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Founders' Day Convocation (2004 Program)

Illinois Wesleyan University

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Illinois Wesleyan University

FOUNDERS' DAY CONVOCAATION

In Recognition of *Brown v Board of Education* Ruling
Supreme Court of the United States, 1954



Westbrook Auditorium
Presser Hall
February 11, 2004
11:00 A.M.

PROGRAM

President Janet McNew, *Presiding*
Professor Narendra Jaggi, *Mace Bearer*

Organ Prelude

Prelude in C Minor, BWV 546

J. Scott Ferguson, *Organist*
Associate Professor of Music
J. S. Bach (1685-1750)

Processional (*please stand*)

Introit from *Te Deum*

Marc-Antoine Charpentier
(1634-1704)

Invocation (*remain standing*)

Dennis E. Groh '61
University Chaplain

Welcome

Janet McNew
Acting President

Special Music

Lift Every Voice and Sing*
(*please stand and join in singing*)

J. Rosamond Johnson
(1873-1954)

Lift ev'ry voice and sing, till earth and heaven ring,
Ring with the harmonies of liberty;
Let our rejoicing rise, high as the list'ning skies,
Let it resound loud as the rolling sea.
Sing a song full of the faith that the dark past has taught us,
Sing a song full of the hope that the present has brought us;
Facing the rising sun of our new day begun,
Let us march on till victory is won.

Stony the road we trod, bitter the chast'ning rod,
Felt in the days when hope unborn had died;
Yet with a steady beat, have not our weary feet,
Come to the place for which our fathers sighed?
We have come over a way that with tears has been watered,
We have come, treading our path thro' the blood of the slaughtered,
Out from the gloomy past, till now we stand at last
Where the white gleam of our bright star is cast.

God of our weary years, God of our silent tears,
Thou who hast brought us thus far on the way;
Thou who hast by thy might, led us into the light,
Keep us forever in the path, we pray.
Lest our feet stray from the places, our God, where we met Thee,
Lest our hearts, drunk with the wine of the world, we forget Thee;
Shadowed beneath Thy hand, May we forever stand,

True to our God, true to our native land.

Hehlelooyuh

James Furman
(1937-1989)

Illinois Wesleyan University Collegiate Choir
Professor Ferguson, *Conductor*

Awarding of Honorary Degree
Mary Frances Berry

President McNew
Roger Schnaitter, *Acting Provost*

Remarks

Dr. Berry

“Where Do We Go From Here: Chaos or Community?”

Alma Wesleyana

(*please stand and join in singing*)

NATIONAL HYMN
George William Warren
(1828-1902)

From hearts aflame, our love we pledge to thee,
Where'er we wander, over land or sea;
Through time unending, loyal we will be—
True to our Alma Mater, Wesleyan.

When college days are fully past and gone,
While life endures, from twilight gleam til dawn,
Grandly thy soul shall with us linger on—
Star-crowned, our Alma Mater, Wesleyan.

—*Professor W. E. Schultz (1935)*

Benediction (*remain standing*)

Chaplain Groh

Recessional (*remain standing*)

Introit from *Te Deum*

Professor Ferguson
Charpentier

Organ Postlude

Prelude in G Major, BWV 541

Bach

Funding is provided by a Humanities Series Grant, the President's Office,
the Office of Multicultural Affairs and the Educational Studies Department.

* *Used by permission of Edward B. Marks Music Company*

Mary Frances Berry

Author, Educator, Historian

Dr. Mary Frances Berry is the Geraldine R. Segal Professor of American Social Thought at the University of Pennsylvania where she teaches history and law.

In 1980, she was appointed by President Jimmy Carter and confirmed by the Senate as a commissioner on the U.S. Commission on Civil Rights. In 1983, President Ronald Reagan fired her from the commission for criticizing his civil rights policies. In 1984, she sued and won reinstatement in federal court. In 1993, President Bill Clinton named her chairperson of the commission, and she was re-appointed in 1999.

A graduate of Howard University, Dr. Berry earned the Ph.D. in history from the University of Michigan and also received her law degree from the University of Michigan Law School.

Dr. Berry was assistant secretary for education in the U.S. Department of Health, Education and Welfare during the Carter Administration. As assistant secretary, she coordinated and gave general supervision to nearly \$13 billion of federal education programs.

Prior to her service with HEW, Dr. Berry was a provost at the University of Maryland at College Park and chancellor at the University of Colorado at Boulder. She has held faculty appointments at Central Michigan University, Eastern Michigan University, the University of Maryland, College Park, the University of Michigan, and Howard University in Washington, D.C.

Dr. Berry has received 30 honorary degrees and numerous awards for her public service and scholarly activities, including the NAACP's Image Award, the Rosa Parks Award of the Southern Christian Leadership Conference, and the Hubert Humphrey Award of the Leadership Conference on Civil Rights. She is a past president of the Organization of American Historians.

Dr. Berry is the author of seven books, including *The Pig Farmer's Daughter and Other Tales of Law and Justice*; *Race and Sex in the Courts 1865 to the Present*; *Long Memory: The Black Experience in America* (with co-author John W. Blassingame); *The Politics of Parenthood: Child Care, Women's Rights and the Myth of the Good Mother* and *Black Resistance/White Law: A History of Constitutional Racism in America*.



SUPREME COURT OF THE UNITED STATES

Brown v. Board of Education, 347 U.S. 483 (1954) (USSC+)

Argued December 9, 1952

Argued December 8, 1953

Decided May 17, 1954

Opinion

MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion.

In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment. In each of the cases other than the Delaware case, a three-judge federal district court denied relief to the plaintiffs on the so-called "separate but equal" doctrine announced by this Court in *Plessy v. Ferguson*, 163 U.S. 537. Under that doctrine, equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate. In the Delaware case, the Supreme Court of Delaware adhered to that doctrine, but ordered that the plaintiffs be admitted to the white schools because of their superiority to the Negro schools.

The plaintiffs contend that segregated public schools are not "equal" and cannot be made "equal," and that hence they are deprived of the equal protection of the laws. Because of the obvious importance of the question presented, the Court took jurisdiction. Argument was heard in the 1952 Term, and reargument was heard this Term on certain questions propounded by the Court.

Reargument was largely devoted to the circumstances surrounding the adoption of the Fourteenth Amendment in 1868. It covered exhaustively consideration of the Amendment in Congress, ratification by the states, then-existing practices in racial segregation, and the views of proponents and opponents of the Amendment. This discussion and our own investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive. The most avid proponents of the post-War Amendments undoubtedly intended them to remove all legal distinctions among "all persons born or naturalized in the United States." Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the Amendments and wished them to have the most limited effect. What others in Congress and the state legislatures had in mind cannot be determined with any degree of certainty.

An additional reason for the inconclusive nature of the Amendment's history with respect to segregated schools is the status of public education at that time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken

hold. Education of white children was largely in the hands of private groups. Education of Negroes was almost nonexistent, and practically all of the race were illiterate. In fact, any education of Negroes was forbidden by law in some states. Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences, as well as in the business and professional world. It is true that public school education at the time of the Amendment had advanced further in the North, but the effect of the Amendment on Northern States was generally ignored in the congressional debates. Even in the North, the conditions of public education did not approximate those existing today. The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states, and compulsory school attendance was virtually unknown. As a consequence, 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.

In the first cases in this Court construing the Fourteenth Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race. The doctrine of "separate but equal" did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*, supra, involving not education but transportation. American courts have since labored with the doctrine for over half a century. In this Court, there have been six cases involving the "separate but equal" doctrine in the field of public education. In *Cumming v. County Board of Education*, 175 U.S. 528, and *Gong Lum v. Rice*, 275 U.S. 78, the validity of the doctrine itself was not challenged. In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications. *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337; *Sipuel v. Oklahoma*, 332 U.S. 631; *Sweatt v. Painter*, 339 U.S. 629; *McLaurin v. Oklahoma State Regents*, 339 U.S. 637. In none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff. And in *Sweatt v. Painter*, supra, the Court expressly reserved decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education.

In the instant cases, that question is directly presented. Here, unlike *Sweatt v. Painter*, there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

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. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. 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.

We come then to the question presented: Does segregation of children in public schools

solely on the basis of race, even though the physical facilities and other “tangible” factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

In *Sweatt v. Painter*, *supra*, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court relied in large part on “those qualities which are incapable of objective measurement but which make for greatness in a law school.” In *McLaurin v. Oklahoma State Regents*, *supra*, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations: “. . . his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession.” Such considerations 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. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.

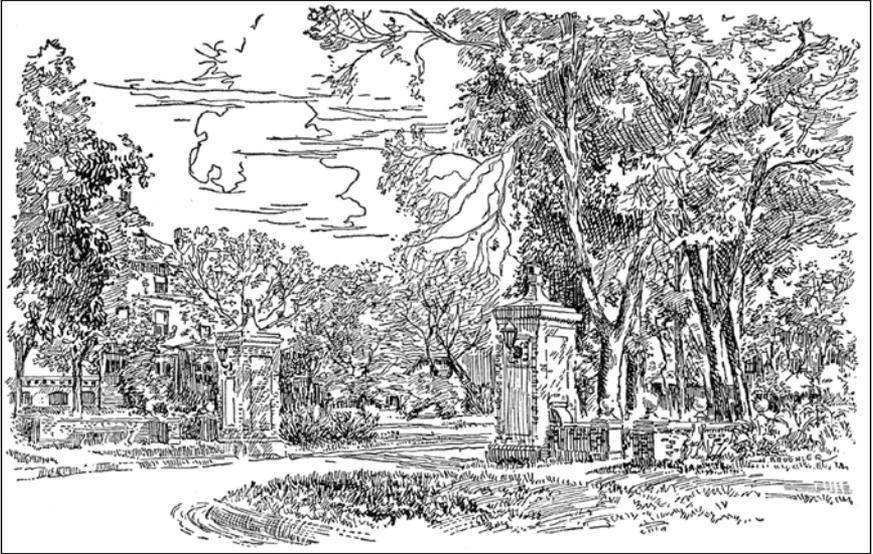
Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy v. Ferguson* contrary to this finding is rejected.

We conclude that, in the field of public education, the doctrine of “separate but equal” has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment.

Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question — the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5 previously propounded by the Court for the reargument this Term. The Attorney General of the United States is again invited to participate. The Attorneys General of the states requiring or permitting segregation in public education will also be permitted to appear as *amici curiae* upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954.

It is so ordered.

Founders' Gates Inscription



From a 1931 booklet of pen sketches of Illinois Wesleyan University

WE STAND IN A POSITION OF INCALCULABLE
RESPONSIBILITY TO THE GREAT WAVE OF
POPULATION OVERSPREADING THE VALLEY
OF THE MISSISSIPPI. DESTINY SEEMS TO POINT OUT
THIS VALLEY AS THE DEPOSITORY OF THE GREAT
HEART OF THE NATION. FROM THIS
CENTER, MIGHT PULSATIONS, FOR GOOD OR EVIL,
MUST IN THE FUTURE FLOW, WHICH SHALL NOT
ONLY AFFECT THE FORTUNE OF THE REPUBLIC,
BUT REACH IN THEIR INFLUENCE OTHER AND
DISTANT NATIONS OF THE EARTH.

Programs distributed by members of Egas, the Activities Honorary for Senior Women.