Symposium Introduction - *Brown v. Board of Education* After Fifty Years: Context and Synopsis

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Brown v. Board of Education
After Fifty Years: Context and Synopsis

by James L. Hunt*

For white Southerners, the United States Supreme Court’s decision in Brown v. Board of Education\(^1\) was important because it challenged racial discrimination in the most important governmental function of their communities: public education. As a consequence, the significance of Brown is not limited to the legal strategies of the parties or the decision-making process on the Supreme Court, however critical those activities were. Of additional usefulness in understanding Brown is the experience of the people who would either defy or support it. The essential political nature of Brown requires an effort to consider its


impact at the local level. The experience of Macon, Georgia, past and present, provides appropriate context for a summary of the Brown litigation. This approach advances the highest purpose of studying Brown, which is to connect formal legal developments with broader currents in ideas, society, and politics.

I.

Macon, the home of Mercer University, was a segregated city in 1954. "Tradition" or law required that practically every aspect of life, including public schools, employment, higher education, housing, public transportation, theatres, restaurants, hotels, and churches, be segregated by race. Like slavery, segregation operated through a complex and interrelated set of rules, each of which depended in some manner upon the others' enforcement. When the United States Supreme Court on May 17, 1954, held in Brown that segregation in public elementary and secondary education violated the United States Constitution, the entire edifice of white supremacy, an ideal enforced in Macon since the city was founded in 1823, was put at issue.

Macon's white citizens fully appreciated Brown's potential to disrupt the settled order. The local morning daily newspaper, the Macon Telegraph, gave special attention to the decision on May 18, posting the headline "Segregation in Schools Outlawed By Sweeping Supreme Court Ruling" across several columns at the top of its first page. It even took the unusual step of printing the entire opinion. According to the Telegraph, both Macon's political leaders and ordinary whites unanimously condemned Brown. Readers learned that Governor Herman Talmadge, an outstanding segregationist even among Southern politicians, renewed his vow that "[t]here will never be mixed schools while I am governor."

3. In 1860, Macon contained 5,042 whites, 21 free blacks, and 3,069 black slaves. African-Americans could not drink alcohol and were required to obtain a permit from the Mayor and Aldermen prior to having a public meeting. "Free" blacks could not remain in Macon for more than five consecutive days without obtaining a white guardian. Whites adopted a prohibitive tax of $50 on free African-Americans entering the town and a law allowing blacks suspected of bad character to be expelled or imprisoned. RICHARD W. IOBST, CIVIL WAR MACON: THE HISTORY OF A CONFEDERATE CITY 1, 21-22 (1999).
5. Text of Court's Segregation Ruling, MACON TELEGRAPH, May 18, 1954, at 5.
6. Talmadge Ready to Fight Decision, MACON TELEGRAPH, May 18, 1954, at 1. Talmadge's race-baiting led to the perverse, but common, conclusion that it would be better to close the public schools than to integrate them. NUMAN V. BARTLEY, THE CREATION OF
As for the Supreme Court, Talmadge, a lawyer, complained that it "has blatantly ignored all law and precedent and usurped from the Congress and the people the power to amend the Constitution." Similarly, United States Senator Richard B. Russell, also an attorney, called the decision "a flagrant abuse of judicial power." State legislators from Macon agreed. Denmark Groover announced that Brown reflected "purely and simply sociological views of the court, despite contrary precedents." He confidently predicted the legislature would "take some action to maintain segregation and at the same time provide educational opportunities for all its citizens." Gus Bernd, a legislative candidate, was also "deeply disappointed," and he hinted that Andrew Jackson's alleged refusal to enforce a Supreme Court decision involving a dispute between the Cherokee Nation and Georgia in the 1830s provided an appropriate example for resistance. The sheriff, James Wood, issued a statement proclaiming that enforcement of Brown would mean the end of public education and a manifest decline in race relations.

Local school leaders also rejected Brown. In Bibb County, where Macon is located, Superintendent Dr. Mark Smith did not think the ruling would have an immediate effect. One reason for this thought was the large number of African-American students. In the 1953-1954

MODERN GEORGIA 191 (1983). Bartley and Hugh D. Graham describe Talmadge as a conservative politician with an ability to win the support of lower-class whites through Negrophobia: He "projected a hell-of-a-fellow, common-white-man image. [He was a] 'good ole boy' segregationist[ ] who effectively manipulated the race issue, in that time-honored manner, as an instrument for dividing the have-nots along color lines." NUMAN V. BARTLEY & HUGH D. GRAHAM, SOUTHERN POLITICS AND THE SECOND RECONSTRUCTION 47 (1975).
8. Russell Says Action Abuses Court's Power, MACON TELEGRAPH, May 18, 1954, at 1. Russell was chairman of the Senate Appropriations Committee from 1955 to 1969 and a staunch opponent of civil rights laws.
10. Id.
11. Id. The myth, repeated by Bernd, was that Jackson proclaimed, "John Marshall has made his decision. Now let him enforce it," in response to the decision, which Georgia lost, in Worcester v. Georgia, 30 U.S. 515 (1832). Actually, Jackson, who had little time for nullifiers, was inclined to enforce it. R. KENT NEWMYER, SUPREME COURT JUSTICE JOSEPH STORY: STATESMAN OF THE OLD REPUBLIC 215-16 (1985). Bernd seemed unmoved by the racial context of the Cherokee case, in which the Georgia and federal governments collaborated in the forced removal and deaths of thousands of Native Americans.
12. Reg Murphy, Time Held Need for Segregation, MACON TELEGRAPH, May 18, 1954, at 8.
13. Bibb School Men Expect to Work Out Problems, MACON TELEGRAPH, May 18, 1954, at 1. The decision was not wholly unexpected. In June 1953 the Board abolished existing district lines because of changes in racial residential patterns in Macon. Id.
year, Bibb County operated twenty-nine white schools and eighteen black schools; 14,828 students were white, and 8,339 were black. Real integration necessarily required what seemed an inconceivable reshuffling of students. Jones County's superintendent confidently blamed the entire question of desegregation on “outside intervention” and thought violence would occur if his schools integrated. More ominously, the chairman of the Toombs County board predicted “wholesale killing” if segregation ended. Peach County's superintendent expressed confidence in Georgia's program of “equalization,” which aimed to avoid integration by improving black schools. His system had just opened a new black school, and the school's occupants seemed "very happy in their own new building." J. H. Clarke, of Monroe County, claimed that blacks there opposed integration.

Interviews conducted with other whites revealed fear, racism, disappointment in the Supreme Court, and unanimous opposition to its ruling. The decision was the number one topic of conversation around town. One theme of the interviews was that whites and blacks were happy with the way things were, so why change? One man thought the Court was trying to legislate “brotherhood,” an impossibility. Yet the coercive effect of white solidarity came at a price: “[I]f you let it get out that you've stated one way or the other on [segregation], it'll hurt your business. I'm trying to make a dollar. Don’t use my name.” Some offered the hope that “my children can finish school before they bring in the Negroes.” Miss June Wood, a fifth grade teacher at the white Alexander II school, adjacent to the Mercer campus, believed that “Georgia and the South will find some way around the ruling.” All agreed that getting time to protect segregation was critical: The day when whites and blacks “might be forced to go to school together must be delayed to give the citizens time to formulate a new system of

15. Middle Georgia Educators Shocked at Decision, MACON TELEGRAPH, May 18, 1954, at 3.
16. Id.
17. Id.
18. Id.
20. Id.
21. Id. at 1.
22. Id.
23. Id. at 3.
24. Time Held Need for Segregation, supra note 12, at 3.
At least one person implied the potential for violence by conceding that it would take “guts” for a black student to integrate a white school.\textsuperscript{27} The editors of the white-owned \textit{Macon Telegraph} adopted what passed in Georgia for a moderate response.\textsuperscript{28} They rejected “an attitude of defiance against the Supreme Court.”\textsuperscript{29} Yet Georgia was not ready to abandon segregation, and any change would not be “in the near future.”\textsuperscript{30} On the other hand, the paper chided reactionaries, without mentioning Talmadge by name, noting the importance of a “proper example” set by the state’s political leadership.\textsuperscript{31} Bert Struby, the executive editor, emphasized the point, suggesting fallout from \textit{Brown} would separate demagogues from those politicians “who are sincerely interested in the welfare of the citizens of our state, white as well as colored.”\textsuperscript{32} Struby even predicted \textit{Brown} would lessen the race issue in political campaigns.\textsuperscript{33} He did not, however, guess when that would occur.

Predictably, the \textit{Macon Telegraph}, a segregated institution itself, gave little attention to the reaction of blacks. The newspaper’s interest in that part of the community was restricted to a separate page, “Personal and Social News for Colored People,” which the paper represented as “Edited and Managed Exclusively by Colored People.”\textsuperscript{34} The section chronicled the life of Macon’s blacks in segregated schools and churches. As a result, the black response to \textit{Brown}, other than the \textit{Telegraph}’s assumption that black people liked segregation, was largely ignored.

\textsuperscript{26} Time Held Need for Segregation, supra note 12, at 1.
\textsuperscript{27} Poll Reveals Disapproval of Decision, MACON TELEGRAPH, May 18, 1954, at 3.
\textsuperscript{28} BARTLEY, CREATION OF MODERN GEORGIA, supra note 6, at 191. Bartley points out that all of Georgia’s governors during the 1950s—Talmadge, Marvin Griffin, and Ernest Vandiver—as well as the legislature, supported closing schools before integrating them as well as new laws to protect segregation. Arguably, the first governor who was a racial “moderate” on school desegregation was Carl Sanders, an Augusta lawyer, who defined “moderate” as “a segregationist but not a damned fool.” In 1967, however, Lester Maddox, another strident segregationist, became governor. Not until Jimmy Carter’s election in 1970, sixteen years after \textit{Brown}, did a Georgia governor state publicly his support for equality for black persons. \textit{Id.} at 200-07.
\textsuperscript{29} Segregation Decision Demands Wisdom, Justice and Moderation, MACON TELEGRAPH, May 18, 1954, at 3.
\textsuperscript{30} Integration Will Not Come in the Near Future, MACON TELEGRAPH, May 18, 1954, at 3.
\textsuperscript{31} \textit{Id.}
\textsuperscript{32} Bert Struby, Effect on Politics, MACON TELEGRAPH, May 18, 1954, at 3.
\textsuperscript{33} \textit{Id.}
\textsuperscript{34} See, e.g., Personal and Social News for Colored People, MACON TELEGRAPH, May 18, 1954.
Nonetheless, the paper reported that an African-American math teacher at Ballard-Hudson High School agreed that integration would have to wait because whites opposed it. Another teacher praised the manner in which Bibb County operated a dual system. Yet there were hints that blacks who were less dependent on white employers could have a different view. The Macon Committee on Interracial Cooperation issued a hopeful statement that praised the Supreme Court, the only public support for the decision mentioned by the Macon Telegraph. The group asked “all men and women of good will in our community to see that the moral and legal implications of this historic ruling are honored and respected in the months and years ahead.” It reminded whites that other races made up two-thirds of the world’s population.

These views appeared in a social and economic context that make it clear why Brown received such criticism from whites, particularly whites who normally had little contact with the legal system. In 1949 Bibb County had a population of about 114,000, of which approximately 35%, or roughly 40,000, was African-American. Although relatively small in area, the county contained two distinct communities, defined by race, quantitatively separate in their educations, incomes, and occupations. First, dramatic educational differences existed between whites and blacks. Approximately 67% of the black population over 25 years old had 6 or fewer years of education; the median for the race was 5.3 years. At the other end of the scale, only 3% of Macon’s African-Americans had any college education, while 1% had a college degree. In contrast, among white adults, approximately 36% had 6 or fewer years of education (about half the rate for African-Americans), while more than 12% had some college education (four times the African-American rate), and just over 5% had a college degree (five times the African-American rate). Whites, on average, possessed 8.3 grades of schooling, three grade levels higher than African-Americans. Although the data show the limitations of Georgia’s education system as late as 1950 for both races, including the astonishing fact that 5% of the

35. Bibb Group to Mark Time, supra note 14, at 8.
36. Id.
37. Time Held Need for Segregation, supra note 12, at 8.
38. Id.
39. Id.
41. Id. at 11-145.
42. Id.
43. Id. at 11-117.
44. Id.
adult population had not completed the first grade, there were sharp
differences in the experiences of whites and blacks at the top and bottom
of the educational scale.

Not surprisingly, employment practices also reflected differences. Of
approximately 16,000 black workers in Bibb County, the census
classified only about 500 as "professional and technical." In contrast,
more than 95% of African-American males worked as laborers, service
employees, "operatives," or in trades. This statistic meant that
typical jobs for black men were as construction workers, truck drivers,
laborers in the lumber business, and janitors. Moreover, among the
nearly 7,000 black women employees, more than half did cleaning and
cooking in Macon residences. One of the few professional fields open
to African-Americans was teaching in the black elementary and high
schools. Segregated schools employed approximately 300 black women
in 1949. In contrast, all of the county's 135 accountants, 20 archi-
tects, and 66 pharmacists were white males. Of 125 male physicians,
118 were white, and 7 were black. Of 148 lawyers and judges, 147
were white (including 1 woman), and 1 was black. Among salaried
business managers, a core group in the middle class, 1,678 were white
while 50 were black. Similarly, there were approximately 2,000 white
male salesmen and clerks but only 77 black male salesmen and
clerks. In sum, segregation pervaded employment, denying all but a
few of Macon's African-Americans access to higher-status occupations.

Finally, the chasm between white and black in Macon appeared in
income disparity. In black households, the median income in 1949 was
$1,237. Approximately 40% of black households had an income of less
than $1,000, while about 24% of white households had an income of less
than $1,000. Further, just 95 of more than 12,000 African-American
households, or less than 1%, had an income of more than $5,000, an

45. Id. at 11-117, 11-145.
46. Id. at 11-145.
47. Id.
48. Id. at 11-306.
49. Id. at 11-145, 11-308.
50. Id. at 11-308.
51. Id. at 11-306.
52. Id.
53. Id. at 11-306, 11-308.
54. Id.
55. Id. at 11-306.
56. Id. at 11-160.
57. Id. at 11-160, 11-155.
upper-middle class threshold. Yet more than 3,600 white households (of approximately 24,000) had an income of more than $5,000, or 15% of the white total. Put another way, over 97% of the incomes greater than $5,000 were generated in white households although white households made up 65% of the total. Equally revealing, a lower-middle-class income of $2,000 to $3,000 per year was achieved in approximately 18% of white households and 22% of black households. Blacks appeared to do well in this category, but $2,000 represented an above-average income for black families but a below-average income for white families.

Macon represented precisely the sort of Southern community that could be dramatically affected by Brown. The city contained a large African-American population, exceeding one-third of the total. Macon whites vigorously maintained segregation in every aspect of the community’s social, economic, and educational life. Race was a leading factor in determining a person’s neighborhood, school, job, income, and church. Race determined access, or lack of access, to the powerful institutions and professions. Segregation was also solidly entrenched as a talisman for the area’s political leaders, a practice equated with unchanging “heritage.” As such it could not be safely debated. Indeed, the improbability of white disunity led to paranoia about “outside interference” with race relations. Even more fearful was the possibility that blacks might not favor segregation. Realizing the revolution that was at hand, white citizens after Brown desperately defended Southern “traditions.”

II.

The Supreme Court ruling that threatened white rule in Macon resulted from five separate cases that began winding their way through lower courts in 1950. These cases represented the advanced stage of a campaign against discrimination in education that the National Association for the Advancement of Colored People (NAACP) had waged for twenty years. Prior to 1950 the NAACP’s legal strategy, under

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58. Id. at 11-160.
59. Id. at 11-155.
60. Id. at 11-155, 11-160.
61. Id.

Of course, this is only the "tip of the iceberg." A March 15, 2001, search of the journals and law review database in Westlaw for "Brown v. Board" and Marshall" turned up 4,157 documents. Even conceding that many of the references do not focus on the history of Brown, the number is impressive when compared to other key Supreme Court decisions. "Marbury v. Madison" and Marshall" produced 3,151 documents; "Lochner and Holmes" produced 2,281; "Roe v. Wade" and Blackmun" 2,729, and "Dred Scott v. Sandford" and Taney" a mere 429. Similarly, a keyword search for "Brown and Board and Education" at Harvard University's online library catalogue produced a list of dozens of book-length studies, although the search results naturally omitted many other books that mention Brown, such as biographies of the attorneys and judges in the case, but address school desegregation more broadly. Brown also has a strong electronic and media presence. On
the direction of black lawyers including Charles H. Houston, William Hastie, and Thurgood Marshall, scored major victories in attacking
racial discrimination in education. Real success began in the late 1930s, when the focus was on eliminating segregation in graduate and professional education, at least outside of the Deep South. Courts, including the United States Supreme Court, ordered the desegregation of the law schools at the University of Maryland and the University of Missouri.66 In 1950, the Supreme Court ruled that Oklahoma could not physically separate a black graduate student in its buildings from white students.67 The Court then held that Texas could not set up a patently inferior law school for African-Americans while excluding them from a white-only law school under the pretense of providing equal educational opportunities.68

By this time the stage was set for an even more sweeping assault on all segregation in public schools. Of the five cases that eventually were consolidated to form Brown, two were filed in 1950. The first grew out of a movement to end segregation in the District of Columbia.69 In the fall of 1950, the District school board rejected applications for the admission of eleven African-Americans to a new junior high school.70 James Nabrit, Jr.,71 a professor at Howard University, prepared a lawsuit for the United States District Court that argued the policy of segregation was unconstitutional.72 The court dismissed the case based on prior rulings, and Nabrit appealed.73 The second school case filed in 1950 was in South Carolina.74 Twenty parents of African-American students in Clarendon County, a rural district in the eastern part of the state, represented in part by the NAACP's Thurgood Marshall, brought

66. Kluger, Simple Justice, supra note 62, at 186-213; Tushnet, Making Civil Rights Law, supra note 62, at 116-49. The cases were Pearson v. Murray, 182 A. 590 (Md. 1936) (ordering desegregation of the University of Maryland Law School), and Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938) (ordering desegregation of the University of Missouri Law School).


70. Kluger, Simple Justice, supra note 62, at 521.

71. James Nabrit grew up in Americus and Augusta, Georgia, and graduated from Morehouse College in Atlanta. He attended Northwestern University Law School, where he graduated first in his class. After practicing in Houston, Texas, Nabrit became a professor at Howard University Law School and an important member of the NAACP's legal team. Nabrit later served as president of Howard University. Id. at 518-20.

72. Id. at 521-22.

73. Id. at 522-23.

the lawsuit.\textsuperscript{75} A three-judge federal court rejected the parents' argument that segregation in Clarendon County was unconstitutional.\textsuperscript{76}

The remaining cases began in 1951. African-American parents in Topeka, Kansas, were required to send their children to schools designated by race.\textsuperscript{77} Represented by local lawyers and the NAACP, the parents filed suit on February 28, 1951.\textsuperscript{78} Oliver Brown, a thirty-two-year-old railroad welder and part-time minister at an African Methodist Episcopal church, was the first parent listed as a plaintiff.\textsuperscript{79} Brown and his neighbors lost in the United States District Court, which relied on previous Supreme Court approval of segregation.\textsuperscript{80} Spottswood Robinson\textsuperscript{81} and Oliver Hill\textsuperscript{82} of the NAACP filed the fourth Brown suit in May 1951 on behalf of more than one hundred students.\textsuperscript{83} The students had engineered vigorous protests about deplorable conditions in the African-American high school in Farmville, Virginia.\textsuperscript{84} In March 1952, a three-judge panel of the United States District Court in Richmond unanimously ruled for the defendants in Davis v. County School Board of Prince Edward County.\textsuperscript{85} The final Brown case had the distinction of being initially decided in a state court that ruled for the plaintiffs. Belton v. Gebhart\textsuperscript{86} and Bulah v. Geb-
challenge public school segregation in Wilmington, Delaware. The case was heard initially in the state’s Chancery Court, where Chancellor Collins J. Seitz ruled that because of the clear superiority of white schools, segregation was unconstitutional and African-American children should be admitted to them immediately.

The board of education appealed the decision.

Complexity characterized the paths of the five cases to the Supreme Court. The first case appealed to the Court was Briggs, from South Carolina. However, on January 28, 1952, the Court vacated and remanded the trial court’s decision so that it might consider a progress report on equalizing schools prepared by the white Clarendon County school board. Subsequently, to no one’s surprise, in March, the district court upheld the county’s segregated schools, finding that equalization was proceeding at an adequate pace. This determination prompted a second appeal in Briggs in May 1952. In the meantime, the appeal in the Kansas case, Brown, was pending; the dismissal of the original Briggs appeal put Brown first in line for consideration. The Supreme Court agreed to hear both Brown and Briggs on June 9, 1952. Clearly, most of the justices wanted to resolve the segregation question, although the decision to do so may not have been unanimous.

Between June and November, the Court agreed to hear the Virginia, District of Columbia, and Delaware cases along with Brown and Briggs, apparently in order to achieve geographical diversity. The additions necessarily caused delay in the initial oral arguments, which finally took place on December 9, 1952.

As prepared by counsel, the briefs and oral arguments in the Supreme Court squarely raised the question of whether segregation in public schools was unconstitutional. For the most part, the attorneys for the defenders of segregation, the four states and the District of Columbia, were as skilled and as determined as their opponents. The most prominent man among them was John W. Davis, former Solicitor General under Woodrow Wilson and Democratic candidate for President.

87. Id.
88. KLUGER, SIMPLE JUSTICE, supra note 62, at 446-50.
89. Id. at 539-40.
90. Id. at 532.
91. Id. at 534.
92. Id. at 537.
93. Id. at 532.
94. Id. at 538; TUSHNET, MAKING CIVIL RIGHTS LAW, supra note 62, at 165-66.
95. KLUGER, SIMPLE JUSTICE, supra note 62, at 538-40.
96. Id. at 539.
97. Id. at 540.
in 1924.98 Davis, along with Robert McCormick Figg,99 an outstanding Charleston attorney, represented Clarendon County in the Briggs case.100 Davis and Figg's brief and oral arguments relied on established judicial support for public school segregation as well as the idea that segregation was actually good for black and white children.101 T. Justin Moore, a partner in Richmond's leading corporate law firm of Hunton, Williams, Anderson, Gay and Moore,102 and J. Lindsay Almond, attorney general of Virginia,103 counsel for the Prince Edward County school board, adopted a similar position.104 On the other hand, the Kansas, District of Columbia, and Delaware defendants lacked the Southerners' well-honed enthusiasm for segregation. Thirty-six-year-old Paul Wilson, who represented the Topeka school board, relied narrowly

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98. On Davis (1873-1955), see WILLIAM H. HARBough, LAWYER'S LAWYER: THE LIFE OF JOHN W. DAVIS (1973). In the early 1950s, Davis was perhaps the best-known lawyer in the United States. A West Virginian, after serving as Wilson's last ambassador to Great Britain, he helped establish one of the nation's leading corporate law firms, Davis, Polk, Wardwell, Sunderland & Kiendl. As Solicitor General and as a private attorney, he argued well over one hundred cases before the Supreme Court, including his representation of the steel industry in Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952).

99. Robert McCormick Figg (1901-1991) was born in Virginia and moved to South Carolina with his family in 1915. He graduated from the College of Charleston in 1920 and was admitted to the bar in 1922, after two years at Columbia University Law School. Returning to Charleston, he entered into private practice and politics. Figg served as solicitor for the Charleston district from 1935 to 1947, where he prosecuted more than 4,500 cases. He returned to private practice in 1947, often representing local governments and advising Governor J. Strom Thurmond, whom he supported for president in 1948. Figg became dean of the University of South Carolina Law School in 1959, a position he held until 1970. Ironically, USC admitted its first African-American students during Figg's tenure. Robert McCormick Figg Papers (visited Mar. 15, 2001) <http://www.sc.edu/library/socar/uscs/1995/figg95.html>.

100. KLUGER, SIMPLE JUSTICE, supra note 62, at 340-45, 546-47.

101. Id. at 547.

102. Thomas Justin Moore (1890-1958), a Louisianan, was a Phi Beta Kappa graduate of the University of Richmond and a 1913 graduate of the Harvard Law School. After Harvard, Moore taught at Richmond's law school and, beginning in 1914, became counsel for the Virginia Railway and Power Company, a growing corporate force in Richmond. By the early 1930s, while general counsel to the utility, he was offered a partnership at the Hunton, Williams firm. Governor John Battle and United States Senator Harry Byrd recruited Moore and his firm to represent the Prince Edward County School Board. ANNE HOBSON FREEMAN, THE STYLE OF A LAW FIRM: EIGHT GENTLEMEN FROM VIRGINIA 129-43 (1989).


104. KLUGER, SIMPLE JUSTICE, supra note 62, at 480-85, 547.
on his state's right, as a local matter, to regulate school assignments. Milton Korman, attorney for the District of Columbia, focused on Congress' unquestioned intent in establishing segregation in the capital city. Delaware's counsel, Attorney General Albert Young, concentrated on his state's efforts to equalize black and white education.

The NAACP's briefs and oral arguments attacked the legal, social, and ethical basis of school segregation. Marshall, Nabrit, Robinson, Hill, Hastie, William Coleman, Jack Greenberg, Robert Carter and others prepared the series of briefs for Brown, Briggs, and Davis. First, they relied on the string of cases dating from the 1930s in which the Supreme Court questioned the principle of segregation in higher education. They also attached an appendix that summarized their psychological claim that segregated education was damaging to black children. In oral argument, Carter, Marshall, Robinson, Nabrit, George E. C. Hayes, Greenberg, and Louis Redding

105. Id. at 548-50; see also Wilson, A Time to Lose, supra note 62.
107. Id. at 581.
113. Id.
114. Id.
115. George E.C. Hayes, a graduate of Brown University and the Howard Law School (1918), was a prominent black Washington attorney. In addition to maintaining a private practice, Hayes taught at Howard University and was the University's general counsel. Kluger, Simple Justice, supra note 62, at 578.
reiterated both the constitutional claims and the contention that segregation psychologically harmed blacks.\textsuperscript{117}

Several days after the oral arguments, the Justices met to discuss the cases. The Justices included Chief Justice Fred Vinson\textsuperscript{118} and Associate Justices Hugo Black,\textsuperscript{119} Stanley Reed,\textsuperscript{120} Robert Jackson,\textsuperscript{121} William Douglas,\textsuperscript{122} Harold Burton,\textsuperscript{123} Tom Clark,\textsuperscript{124} Sherman Min-

\textsuperscript{116} Louis L. Redding (1901-1998) grew up in Wilmington, Delaware, and graduated from Brown University in 1923 and Harvard Law School in 1928. He was Delaware's first black lawyer and the state's only black lawyer for more than twenty years after his admission to the bar. His first major civil rights success was a lawsuit that desegregated the University of Delaware. He also argued Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961). Lewis Redding '23 (visited Mar. 15, 2001) <http://www.brown.edu/Administration/Brown_Alumni_Magazine/01/11-00/features/law.html>

\textsuperscript{117} Kluger, Simple Justice, supra note 62, at 564-81.

\textsuperscript{118} Frederick Moore Vinson (1890-1953) obtained his LL.B. at Centre College in Kentucky. After working as a district attorney, he was elected to Congress in 1924. A supporter of Franklin Roosevelt's New Deal, Vinson was appointed to the federal court of appeals for the District of Columbia in 1937. President Harry Truman appointed him Chief Justice in 1946, a position he held until his death in September 1953. Thomas E. Baker, Frederick Moore Vinson, in Oxford Companion to Supreme Court History, supra note 62, at 898-99.

\textsuperscript{119} Hugo Lafayette Black (1886-1971) received two years of law training at the University of Alabama. He became a prominent attorney in Birmingham and was elected to the United States Senate in the early 1920s. A strong supporter of the New Deal, Black was appointed by President Franklin Roosevelt to the Supreme Court in 1937. Tinsley E. Yarbrough, Hugo Lafayette Black, in Oxford Companion to the Supreme Court, supra note 62, at 72-75.

\textsuperscript{120} Stanley Foreman Reed (1884-1980) grew up in Mason County, Kentucky, and graduated from Kentucky Wesleyan College and Yale University. He attended the University of Virginia and Columbia Law Schools. A Democrat, Reed was general counsel to the Reconstruction Finance Corporation during the Hoover and Roosevelt administrations and Solicitor General in 1935. He became a member of the Supreme Court in January 1938. David O'Brien, Stanley Foreman Reed, in Oxford Companion to the Supreme Court, supra note 62, at 72-75.

\textsuperscript{121} Robert Houghwout Jackson (1892-1954) clerked in a Jamestown, New York, law office and attended Albany Law School for one year. He practiced in Jamestown for twenty years after his admission to the bar in 1913. A great supporter of Franklin Roosevelt, another New York Democrat, Jackson held several positions in the Roosevelt administration before becoming Solicitor General in 1938. Roosevelt appointed him to the Supreme Court in 1941. Gregory A. Caldeira, Robert Houghwout Jackson, in Oxford Companion to the Supreme Court, supra note 62, at 72-74.

\textsuperscript{122} William Orville Douglas (1898-1980) grew up in Yakima, Washington, and graduated from Whitman College in 1920. He attended Columbia Law School and practiced briefly with Cravath, Swaine & Moore before teaching at the Columbia and Yale Law Schools from 1927 to 1934. Douglas, a Democrat, became chairman of the Securities Exchange Commission in 1937. He was appointed to the Supreme Court in 1939 at the age of forty-one, the second youngest justice in the history of the Court. Dennis J. Hutchison, William Orville Douglas, in Oxford Companion to the Supreme Court, supra note 62,
ton,125 and Felix Frankfurter.126 All of the justices were white; eight were Roosevelt- or Truman-appointed Democrats; and four (Black, Reed, Clark, and Vinson) could be considered Southerners.127 The Court appeared to be divided. Chief Justice Vinson was undecided; Reed more firmly supported the defendants. Frankfurter wanted a reargument on the question of the acceptance of segregation by the persons who wrote the Fourteenth Amendment. Others, including Black, Douglas, Minton, and Burton, were ready to ban segregation. Jackson and Clark did not know yet know how they would proceed.128 The inconclusive result was that on June 8, 1953, almost six months after the oral arguments, the Court asked the parties to reappear that October. The Court wanted to know whether the early history of the Fourteenth Amendment supported the plaintiffs' claims that segregation in public schools was unconstitutional and what remedies might be appropriate if a constitutional violation was found.129

at 233-35.

123. Harold Hitz Burton (1888-1964) was the son of a faculty member of the Massachusetts Institute of Technology. He attended Bowdoin College and Harvard Law School. Burton practiced in Cleveland, where he was elected mayor in 1935. A Republican, Burton was sent to the United States Senate from Ohio in 1940. President Harry Truman appointed Burton to the Supreme Court in 1944. Eric A. Chiappinelli, Harold Hitz Burton, in OXFORD COMPANION TO THE SUPREME COURT, supra note 62, at 106-07.

124. Tom Campbell Clark (1899-1977) graduated from the University of Texas Law School in 1922. After working in Dallas in private practice and as a civil district attorney, he became an attorney in the Justice Department in 1937. Clark, a strong supporter of President Harry Truman, was appointed Attorney General by Truman in 1945 and associate justice in 1949. John Paul Ryan, Tom Campbell Clark, in OXFORD COMPANION TO THE SUPREME COURT, supra note 62, at 154-55.


126. Felix Frankfurter (1882-1965), born in Vienna, graduated from the City College of New York and the Harvard Law School, where he ranked first in his class. He was a distinguished law professor at Harvard from 1913 to 1939. In 1939 President Franklin Roosevelt appointed him to the Supreme Court, where he served as associate justice until his retirement in 1962. Peter Charles Hoffer, Felix Frankfurter, in OXFORD COMPANION TO THE SUPREME COURT, supra note 62, at 314-17.

127. KLUGER, SIMPLE JUSTICE, supra note 62, at 587; TUSHNET, MAKING CIVIL RIGHTS LAW, supra note 62, at 187-95.

128. KLUGER, SIMPLE JUSTICE, supra note 62, 588-614.

129. Id. at 615-16.
Both sides responded with an enormous effort to discover and then present a favorable version of what happened in the 1860s and 1870s. The obvious historical problem for the plaintiffs was that Congress adopted the Equal Protection Clause in the 1860s, and yet schools in the North and South remained segregated. At best, the post-Civil War law evinced a desire to create basic legal rights for the Freedman, although Southern reaction thwarted this desire after Reconstruction. Ultimately, the plaintiffs argued that the Fourteenth Amendment was intended to eliminate all discrimination and that segregation was obviously a tool created to advance discrimination. John Davis and the other defendants maintained there was no historical connection between the Fourteenth Amendment and segregation, particularly in public schools. They claimed history, at least, was on their side.

The United States government also weighed in. The Government filed a brief prior to the first argument stating that *Plessy v. Ferguson* was wrong, and, if the Court addressed the Constitutional issue, it should overrule the 1896 decision. Since then, a new Republican presidential administration, under Dwight Eisenhower, had taken office. Eisenhower, who contributed personally to the second government brief, supported desegregation in principle but waffled on how and when it might be accomplished in public schools. This view did not contradict the government's prior position in favor of overturning segregation, but it did not bode well for an aggressive stance on implementation. On the history of the Fourteenth Amendment, the government's new and massive brief, supervised by Philip Elman, took the position that history did not really help.

The relationship between the Fourteenth Amendment and school segregation was ambiguous partly because of the sorry state of Southern public education after the Civil War.

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130. Id. at 618-50; TUSHNET, MAKING CIVIL RIGHTS LAW, supra note 62, at 196-202.
131. KLUGER, SIMPLE JUSTICE, supra note 62, at 645.
132. Id. at 646-50.
133. 163 U.S. 537 (1896) (upholding right of Louisiana to require racially separate cars for railroad passengers).
134. KLUGER, SIMPLE JUSTICE, supra note 62, at 557-61.
136. KLUGER, SIMPLE JUSTICE, supra note 62, at 651. Much later, it was revealed that Justice Frankfurter advised Elman of confidential discussions at the Court, allowing Elman to write a brief that was particularly responsive to the Court's concerns. GERALD L. ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE? 73 n.3 (1991).
137. KLUGER, SIMPLE JUSTICE, supra note 62, at 652.
other hand, the Government's brief concluded that Congress and the
states certainly intended to achieve "full and complete equality of all
persons under the law." 138

By the time the case was reargued, one year after the initial hearing,
the Court had a new Chief Justice. Fred Vinson died in the fall of 1953
and was replaced by a Republican from California, Earl Warren. 139
Beginning on December 7, 1953, Warren presided over the second series
of oral arguments, which lasted three days. Once again, Robinson and
Marshall led the arguments for the end of segregation, offering the Court
a favorable view of the congruity between the actions of the 1860s and
their demands. 140 The federal government, through Assistant Attorney
General J. Lee Rankin, supported the plaintiffs, arguing that public
school segregation violated the Fourteenth Amendment. 141 John Davis,
Justin Moore, and Lindsay Almond maintained that both Congress and
the states, despite their approval of the Fourteenth Amendment, did not
intend to outlaw school segregation. They also stressed the difficulties
of implementing desegregation. 142

On December 12, 1953, the Justices met for a second time in
conference to discuss the case. 143 The new Chief Justice made a
dramatic difference. Chief Justice Warren forthrightly stated his
opposition to school segregation, not because of the history of the
Fourteenth Amendment, but because segregation was racist. Chief
Justice Warren's position meant there was a clear majority against
segregation. Further, Justice Frankfurter supported the Chief Justice's
position, and Justices Jackson and Clark were willing to go along,
depending on the reasoning of the opinion. Justice Jackson, however,
considered publishing a concurrence stressing the new departure of a
ruling of this sort. Only Justice Reed retained his opposition. 144 At
this point, Chief Justice Warren's goal was to unify all Justices in a

138. Id.
139. Earl Warren (1891-1974) grew up in Bakersfield, California, the son of a railroad
car repairman. He attended the University of California at Berkeley and its law school.
After law school Warren worked for eighteen years as a criminal prosecutor in Alameda
County. A Republican, he was elected California's attorney general in 1938. He served
three terms as the state's governor, beginning in 1942. Warren was the running mate of
Thomas Dewey in the presidential election of 1948 and an important supporter of Dwight
Melvin I. Urofsky, Earl Warren, in OXFORD COMPANION TO THE SUPREME COURT, supra
note 62, at 912-16.
140. KLUGER, SIMPLE JUSTICE, supra note 62, at 667-71, 673-74.
141. Id. at 674-76.
142. Id. at 671-73.
143. Id. at 678.
144. Id. at 678-83.
single opinion.\textsuperscript{145} The winner was clear, but as late as March 1954, the degree of unity with which the opinion would be written was uncertain.\textsuperscript{146} Once again circumstance and old age intervened. On March 30, as Chief Justice Warren prepared a draft opinion, Justice Jackson suffered a serious heart attack.\textsuperscript{147} During the ensuing weeks Chief Justice Warren's straightforward draft won over Justice Jackson, who dropped any idea of a concurrence.\textsuperscript{148} Justice Reed, isolated, went along with the rest of the Court.\textsuperscript{149}

The brief opinion read by the Chief Justice on May 17, 1954, began with a recitation of the key issue in the case, whether segregation by race in public schools violated the Fourteenth Amendment.\textsuperscript{150} The opinion then dismissed the usefulness of history, calling the story of Congressional intent and the ratification of the Fourteenth Amendment "inconclusive" on the question of segregation.\textsuperscript{151} The Court next noted its own, earlier, interpretations of the Fourteenth Amendment, including Plessy and the attempts to integrate graduate and professional education.\textsuperscript{152} The Court indicated that Brown raised not merely the question of "tangible" factors, such as physical facilities, but more precisely "the effect of segregation itself on public education."\textsuperscript{153} Given the essential importance of public education, segregation deprived minority children of equal educational opportunities: To separate black children "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 way unlikely ever to be undone."\textsuperscript{154} Separate but equal had no place in public education. As for the details of a national remedy, the Court offered no answer, asking for rebriefing and more oral argument on that difficult point.\textsuperscript{155}

Ironically, in the next stage, the prospect of implementation presented more difficulty for the winning plaintiffs than the losing defendants. At first, taking into account political realities in the South, the NAACP was uncertain as to whether immediate complete desegregation or gradual-
ism should be demanded.\textsuperscript{156} In the end, the plaintiffs asked for a genuine beginning to desegregation, thereby accommodating both "immediate" and "gradual" integration.\textsuperscript{157} The South Carolina and Virginia defendants, now joined by amici from six other Southern states, presented a shrill opposition to any meaningful desegregation, gradual or otherwise.\textsuperscript{158} The federal government came down on the side of gradual desegregation.\textsuperscript{159} When oral arguments on the remedy issue began on April 11, 1955, Marshall, Robinson, and Carter made the presentations for the plaintiffs.\textsuperscript{160} After four years of litigation, they asked for a strong opinion directing the Southern states to begin complying immediately with the Court's earlier decision.\textsuperscript{161} The defendants, minus the recently deceased John Davis, focused on popular disapproval among whites toward desegregation and the threat presented to Southern public education. They suggested a narrow, state-controlled remedy; some of the defendants indicated that any other method would not be followed and could not be enforced.\textsuperscript{162}

On May 31, 1955, the Court issued its final \textit{Brown} opinion.\textsuperscript{163} Once again unanimous, the opinion recognized that desegregation of individual school districts raised complex problems.\textsuperscript{164} Accordingly, the Court remanded the five cases to the lower courts, directing the admission of the parties "on a racially nondiscriminatory basis with all deliberate speed."\textsuperscript{165} As for the broader implementation of desegregation, the Court noted that local and state governments had a clear obligation to eliminate segregation.\textsuperscript{166} Essentially this statement dumped the burden of effecting change on plaintiffs and the lower courts, and worse, the opinion failed to provide a specific timetable or criteria for the end of segregation.

The effect of \textit{Brown} on school desegregation after 1955 continues to be debated.\textsuperscript{167} The experiences of the five jurisdictions involved in the

\begin{itemize}
  \item \textsuperscript{156} KLUGER, SIMPLE JUSTICE, supra note 62, at 722-23.
  \item \textsuperscript{157} Id. at 728; TUSHNET, MAKING CIVIL RIGHTS LAW, supra note 62, at 218-19.
  \item \textsuperscript{158} KLUGER, SIMPLE JUSTICE, supra note 62, at 723-26.
  \item \textsuperscript{159} Id. at 726-27.
  \item \textsuperscript{160} Id. at 729.
  \item \textsuperscript{161} Id. at 729-30.
  \item \textsuperscript{162} Id. at 730-34.
  \item \textsuperscript{163} \textit{Brown v. Board of Educ. of Topeka}, 349 U.S. 294 (1955).
  \item \textsuperscript{164} Id. at 298-300.
  \item \textsuperscript{165} Id. at 300.
  \item \textsuperscript{166} Id.
  \item \textsuperscript{167} For a valuable argument that \textit{Brown} essentially made no difference in advancing desegregation, and that the real factors in change were economic developments, population movements, mass communication, and the rise of a mass grassroots civil rights movement, see ROSENBERG, THE HOLLOW HOPE, supra note 136, at 39-169 (1991).
\end{itemize}
suit suggest some of the reasons for that debate.\textsuperscript{168} In Washington in the 1999-2000 school year, over 85% of the students were black, about 9\% were Hispanic, and only about 4\% were white.\textsuperscript{169} In Wilmington, Delaware, the situation is complex because the area has been divided into four school districts. Among these, the Red Clay district in 1999-2000 was 30\% black, 12\% Hispanic, and 54\% white.\textsuperscript{170} Colonial district was 41\% black, 6\% Hispanic, and 50\% white.\textsuperscript{171} Brandywine district was 37\% black, 2\% Hispanic, and 54\% white.\textsuperscript{172} Finally, Christina district was 34\% black, 6\% Hispanic, and 56\% white.\textsuperscript{173} In no district was the white percentage greater than 54\%; moreover, about one-fourth of all students in the Wilmington area were enrolled in private schools.\textsuperscript{174} The overall white population of New Kent County in 2000, where the school districts are located, was approximately 75\%.\textsuperscript{175} In Clarendon County, South Carolina, a similar compartmentalization has taken place. In 1996-1997, the county's total school population was approximately 70\% black while the general county population was about 57\% black.\textsuperscript{176} Yet the county has been divided into three separate sub-districts: one is 98\% African-American; another is 70\% African-American; and the third is 56\% white.\textsuperscript{177} Even more extreme conditions have prevailed in Prince Edward County, Virginia. There the schools remained segregated until 1959, when whites closed them in order to avoid desegregation. Although the schools reopened in

\textsuperscript{168.} KLUGER, SIMPLE JUSTICE, supra note 62, at 777-78.
\textsuperscript{174.} Red Clay School District Summary, supra note 170; Colonial School District Summary, supra note 171, Brandywine School District Summary, supra note 172; Christina School District Summary, supra note 173.
\textsuperscript{175.} Race, Hispanic or Latino, and Age: 2000; New Castle County, Delaware (visited Mar. 18, 2001) <http://factfinder.census.gov/servlet/QTTable?_ts=2993276810>.
\textsuperscript{177.} Id.
the mid-1960s pursuant to a Supreme Court order, \(^{178}\) education was once again segregated, with whites attending private "academies" and blacks composing the entire student body in the public schools. \(^{179}\) Since then, however, there has been a gradual decrease in segregation. In the fall of 1999, approximately 39% of the system's students were white. \(^{180}\) The overall population of the county is approximately 62% white. \(^{181}\) Even in Topeka, many black students remained segregated long after 1955. In 1979, Linda Brown, daughter of Oliver Brown, reopened the case on behalf of the next generation of students. On July 27, 1999, a federal district court in Kansas finally declared the school district had achieved a racially unitary status almost fifty years after the initial lawsuit began. \(^{182}\)

III.

What happened in Macon after 1954? During the past fifty years many of the more obvious kinds of discrimination and segregation have diminished. Transportation and housing are no longer subject to mandatory segregation, although city buses are used disproportionately by African-Americans and most neighborhoods have a distinct racial cast. Restaurants and hotels are officially desegregated, although few seem to reflect the racial balance of the community. In 1999, the city elected its first African-American mayor, and currently there are ten African-Americans on the fifteen-person city council. \(^{183}\) Federal civil rights laws have produced changes in opportunities in the workplace. Not surprisingly, the *Macon Telegraph* no longer has a "Colored Page";

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179. KLUGER, SIMPLE JUSTICE, supra note 62, at 777-78.
the paper regularly publishes African-American columnists. In early 2001, the city's white state senator, a woman, former public school teacher, and board of education member, voted to remove the prominent Confederate battle emblem from Georgia's flag, which had been added in 1956, two years after Brown. The county's public schools, after protracted litigation, have been formally desegregated for thirty years.

Yet the promise of equality remains unfulfilled, as data on education, occupations, and income from the 1990 census show. Regarding education, in Bibb County more than 8% of African-Americans over 25 had a college degree, and more than 22% had at least some college education. This is substantially better than the white performance of 1949. Nonetheless, in 1989 more than 45% of whites had some college education, while more than 22% were college graduates, almost three times the rate for African-Americans. About 77% of whites had at least a high school diploma, while only 56% of African-Americans graduated from high school. As for income, the household income of whites in 1989 was $34,754. For blacks it was $21,007. Similarly, while only about 13% of white households had an annual income of less than $10,000, almost 37% of black families did. And while more than 10% of white households had an income of more than $75,000, just over 2% of black households earned that much.

Occupational data also show important differences. In 1989, although Bibb County's population was approximately 40% African-American, just 11% of its 431 physicians were African-American. This number included 13 black women. Thirty-eight of 430 lawyers, or about 9%, were African-American, including 13 women. Among the general census class of salaried managers, white managers outnumber black managers 2,295 to 319. Among financial managers, a critical group providing access to capital, white managers outnumber black managers 253 to

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186. Id.
187. Id.
188. Id. at 642.
189. Id.
190. Id.
192. Id. Lawyers.
193. Id. Managers and Administrators (salaried).
Perhaps more significant change has taken place in other fields. Although black women still dominate household service, there were only about 450 women employed in 1989, a huge decline from 1949. Construction labor in 1989 included 189 whites and 323 blacks. Among police and detectives there were 203 whites and 105 blacks, a racial balance that is close to the general make-up of the county.

In elementary and secondary education the record shows change and continuity. Bibb County no longer maintains a dual system of education, although that system was not dismantled, pursuant to federal court orders, until the late 1960s and early 1970s. Nonetheless, desegregation diminished white faith in the public schools. Although in 1949 the system was more than 60% white, by the late 1980s more than 60% of its students were black. This fundamental shift was closely related to desegregation, because the total percentage of African-American population in Bibb County grew only slightly between 1949 and 1989 and because African-Americans remained a distinct minority. Further, during the 1960s and 1970s, there was significant growth in private and parochial education. The 1989 census reported that more than 3,500 white students attended private or parochial schools while only a little more than 500 black students attended such schools. Put another way, in 1989 just over 71% of white students attended public schools, while more than 96% of black students attended public schools. Even more telling was the sharp decline of white students between 1968 and 1983, the years in which desegregation was implemented. In the fall of 1968, 21,224 white students enrolled in Bibb County schools. By the fall of 1983, the number was 10,704. At the same time, the number of black students remained constant: 14,731 in

194. Id. Financial Managers.
195. Id. Private Household Cleaners and Servants. Despite the decline in numbers of black workers in this category, there were only 16 such white employees in 1989. Id.
196. Id. Construction Laborers.
197. Id. Police and Detectives, Public Service.
199. 1990 CENSUS, supra note 185, at 294.
The exodus of whites continued through the 1990s. In the 2000-2001 school year, the system enrolled 6,976 whites and 17,235 blacks, meaning the population of the schools is now almost 70% African-American. The consequences of “white flight” are most apparent at the middle- and high-school levels, which includes grades seven through twelve. In 2000-2001, all of the county’s five middle schools and five high schools have majority black populations. Three of the five middle schools have black enrollments of greater than 75%; three of the five high schools have black enrollments of greater than 70%.

The story of racial change in Macon provides context to the enormous challenge presented by Brown. After fifty years, in Middle Georgia the ruling of the Court and the ambitions of the plaintiffs seem naive and simplistic. If anything is clear, it is that Brown was not followed in the spirit it was written. On the other hand, since 1954, there has been meaningful change. In Macon today one can see African-Americans in positions of high authority and blacks and whites together in the full range of life activities. That change seemed highly unlikely, at least to whites, fifty years ago. While it is true that many whites in Bibb County opted out of the public school system, most, contrary to predictions in 1954, have not. Despite the hysterical threats of its political leaders, the school system survived. Maybe this miracle had little to do with Brown. Perhaps it was the result of other forces, particularly given that it was primarily a product of the 1970s and 1980s, and not the 1950s. Whatever the causes, Brown serves as a reminder of the political strengths and weaknesses of the Supreme Court. When acting symbolically, the Court can be a spokesperson for the best hopes of our political traditions. On the other hand, the Court will necessarily risk rejection when proposing patently political solutions to deep social and economic injustices. Brown continues to present fundamental questions in the ongoing political dialogue between the Supreme Court and the American people.

201. Id.
202. Georgia Department of Education, Enrollment by Race/Ethnicity, Gender and Grade Law (PK-12) (Bibb County) (visited Mar. 16, 2001) <http://db1.doe.k12.ga.us:8001/ows-bin/owa/fte_pac_ethnicsex.display_proc>. Bibb’s numbers in 2000-2001 are similar to those in the three other medium-sized Georgia cities: Savannah (Chatham County), 26% white; Columbus (Muscogee County), 34% white; and Augusta (Richmond County), 30% white. The population of the Atlanta City public schools in 2000-2001 is approximately 90% African-American. Id.
203. Id.
204. Id.