Opposing Sides: Brown v. Board of Education

**John W. Davis**, age 79, would represent the state of South Carolina in the case Brown v. Board of Education of Topeka in 1952. He was a well known lawyer who was asked personally by the governor to take the case. This man was defending segregation as public policy through past historical cases such as Plessy v. Ferguson, the Dredd Scott decision in 1857 which stated that Congress did not have the right to prohibit slavery which interfered with the private property rights of the people. Davis even quoted passages from a book that W.E.B. DuBois wrote. DuBois was a controversial black writer whom wrote mainly on the separation of blacks and whites. E.R. Crow, superintendent at the Sumner school, quotes Negro administrators saying they, "prefer to have schools of their own race"(Fireside and Fuller p. 55). Mr. Davis believed that what kept the racial peace in the South was the separation of schools. Davis’ closing statements came from the South Carolina court decisions of the case Briggs v. Elliot:

*When seventeen states and the Congress of the United States have for more than three-Quarters of a century required segregation of the races in the public schools, and when this has received the approval of the leading appellate courts of the country including the unanimous approval of the Supreme Court of the United States.... it is a late day to say such segregation is in violation of fundamental constitutional rights. It is hardly reasonable to suppose that legislative bodies over so wide a territory defied the Constitution for so long a period, or that they have acted in ignorance of the meaning of its provisions. The constitutional principle is the same now that it has been throughout this period*(qtd in Fireside and Fuller p. 60).

Meanwhile, the **NAACP** came strongly prepared with twenty lawyers and expert witnesses. They fought in contest to Davis, that times have changed. " Segregation of black children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors maybe equal"(Villanova). Dr. Kenneth Clark, a psychology professor from City College of New York, found that black children had confused concepts of self esteem due to being victims of segregation. Dr. Hugh Speer, an educational professor at the University of Kansas City comments that black kids put into integrated schools adapt quickly. He also says that the black children "have the opportunity to learn to live with, to work with, to cooperate with, white children...."(Fireside and Fuller p. 56). In Thurgood’s final rebuttal he emphasizes,

*that when you put a white child in a school with a whole lot of colored children, the child would fall apart or something. Everybody knows that is true. Those same kids in Virginia and South Carolina - and I have seen them do it - they play in the streets together, they play on their farms together, they go down the road together, they separate to go to school, they come out of school and play ball together. Do they have to be separated at school* (Fireside and Fuller p. 59)?

**The Justice** of the Supreme Court first heard two sides of the Brown case in December 1952. The Chief of Justice was Friedrich Vinson. Vinson and his Justices had been having a hard time agreeing on court issues for the past few years. Most blamed Vinson for the problems that arose during his term as Chief of Justice.

Justice Hugo Black was the leading "liberal". Black had a strong commitment to the Bill of Rights and the first ten amendments of the Constitution which made him sway towards integration of the schools. Justice Felix Frankfurter on the other hand went from liberal to conservative. Frankfurters heart was clearly on the side of black children getting the best education possible. However, his mind kept raising legal objection to the situation. Justice Jackson as well as Justice Reed were both southern conservatives who believed in segregated schooling of our nations children.

Justice Frankfurter felt that if they had had a primary vote that it would be 5 to 4 in favor of integration. He believed that Vinson held the decisive vote. Frankfurter convinced his colleagues that they would benefit from hearing the case reargued which in fact caused the set date of the decision in May 1953 to be postponed. On September 3, 1953, Chief Justice Vinson died suddenly of a heart attack. Frankfurter states," This is the first indication I have had," he said, "that there is a God"(Fireside and Fuller p. 71). He never thought that Vinson had it in him to keep the segregation laws alive in the southern states.

For the first time in United States history, a person was named directly into the Supreme Court by the President. President Eisenhower was in debt to Republican Earl Warren for sending all of his California votes to him in a narrow victory over Robert A. Taft. Eisenhower promised Warren the first vacancy in the Supreme Court not knowing that it would be the Chief of Justice position that would open first. Warren had little legal experience but was a genius for leadership. He had an ability to appeal to the people on all different sides of an issue. Warren knew that the southern Justices of the Court, who were brought up in a segregated society would have a hard time accepting integrated schools. He also was aware that it was much easier for the non-southern Justices to understand that it was for the better for our society and nation to make the change.

Warren found out that his greatest asset was his ability to listen to his colleagues and with that find common grounds between them all. He began to get to know everyone and their families from janitors of the Court to Justices. A close friendship began to rise between Justice Black and himself. Warren played each person wisely. He listened to all and gave opinions where they were needed. For many months the only thing he did not discuss was his side in the case.

The argument began on December 7, 1953. This is where each side stood face to face with the Justices to fight their case. Each side had a certain amount of time to speak and answer sporadic questions asked by the Court. Spottswood Robinson III, spoke first for the NAACP. He stated that the broad purpose of the 14th Amendment was to end segregation and enforce equality for everything including education. Justice Frankfurter was not satisfied with his argument. Frankfurter felt that the 14th Amendment did not have convincing proof that included the rights of black children to attend white schools. Marshall then spoke for the plaintiffs. He argued that the Supreme Court of today needed to end segregation of its public schools. Marshall said that it was even more important for the Justices to interpret the Constitution if it needed review.

In John Davis’ argument he states that," the 14th Amendment did not understand [intend] that it would abolish segregation in public schools"(Fireside and Fuller p. 79). Davis stated that the equal protection of the 14th Amendment was never intended for integrated schools.

On December 8, 1953, Thurgood spoke again. He argued that if the Court favored segregated schools it would be the same as saying, "Negro’s are inferior to all other human beings"(Fireside and Fuller p. 79). Marshall believed that segregation implied:

an inherent determination that the people that were formerly in slavery, regardless of anything else, shall be kept as near that stage as possible, and now is the time, we submit, that this Court should make it clear that that is not what are Constitution stands for. (Fireside and Fuller pgs. 79-80)

On December 12, 1953, the nine Justices met behind closed doors to discuss the case. In order of seniority, first Chief Justice Warren would make a brief statement on how the case should be decided. They each spoke turn by turn. After all had been discussed they took a vote in reverse order. At this point Warren tried to persuade them that "separate but equal" would not work anymore because it implied inferiority for black people. After they voted around the table it seemed that a majority agreed with Warren. Warren was not satisfied, he needed a unanimous vote from the Supreme Court to show society that the Court was in full agreement to integrate schools. By early March he got the members to agree that segregated schools were no longer constitutional.

On May 17, 1954 Earl Warren gave the Supreme Court decision on the case Brown v. Board of Education of Topeka. He read to a silent audience: We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal (Fireside and Fuller p. 84). With that closing statement it forever ended legally enforced segregation in all of the nation’s schools.

History does serve a purpose, the purpose to unite our country in the best interest of the people. In 1863 President Lincoln issued the Emancipation Proclamation which freed all black slaves. And on July 9, 1868 the 13th Amendment was ratified stating that, "Neither Slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction"(Legal). The process for integrated schools began in 1951 and ended on May 17, 1954 in a victory for all the black children of our united nation.

Richard Nixon on March 24,1970 announced that, " When we speak of equal opportunity we mean just that: that each person should have an equal chance at the starting line, and an equal chance to go as high and as far as his talents and energies will take him"(Nixon p. 27).

For Linda Brown even the affect of a victory for her case did not mean much until the late 60’s. Her life as we know it, has shaped the lives of all the Negro children allowed to attend integrated schools following her historical case victory. As time progresses we lose that old fashioned style, that hate, that animosity. Sure racism is still here but now most people have learned to live in an equal environment. The Court decision in 1954 may have not seemed like much back then but now it is seen, it is known, that we stand as one of all colors and nationalities equally, undivided.