ASSOCIATION

21

22 And

23

24 MINORITY BAR ASSOCIATION PARTNERS

1 Featured Speakers

2

3 KENNETH G. STANDARD

4 President New York State Bar Association

5

6 ROBERT J. GREY, JR.

7 President American Bar Association

8

9 HON. GEORGE BUNDY SMITH

10 Associate Judge NYS Court of Appeals

11

12 Oral Histories and Reminiscences:

13

14 JULIUS L. CHAMBERS, ESQ.

15 EDWARD R. DUDLEY, JR., ESQ.

16 PROFESSOR JACK GREENBERG

17 JEFF L. GREENUP, ESQ.

18 CONRAD K. HARPER, ESQ.

19 HON. NATHANIEL R. JONES

20 MRS. THURGOOD MARSHALL

21 HON. CONSTANCE BAKER MOTLEY

22 HON. LOUIS H. POLLAK

23 HON. JAWN A. SANDIFER

24 HON. JACK. B. WEINSTEIN

1
2 MR. HARPER: Let me say
3 briefly, we are all heirs of Charles
4 Hamilton Houston. He was born in 1895
5 in Washington D.C.; he died there 55
6 years later, in 1950. He grew up in
7 segregated Washington. Went to public
8 school there. Went to Amherst College
9 in which he graduated Phi Beta Kappa
10 and valedictorian. He then was in
11 France during the first World War, and
12 onto Harvard Law School, where in his
13 third year he was the first black ever
14 elected to membership on the Harvard
15 Law Review. After that he took a
16 traveling fellowship and earned a
17 doctorate at the University of Madrid.
18 He returned to Washington and went to
19 work with his father, who had a small
20 law office there. And he is chiefly
21 known to fame these days for two
22 things that never relate in his
23 reputation. The first has to do with
24 Howard Law School, the second has to

1 do with the Constitution of the United
2 States.

3 With respect to the Howard
4 law school, in 1929 Houston was asked
5 to become Vice Dean, that is to be the
6 chief administrative officer of
7 Howard. He served in that role for
8 five years. But in those five years
9 he made Howard Law School, which had
10 been an unaccredited night school,
11 into a fully accredited day law
12 school. Many of the students he
13 trained turned out to be field
14 marshals of the coming civil rights
15 revolution. Chief among them, of
16 course, was Thurgood Marshall, who was
17 in the class of 1933. After
18 Marshall's graduation, he went to
19 Baltimore to practice for a while and
20 ultimately came to work with Houston.

21 Meanwhile, though, the
22 trajectory of Houston's life was to
23 enter that Constitutional plain I
24 mentioned a few minutes ago. By the

1 1930s he already argued a few cases
2 before the Supreme Court. He was
3 asked in the fall of 1934 to be the
4 first paid lawyer of the NAACP, and he
5 agreed to do so. And at that same
6 time, October 26, 1934 to be exact, he
7 wrote a memorandum outlining what he
8 thought needed to be done by way of a
9 legal campaign. The NAACP had money,
10 so it thought, in the Garland Fund, of
11 \$100,000. At least that was the
12 initial amount appropriated in the
13 early 1930s, but thanks to the
14 depression, that \$100,000 had shrunk
15 to \$10,000. On that amount Charles
16 Hamilton Houston overturned the beast
17 of segregation in our country.

18 On July 1, 1935 he became
19 the special counsel to NAACP. He only
20 had that role for three years, and
21 therefore, he was in the sense of a
22 cooperating lawyer first of NAACP and
23 then of Inc. Fund founded in 1940.
24 But he was the chief architect of the

1 strategy that ultimately led to the
2 overthrow of racial segregation by
3 legal means in this country. And when
4 we think about the cases he won, the
5 Gaines case, Constable case, Hurd v.
6 Hodge. And we know his influence on
7 those who came after Thurgood
8 Marshall. Of course paramount among
9 them, we realize that in Houston we
10 had the hero that the race needed and
11 the country needed.

12 Thank you, Charles Houston
13 JUDGE SMITH: Among the
14 cases that was a forerunner to Brown
15 was called Henderson v. United States.
16 A person had taken a train ride, and
17 he wanted to eat, like everybody else.
18 And so they said, okay, you could eat,
19 but since you are black, we are going
20 to put a little curtain there, so you
21 can't be seen by the white persons on
22 the train. One of the persons
23 involved in that case was John
24 Sandifer. The case went to the United

1 States Supreme Court. That court said
2 this was a violation of the Interstate
3 Commerce Act.

4 Judge Sandifer, how did you
5 become involved in that Henderson?

6 JUDGE SANDIFER: Well, Ralph
7 Lawson was my colleague from
8 Washington, D.C. Elmer Henderson was
9 of a brother of ours, and Elmer
10 Henderson was an employee of the
11 United States Government at the time.
12 But before I reach the facts in this
13 case and the argument, I want to tell
14 you a little about what the situation
15 was with respect to the Southern
16 Railroad at that time. You must
17 remember, this is back in the '50s.
18 And the major mode of transportation
19 at that time, for blacks especially,
20 was to ride on the railroads.

21 The Southern Railroad had a
22 car that was directly behind the
23 engine, and that was the Jim Crow car
24 for blacks at that time. It was that

1 car that was hitched behind the
2 engine. And blacks in the coaches had
3 to have their sandwiches and whatever
4 in the black coach, because they had
5 no way of eating at that particular
6 time.

7 Now Henderson, who was
8 black, was riding in the pullman car,
9 and he attempted to enter the dining
10 room to have his meal. And he was
11 denied; he was ordered to go behind a
12 curtain. And he refused. So Belford
13 Lawson and I brought this lawsuit
14 before the United States Supreme Court
15 at that time.

16 Now, the Henderson case came
17 before the Supreme Court along with
18 Sweatt and McLaurin. Those three
19 cases we had hoped would achieve the
20 results that Brown finally achieved.
21 In the Sweatt case, Sweatt applied for
22 admission to University of Texas, and
23 was denied admission. McLaurin, who
24 had been admitted to the University of

1 Oklahoma, was admitted to the
2 university, but he was separated from
3 his peers in the classroom.

4 In the Henderson case, we
5 argued that Henderson had been denied
6 his equal rights as a passenger. And
7 the Court decided all three of these
8 cases, and we expected and hoped that
9 these three cases would have the
10 result that we got from Brown. But
11 that did not happen. We won all three
12 of those cases, but the Court did not
13 reach the question of separate but
14 equal, which was a disappointment.
15 But we think that these three cases
16 did lay the foundation for the Brown
17 decision.

18 Now, Kenneth, when you took
19 the oath back at the time that you
20 took the oath, you said this, and this
21 is what I really wanted to focus your
22 attention to at this time. That on
23 the stand Brown was a milestone, but
24 having attended for several years a

1 I've likened it to an ice breaker,
2 making it impossible for progress to
3 take place. So while Brown was a
4 decision that was a prerequisite to
5 having any integration in all sectors
6 of society in the United States at
7 that time, it made possible the kinds
8 of changes that the political
9 imperative of the Race Equality
10 Directive had in Europe at that time.

11 So Brown was more than a
12 school integration decision. It was a
13 decision that broke up the whole
14 rotten racist political system that
15 governed this country from 1954 for
16 several generations thereafter.

17

18 (Applause.)

19

20 JUDGE SMITH: Thank you.

21 Judge Motley, you were
22 involved both in Brown and Board of
23 Education and particularly involved
24 with the case of James Meredith

1 entering the University of
2 Mississippi. Would you tell us about
3 both of those briefly please, your
4 role in Brown and your role in the
5 James Meredith case. I know that that
6 can take an afternoon or an evening,
7 but we have a short amount of time,
8 so.

9 JUDGE MOTLEY: Well,
10 unfortunately I'm at the stage where I
11 have to write it down, otherwise I
12 have memory problems. So I only have
13 a couple of pages here. I'll read
14 quickly through them.

15 I want to thank New York
16 State Bar Association for paying
17 tribute to Brown v. Board of
18 Education, a great landmark in the
19 jurisprudence of this country.

20 As many people recognize,
21 Brown was a milestone that struggled
22 with civil rights and equal
23 opportunity. But it's also important
24 to note that Brown was just one part

1 of a much larger strategy to end
2 segregation. It was preceded by a
3 number of cases that step by step set
4 a context for Brown and for the
5 Supreme Court to rule as it did on May
6 17th, 1954.

7 In 1947 a black woman, who
8 sought and was denied admission at the
9 University of Oklahoma law school on
10 the basis of her race brought a suit
11 against the school. Oklahoma, like
12 other southern states, had not set up
13 a separate law school for blacks.
14 Sipuel v. Board of Regents of the
15 University of Oklahoma reached the
16 Supreme Court in 1948. Just three
17 days after hearing oral argument, the
18 Supreme Court rendered its decision.
19 Holding that, in conformity with the
20 14th Amendment, the state must provide
21 equal protection within its own
22 borders, and that Miss Sipuel was
23 entitled to a legal education provided
24 by a state institution. The Court

1 further held that the state was
2 required to provide such an education
3 as soon as it could for applicants of
4 any of the group. In *McLaurin v.*
5 *Oklahoma State*, the Supreme Court held
6 that once blacks were admitted to a
7 previously all-white university, the
8 school could not segregate black
9 students in that institution by
10 forcing them to sit in separate areas
11 of the library or in the classrooms.

12 Sweatt v. Painter, a case
13 brought against the University of
14 Texas Law School, provided the first
15 opportunity to compare a law school
16 established by the state for whites
17 with a supposedly similar facility for
18 blacks. The University of Texas Law
19 School had denied Sweatt entering, on
20 the ground that he could attend a
21 recently created law school, which at
22 the time it opened had no full-time
23 faculty and no library. In that case,
24 the Supreme Court for the first time

1 ordered a white university to admit a
2 black student. Although the Court
3 refused to review Plessy v. Ferguson,
4 a dark stain on the record, it
5 nevertheless found that the two
6 schools were not equal.

7 All of these cases and the
8 victories it achieved set the stage
9 for the ultimate success of Brown.
10 Every case that we brought was
11 pursuant to a predetermined strategy
12 to end segregation. As we now all
13 know, the stroke to end segregation
14 did not end with Brown. It took many
15 years and many more cases to enforce
16 Brown and integrate previously
17 segregated schools.

18 Today, class more than race
19 is a determinate of the quality of
20 education that children receive. That
21 is the challenge for the next
22 generation of lawyers to address. The
23 rise of minorities in the legal
24 profession, one of the 20th Century's

1 triumphs over ignorance and bias has
2 made us ready as a nation to face this
3 and many of the challenges in the 21st
4 Century, and many other challenges.

5

6 (Applause.)

7

8 JUDGE SMITH: Thank you.

9 Next, I'm going to ask

10 Julius Chambers to speak about the
11 Charlotte case and bussing in schools,
12 as well as tell us something about his
13 stewardship of the Inc. Fund.

14 MR. CHAMBERS: Thank you,
15 Judge.

16 I, like others who preceded
17 me, want to thank the bar and the
18 conglomerate of the minority bars that
19 have sponsored this event for
20 tonight's event. I also want to thank
21 the Legal Defense Fund for the work
22 that it has done in order to help with
23 the efforts in desegregation. I
24 mention that because the

1 minute. Jeff Greenup grew up in
2 Louisiana. One of the cases that he
3 handled involved a youngster who
4 reacted strongly when the N word was
5 hurled at her at school. Can you tell
6 us what happened in that case, Jeff
7 Greenup.

8 MR. GREENUP: Thank you,
9 Judge.

10 It is my distinct privilege
11 and honor to be here amongst these
12 legal giants. I've followed Justice
13 Motley around for years. And every
14 day I'd look up in my office and see
15 her picture there, and reminisce about
16 the many great moments I had when I
17 listened to her. And of course, lots
18 of times I get engaged in
19 conversations, and it's all about the
20 south. So someone asked me one day,
21 what about the north? And I asked
22 her, what do you mean? You know, up
23 south north. Well, I've had some
24 experiences that may give some

1 credence to that expression.

2 I was living in Westchester
3 County, Hastings on the Hudson. I was
4 there, of course, I had had a
5 disagreement with the wife. She
6 wanted to send our children to private
7 school, and I took the position that,
8 well, we were not going to be living
9 in a private world, I would rather
10 spend the money and buy a house where
11 there are some good public schools.
12 So we looked around, and we thought
13 the public schools in
14 Hastings-on-Hudson were good, and
15 that's where we ended up with the
16 kids. And of course, word got around
17 that I was affiliated with NAACP, and
18 there was some totally white public
19 schools in parts of Westchester County
20 where I lived.

21 Now, the particular instance
22 that Judge Smith just mentioned, there
23 was a young black female student who
24 had just made her sixteenth birthday,

1 and she was trying to follow the
2 teachings that her mother taught her.
3 Of course, they were students of Dr.
4 Martin Luther King: Don't fight back.
5 Turn the other cheek. So one day she
6 reached a breaking point when one of
7 her classmates, who happened to be a
8 white male, used the N word. And I
9 don't think I'm permitted to use it in
10 polite company like this, but he
11 called her a nigger and spat on her.
12 So she slapped him, and found herself
13 suspended and being prosecuted for
14 assault.

15 Now, in the midst of the
16 trial, her aunt, who was her guardian,
17 became concerned because the courtroom
18 was full of people every day, but the
19 only two people that looked like them
20 in the courtroom was the aunt and her
21 niece. So she went to the NAACP in
22 White Plains, New York, and asked for
23 some help. Somehow the word got to
24 now Judge Jawn Sandifer, who for years

1 was the Chairperson of the State
2 Redress Committee, and Jawn had a
3 habit when a nasty situation came up
4 of saying get me Jeff. So I found
5 myself in the courtroom being shoved
6 around by the judge, literally.
7 Because we were in the midst of the
8 trial, and here I was trying to
9 intervene. So I called on the Defense
10 Fund, and I got one of the lawyers
11 there. And I don't know if he
12 remembers it or not, but his name
13 happened to be Harper, and I told him
14 what a problem I was having. He said,
15 well, go back in the courtroom and
16 talk to the judge about the fact she's
17 entitled to a lawyer of her own
18 choosing, and make sure she says she
19 chose you.

20 So I went back in the
21 courtroom, and to make a long story
22 short, the judge declared a mistrial,
23 after he made the record about her
24 having a constitutional right to a

1 lawyer of her own choice, and I took
2 over the case. I was on trial for two
3 weeks, and of course, eventually the
4 charges were dismissed. She was
5 acquitted. And that youngster and her
6 aunt, she went back to school, finally
7 she got transferred to another school,
8 graduated and went to college in North
9 Carolina and became a teacher. But I
10 have on my wall a plaque, and the
11 plaque reads: I don't remember the
12 exact quote, that's my fee. So she
13 said, we don't have any money, but
14 Nanna and I just want to thank you for
15 what you did for us. I said, well,
16 thank the NAACP. She says, you have
17 NAACP applications? I said well,
18 aren't you already a member? She
19 said, I'm not aware of it. Of course,
20 I had learned something from an
21 experienced Judge Robert Callahan,
22 when he was a lawyer, and got in
23 trouble when the question was raised
24 whether or not his clients actually

1 retained him. So I said to Nanna and
2 to the young lady, of course you're
3 members of the NAACP. I signed an app
4 before I got involved.

5

6 (Applause.)

7

8 NAACP had authorized me to call this
9 an NAACP case. So whatever you do,
10 don't forget you are members of the
11 NAACP, and you are were a member when
12 I tried this case. She is now a
13 teacher somewhere in Florida, and she
14 kept in touch with me for years, until
15 her aunt passed. But that's just a
16 sampling of what could happen up south
17 north.

18

19 (Applause.)

20

21 JUDGE SMITH: Thank you.

22 I feel under the gun, but I
23 have got to call on the person who
24 taught me Constitutional Law, Judge