

# **The Struggle Against “Separate But Equal”— Teaching About Brown v. Topeka**

by

Timothy S. Fry, Ph.D.  
Assistant Professor,  
Washburn University  
Department of Education  
1700 SW College Avenue  
Topeka, KS 66621

[tim.fry@washburn.edu](mailto:tim.fry@washburn.edu)

FAX: 785-231-1046

Work phone: 785-231-1010 ext. 1476

Home address: 2545 Willow Lane  
Emporia, KS 66801

Home phone: 620-342-7459

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This year, 2004, marks the 50<sup>th</sup> anniversary of the Brown v. Topeka ruling. This historic Supreme Court decision, officially known as *Oliver L. Brown et al (and others) v. Board of Education of Topeka, Kansas et al*, was truly a landmark case as our nation worked to align public schools with the ideals of equality noted in the *Declaration of Independence*. Elementary through secondary students should study how this court case developed historically and, even though most of these students will not become lawyers, from the legal standpoint as well. The legal story will give students insight into the function and power of the judicial branch of government to not only interpret laws but to shape public policy as well. Along the way, students will learn stories of many people that struggled long and hard to end the legal practice of “separate but equal.” The Brown decision is also an essential topic for study because it opened the doors to the historic Civil Rights Movement—a movement that is important to understanding our world today. This article will provide a condensed historical overview that middle school students could easily read in a class period and will explore teaching strategies, classroom activities and resources that chronicle this important era.

## Historical Overview of Brown for Students

(some important dates and people are in bold)

To tell the story of the fight for equal rights in the United States, we should go back at least three hundred and fifty years to when people in Africa were kidnapped and brought to the Americas as slaves. For over two hundred and fifty years from the early 1600s to the 1860s, many people of African descent were considered as property and had to work for the most fundamental of rights-- individual freedom (Adams,2001). Mid-nineteenth century (**circa 1850**) abolitionists, like Frederick Douglass and others, raised their voices over the discrepancy between the Constitution's language of equality and the inhumane practice of slavery (Martin,1998). The bloody American Civil War of **1861**-1865 was fought largely over the issue of slavery. Even with the Emancipation Proclamation of 1863, and the 13th Amendment to the Constitution (1865) that outlawed slavery, many African Americans lacked freedom after the war due to economic dependency and enforced segregation. The 14th Amendment, passed in **1867**, attempted to guarantee citizenship to "all persons born...in the United States" and also went further in that "no state shall make or enforce any law which shall abridge the privileges" of citizens nor deny "liberty" or "equal protection." The 15th Amendment ratified in 1870 tried to guarantee voting rights (Martin, p.4).

Even though the civil rights of the people had been clearly stated in the 13th, 14th and 15th Amendments, many cities and states passed codes or regulations that become known as "Jim Crow laws." These laws were

intentionally crafted to isolate and restrict the rights of African Americans. Poll taxes, literacy tests and intimidation kept African Americans from voting while segregation laws kept white and black Americans separate in schools and in public transportation. Even the “Free State” of Kansas passed a law in **1879** that “allowed” cities of 15,000 or more citizens to segregate their public schools (“Desegregation”, 2002).

In 1892 **Homer Plessy**, an African American, decided to challenge a Louisiana law that required separate train cars for Whites and Blacks (Medley, 1994). The law stated that separate facilities were legal as long as the ones maintained for African Americans were equal. Plessy intentionally boarded a car reserved for Whites and knew he would be arrested. The case was tried in New Orleans District Court, where Judge John H. Ferguson ruled against Plessy’s argument that the Louisiana law violated the 14th Amendment. The Plessy v. Ferguson decision was appealed all the way to United States Supreme Court, which in **1896**, upheld Plessy’s conviction. Plessy’s plan had in a sense backfired. Instead of ending segregation laws, the Supreme Court institutionalized “separate but equal” as the law of the land. However, the decision was not unanimous, as Justice John Marshall Harlan issued a now famous dissent in which he declared the Constitution to be “color-blind” and that “all citizens are equal before the law” (Martin, p.81).

In **1909**, African American scholar and leader W.E.B. Du Bois, along with several others, formed the National Association for the Advancement of Colored People (NAACP) (Martin, p.7). This organization attacked racism and

discrimination on several fronts. Tactics included the lobbying of legislators, waging publicity wars in the media and judicial court cases. Litigation in court would eventually prove to be this organization's most powerful weapon.

In 1934 **Charles Houston**, one of the nation's most influential African American lawyers, would be hired to lead the legal court fights for the NAACP (Martin, p.10). Harvard trained, Houston had a deep-seated belief that the law could be a powerful force to promote social change. Houston had become dean of Howard University's law school in **1924**. One of Houston's students at Howard was **Thurgood Marshall**. Marshall succeeded Houston as the head of the legal team for the NAACP and became instrumental in the Brown Case (p.11).

Marshall would later in life be appointed to the Supreme Court. Houston and Marshall both employed a somewhat novel strategy in a court of law by using sociological and psychological data to argue the harmful effects of racism (p.19).

The NAACP lawyers pressed forward and chipped away at Plessy case by case through the 1930s and 40s. The process was slow because each school or district had to be challenged one by one. Equal pay for black and white teachers was achieved in several cases. Segregated all white law schools were forced to admit people of color in Maryland, Oklahoma, Missouri and Texas in the 1940s (Martin, p.24).

A famous study of race relations in the United States was conducted by a Swedish economist and was published in 1944. This study entitled *The American Dilemma*, focused worldwide attention on the fact that America was not living up to its creed (Martin, p. 19). Pressure for societal change also came from

the Cold War, which was forcing America to show it had a better social system than did the Soviet Union. In 1947, Jackie Robinson endured jeers, taunts, and threats to be the first African-American to play in Major League Baseball (McCutcheon, 1997). In **1948** President Truman desegregated the armed forces. Membership in the NAACP in the South grew from 18,000 in the late 1930s to over 156,000 by the war's end (Martin, p.101). By 1950, the stage was being set for more court cases, including a now famous one in Topeka, Kansas.

In Topeka, **McKinley Burnett**, head of the local chapter of the NAACP repeatedly attended school board meetings and asked that the school board fully integrate the schools ("Desegregation", 2002). Topeka operated four elementary schools for African Americans and operated 18 elementary schools for whites. Burnett, local NAACP secretary **Lucinda Todd** and a few others devised a plan that involved getting a group of twelve parents to join as plaintiffs in a class action suit on behalf of their (19) children against the Topeka Board of Education. Local Topeka lawyers, Elisha Scott along with sons John and Charles, were also proponents of the legal fight.

In the fall of 1950, the plaintiffs watched the newspapers for enrollment times and then took their children to the nearest white school at the appropriate times. One plaintiff, **Oliver Brown**, took his ten year-old daughter Linda to enroll in the all white Sumner Grade School near her home (Martin,p.27). Ironically, Sumner school was named after a lawyer that had fought for equal education in Boston many years earlier. Another plaintiff was **Vivian Scales**, who joined on behalf of her fourth grade daughter Ruth (McConnell,2003). When Scales,

Brown and the others were denied admission, the case was filed in Federal District Court in Topeka. Historical speculation is that Oliver Brown's name was used as the lead plaintiff because he was the only man among the roster of plaintiffs.

The court ruled against the local plaintiffs but the case was then appealed to the Federal Circuit Court of Appeals. The lead judge in the appellate case was **Walter Huxman**, a former governor of Kansas but now serving as a Federal Court Judge (Dean, 2003). Since the quality of Topeka's segregated schools and curriculum were relatively equal, the complaint focused on the harmful psychological effects of being forced to attend a separate school. Once again the court, through Judge Huxman, did not rule for the plaintiffs but instead ruled in favor of the School Board. Huxman cited his court's subordinate role to the Supreme Court who had clearly ruled on the issue in Plessy. However, Judge Huxman did note the "detrimental effect" of segregation upon colored children and was perhaps suggesting to the Supreme Court that it was time to overrule Plessy.

The Topeka plaintiffs appealed to the United States Supreme Court. Upon reaching the Supreme Court, it was combined with four other NAACP appeals cases from across the country and all were put under the heading of *Brown V. Topeka*. The other four cases were *Belton v. Gebhart* in Delaware, *Biggs v. Elliot* in South Carolina, *Davis v. County School board of Prince Edward County* in Virginia and *Bolling v. C. Melvin Sharpe* in Washington D.C. Historic

speculation is that the Brown case was selected for the heading because Kansas was not a southern state.

In some of the cases that were combined under the heading of Brown, Thurgood Marshall and other NAACP lawyers brought in social psychologists as expert witnesses. Social Psychologists **Kenneth Clark** and his wife Mamie provided powerful testimony on repeated studies that they had done using black and white dolls (Martin, p.28). In the studies, black children often chose the white doll as the nicer or preferred doll to play with. The Clarks extrapolated that feelings of inferiority and damaged self-esteem were due to racial segregation.

Arguing before the Supreme Court on the combined cases under Brown, Thurgood Marshall attacked segregation by noting that minority students are made to feel inferior. Marshall further noted that feelings of inferiority and lowered self-esteem can interfere with the ability of young people to learn.

On May 17, **1954** the U.S. Supreme Court handed down a unanimous decision written by Chief Justice **Earl Warren**. The Chief Justice wrote, "separate educational facilities are inherently unequal" and also noted that the "separate but equal" doctrine had "no place" in public education (Martin, p.16). 'Separate but equal' was legally dead. However, the court did not provide guidance on how to put desegregation into effect. Deliberate resistance was organized in some states and school districts.

A year later, the case was reopened again in what has been called Brown II. This time the court instructed that desegregation should occur with "all deliberate speed" and should be directed by federal district judges (Martin, p.31).

In 1957, President Eisenhower had to send in federal troops to Arkansas to help guard Ernest Green and the other “Little Rock Nine” as they were enrolled in the otherwise all white high school. For the last almost fifty years, some school districts have remained under the watchful eye of federal judges. Districts have tried bussing, magnet schools and single age group attendance centers to try to bring about desegregation. The sad fact is that many schools still remain largely segregated due to economic factors and segregated neighborhoods.

The legacy of Brown however did help bring the United States and even the world down the road towards more equality. While Brown focused on educational facilities, it opened the door for the historic Civil Rights Movement that ended lawfully sanctioned segregation in public accommodations, restaurants, theaters and elsewhere. The stage was set for Rosa Parks, Martin Luther King, Jr., the Freedom Riders, and the many other courageous people who worked to make the world a better place. Better because separate is not equal and we must continue their struggle to make things more equal.

### **Teaching Strategies**

The above historical overview contains several dates and names of people connected to the Brown decision in bold type. The historical overview could be read together out loud paragraph by paragraph as is common in middle school classrooms, individually by older students or even by reading or telling the historical overview to younger students. After reading the “overview,” students could construct a timeline of several dates that are in bold type within the overview. A template could be supplied (see figure 1) or the student could use

available timeline making software available on several sites on the Internet. Dates would be placed in chronological order with the relative amount of time visible between events. Students should also develop a label for each entry on the time line based on the reading of the overview.

Additional short biographies with extra information were created for each person connected to the Brown case whose names were in bold print in the historical overview above. (See Brown Players Appendix or access them at my website at: \_\_\_\_\_). In an inquiry activity, students in groups (or individually) should read some or all of these short biographies. With the additional information, they could fill in the matrix table of information on the Brown Players (see table 1). If groups only read a few biographies, they could report out information gathered to the rest of the class, so that everyone would have a mostly filled in matrix of information. A panel of ten students could be selected to represent the “Brown Players” and a problem solving game could be set up. A matrix was constructed that lists the “Brown Players” along one side and blanks to write in the names of the panel of students across the top (see table 2). The other students in the class would get to ask only yes or no questions of the panel to try and figure out which “Brown Player” each student represented. Students will have fun playing this game and at the same time get to know people connected to the Brown decision better.

Other biographies could be created on people whose names were not in bold type. Some of the Brown players could be changed to include more of the

other court cases in Brown and might be more pertinent to a particular area or region of the country.

An additional timeline activity would have students conduct oral histories with people over 55. One of the first things they should do is label the person's date of birth on a ready-made time-line (see figure 2). Hopefully students would see that we are not talking ancient history here. On the same form, students could gather information on where and when they went to school, if the school was segregated, what some of their recollections are.

Another strategy involves using the Internet and doing web quests. Web quests are comparable to a scavenger hunt where students would visit several different web sites connected to the Brown decision and gather data or answer questions from that site. Students could complete a ready made web quest as there are several already made directly connected to the Brown case. Doing a web search for "Brown/web quest" will yield several quests. A note of caution is that some web sites and web quests are made by students and may contain inaccuracies or oversimplifications.

Teachers can easily create a web quest about the Brown decision customized for their students due to the large number of excellent sites on the Web. The web quest below is mainly about the "little rock nine," but poses some higher order thinking questions as students are asked to examine discrimination and racism in their own lunchroom and school.

[http://www.filamentality.com/wired/BHM/little\\_rock/intro.html](http://www.filamentality.com/wired/BHM/little_rock/intro.html)

The Topeka, Kansas Unified School District 501 has links to information about the Brown case including Desegregation History, Case Strategy, Excerpts from Chief Justice Warren, Officials of the Case, Participants in the Case, and Status of the buildings, etc. The URL is:

<http://www.topeka.k12.ks.us/admin/communications/documents>

The URL sites below have many links to civil rights web sites that contain great audio and video, including primary sources. One also has links to several good web quests dealing with the civil rights movements.

<http://eduscapes.com/42explore/civilrights.htm>

<http://coe.west.asu.edu/students/aflonacher/WQ/civilrightswq.htm>

Another web site that has a lot of potential to include in a web quest or even as a stand-alone page for students to examine includes Norman Rockwell's painting "The Problem We All Live With." In the painting Ruby Bridges from New Orleans is escorted by federal marshals to a newly desegregated school.

This site contains some things to think about when looking at art and would be great for a cross-curricular social studies /art lesson.

[http://www.nrm.org/eyeopener/eye\\_problem.html](http://www.nrm.org/eyeopener/eye_problem.html)

Oliver Brown's daughter, Cheryl Brown Henderson, still lives in Topeka and in 1988 established the Brown Foundation for Education Equity, Excellence, and Research. The Brown Foundation's web site contains photos, curriculum ideas, and much information on the case. It can be accessed at:

<http://brownvboard.org>

The Brown Foundation also provides scholarships to minority students, sponsors programs on diversity issues and worked with the United States Congress to

establish the Brown v. BOE National Park Historic Site in Topeka. In May 2004 the National Park Service will officially open the National Historic Site in the old segregated Monroe Schoolhouse in Topeka. The National Park Service also maintains an excellent Brown web site at: <http://www.nps.gov/brvb>

Classroom videos and curriculum material kits for elementary through secondary students on the Brown decision are available through the Park Service in Topeka.

### **Objectives/Outcomes**

Hopefully after completing some of these activities the following objectives/outcomes will have been met:

- 1.) students will have a greater understanding of the historical struggle African Americans had to gain basic human rights before and right after the civil war
- 2.) students will have a greater understanding of how rights were denied under Jim Crow laws
- 3.) students will have a greater understanding of how 'separate but equal' became law under Plessy v. Ferguson
- 4) students will have a greater understanding of the role of the NAACP in Brown including the work of Houston, Marshall, and others
- 5.) students will have a greater understanding of the role of the judicial system in making policy and also be familiar with the work of Judges Huxman and Warren
- 6.) students will understand that the Supreme Court Brown case involved cases from across the country and was not a single case that went all the way to the Supreme court

- 7.) students will have a greater understanding of how Brown decision gave impetus to the civil rights movement
- 8.) most importantly, students will have a greater understanding of why **separate is not equal !**

### References:

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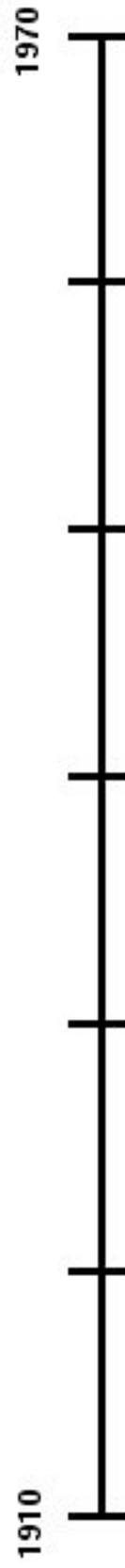
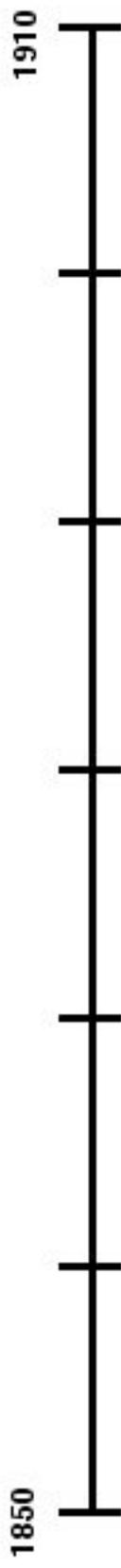
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Figure 1



**Brown Players Appendix**

**“Brown Players”**

**Homer Plessy**

**Charles Houston**

**Thurgood Marshall**

**McKinley Burnett**

**Lucinda Todd**

**Oliver Brown**

**Vivian Scales**

**Walter Huxman**

**Kenneth Clark**

**Earl Warren**

## **Homer Plessy**

Homer Adolph Plessy was born in New Orleans, Louisiana on March 17, 1862. He was the son of Adolphe and Rosa Debergue Plessy, a Creole family. Although he was racially mixed, African and Caucasian, Plessy and his family passed for whites. It is said that Homer often referred to himself as being 7/8 white and 1/8 black. His father died when he was just five years old, and his mother soon remarried. Plessy apprenticed as a shoemaker, the same profession as his stepfather and maternal relatives. In 1887 Plessy married Louise Bordenave. Three years later, a law was written, the Separate Car law, which called for the segregation of passenger trains traveling within the state of Louisiana. The Citizen's Committee, an influential group of New Orleans African Americans and Creoles, learned of the law, and began strategic planning which would challenge all segregation laws in the courts. In 1892, the Citizen's Committee asked Homer Plessy to be the violator of the law that forbade him to ride in the "white car" of the train. Plessy agreed and on June 7, 1892 he bought a first class ticket for the whites only passenger car. Plessy informed the conductor that he was 1/8 black, but that he refused to sit in the all black car. He was immediately arrested and booked into the Parish jail. He was released the next day on \$500 bond. One month after his arrest, Plessy's case went to trial before Judge John Ferguson. During the trial, it was argued that Plessy's civil rights, stated by the thirteenth and fourteenth amendments, had been violated. Ferguson denied the argument when he ruled that Louisiana had the power to set rules that regulated the railroad business within its borders. Not accepting this defeat, the plaintiffs took the case to the Louisiana Supreme Court. The court refused to hear the case, but did allow a writ of error. The United States Supreme Court accepted the petition and the trial began in April of 1896. The same arguments were used as in the first trial, but the result was the same. The majority of the court ruled in favor in the state of Louisiana. Homer Plessy drifted out of the public eye after the case, eventually becoming a life insurance collector. He died in 1925. The "Separate But Equal" law remained in effect until 1954, when it was overturned by another US Supreme Court case, *Brown v Topeka Board of Education*.

Source: <http://www.toptags.com/aama/bio/men/hplessy.htm>

## **Charles Houston**

Charles Houston was the Dean at Howard University's Law School when Thurgood Marshall started his law school career. Marshall often credited Houston as the reason he went to law school, as Howard was the first accredited Negro Law School in the country, thanks to Houston's work. Houston made huge impressions on all of his students, especially Marshall. He impressed upon them that they must not fail, that blacks were counting on them, and that they must pave the way, through law, to end segregation. Houston said that the lawyers must go to court to overturn Plessy. To do this, he said that black lawyers must be twice as good as the white lawyers they would be facing in court. As Thurgood Marshall's class graduated from Howard in 1933, Houston left the school to become the Director of Legal Assault on Segregation for the NAACP. He hired Marshall to help him. The pair traveled all over the south, to document the conditions of the schools. What the pair found was horrifying. The children were crammed into one-room schoolhouses, with few textbooks to share. The documentation was done to begin the fight on Separate but Equal. Houston concluded that they must fight to overturn Plessy, but in stages. They decided to fight the equal part first, and then move to the separate when the first was won.

The pair took many cases to state courts, and were successful, but only with higher-level education. While these wins made progress, there was still a great injustice being done to black children in the south, and really all over the country, due to the Separate But Equal doctrine. Due to poor health, Houston quit the NAACP, leaving his job to Marshall. He wasn't thrilled, but took the position. The two were good friends, and Houston still helped Thurgood with ideas and thoughts. In 1950, Charles Houston died after having a massive heart attack. At his funeral, Thurgood Marshall said that he had dedicated his life to improving man and society. He said that Houston had trained his students that the law said that all men were created equal, but that the laws of the land didn't say that, so it was their job, as lawyers to fight in the crusade against this kind of thinking. Thurgood Marshall continued this crusade.

Sources: Kluger, Richard *Simple Justice: The History of Brown V. Board of Education and Black America's Struggle for Equality*. New York: Knopf 1976;  
<http://www.toptags.com/aama/bio/men/chouston.htm>

## **Thurgood Marshall**

Marshall was the son of William and Norma, both hard working, proud people who taught him to be proud of who and what he was. While in his years at segregated schools, he often got into trouble. His punishment was to go to the basement and copy the US Constitution. He often said by the time he graduated high school he could recite the entire thing. After graduating from Douglass High School in Baltimore, he went to Lincoln University in Oxford, Pennsylvania. He became well known and respected for his debate skills. In 1930 he graduated from Lincoln with honors. He then entered law school at Howard University, after being denied admittance to the all white University of Maryland's law school.

While at Howard, Marshall met Charles H. Houston, dean of the school, who would eventually become the NAACP's first chief counsel and the first black man to win a case before the US Supreme Court. In 1933, after graduating magna cum laude, Marshall went to work for Houston and the NAACP, and replaced him as chief counsel in 1938. Thurgood Marshall is probably best known for winning the *Brown vs. Board of Education*. When the Supreme Court unanimously agreed with Marshall, that separate was not equal and that blacks were harmed in more ways than one by segregated schools, the United States changed dramatically. While it took a while, Marshall's work made an invaluable impact on the constitution. Of the 32 cases he took to the Supreme Court, Marshall won 29 of them. President John F. Kennedy offered him a position of the US Court of Appeals, where his record was even better. None of the 112 cases that he gave judgment on were ever overturned. In 1965 Marshall was named solicitor general for the United States, and two years after that he was appointed to the US Supreme Court. When he died in 1993, Thurgood Marshall was one of two Justices to lie in state in the Supreme Court chambers. His former law clerk and Yale Law professor Paul Gewirtz wrote a remembrance about him. In it, he stated that Marshall had grown up in times of segregation, discrimination, and racial violence, but that he had the capacity to imagine a radically different world, the strength to sustain that image in the mind's eye and the heart's longing, and the courage and ability to make that imagined world real. This statement summed up Marshall's life well.

Sources: David A. Adler, Robert Casilla (Illustrator), *Picture Book of Thurgood Marshall*, Holiday House 1997; *Thurgood Marshall* by Ruth Tenzer Feldman Lerner Publications Company 2001; Biography Video of *Thurgood Marshall* A& E Entertainment February 8, 2000; Kluger, Richard *Simple Justice: The History of Brown V. Board of Education and Black America's Struggle for Equality*. New York: Knopf 1976.

## **McKinley Burnett**

McKinley Langford Burnett was a tireless worker for the cause of civil rights for African Americans. From 1948 to 1963 he was President of the Topeka Chapter of the National Association for the Advancement of Colored People (NAACP). His vision and personal effort resulted in *Brown v. Topeka Board of Education*.

McKinley Burnett was born January 9, 1897 in Oskaloosa, Kansas. Growing up in a small town with its integrated schools set him on a course that had little tolerance for segregation. After moving to Topeka, he married Lena Jones, their union produced five children. Now with a family of his own he vigorously pursued equal rights for African Americans. Over the years he had experienced tension on his job because he stood up for what was right and fair. He worked in the Santa Fe Shops for thirteen years and part time at a local clothing store. He moved on and for a time worked for the Government Supply Depot, finally landing a job as a stock clerk for the Veterans Hospital.

At the age of fifty-two McKinley Burnett took over leadership of the Topeka Chapter of the NAACP. Concern about job security kept many African Americans from joining the organization. This fact left Burnett presiding over meetings of a dozen or so people. In the face of waning support he pressed on together with the previous NAACP President, Daniel Sawyer. One of their central concerns was to push for integrated public schools. In 1948, they presented a petition to the Topeka Board of Education. Their document was intended to appeal to reason and to encourage the Board of Education to exercise its option to end school segregation. During the next two years Burnett would continue this strategy of personal appeals to the Topeka Board of Education. 1950 was his last attempt to win over the Board. He finally told the School Board "you've had two years now to prepare for this." His words were not hollow. The next step was to organize a court challenge.

Burnett suffered from leukemia. In spite of his grave condition, he worked tirelessly to plan strategy together with chapter attorneys, Charles Bledsoe, John and Charles Scott and chapter secretary Lucinda Todd. He personally recruited a number of the plaintiffs once Mrs. Todd signed on as their first volunteer. Although he was temporarily bedridden by the time the case was filed McKinley Burnett had made a lasting contribution to the struggle for civil rights. He went on to attend the court hearings all the way to the U.S. Supreme Court. In addition to his role in the Brown case, Burnett was a devout member of the Capital City Community Church of God and together with his wife cared for numerous foster children.

McKinley Langford Burnett died in 1968. His wife is also deceased. One of their sons, Marquis Burnett still lives in Topeka. One of their daughters Maurita Carmady lives in Kansas City and works to preserve her father's legacy.

Source: Brown Oral History Collection, Brown Foundation for Educational Equity, Excellence, and Research

## **Lucinda Todd**

Lucinda Todd's life and legacy embodies the powerful presence of African American women in the civil rights struggles of this country. She worked along side the crusading attorneys for the Topeka Chapter of the NAACP. As Chapter secretary her home was the site of a strategy meeting that set the wheels in motion for the Brown case.

Lucinda Todd was born in 1903 to the farm life of rural Kansas. Her childhood community was a small town called Litchfield. Her parents had been part of the post Civil War exodus from the south into Kansas. Mr. Slaughter, Lucinda's grandfather moved the entire family from southern Alabama. Already married, her parents joined the move. Lucinda's mother Estella was born in Birmingham, Alabama. Her father, C.R. Wilson was born in Georgia. Since the Wilson family lived and farmed in a small, and by population, second class City the community's public schools were integrated. As a result the twelve Wilson children were educated in the one room elementary school attended by both African American and white children. Kansas law of that era, only permitted segregated elementary schools in first class cities of fifteen thousand or more residents.

When Lucinda reached fifth grade the family moved to Girard, Kansas, because in Litchfield there was no Junior High or High School. After high school graduation she went on to Pittsburg State University in nearby Pittsburg, Kansas. Four years later with a Bachelors Degree in Elementary Education her career began in a one-room school in southeast, Kansas.

In the late 1920's she moved to the Capitol City, Topeka. She was soon hired to teach at Buchanan, one of the city's four segregated elementary schools for African American children. In 1935 she married Alvin Todd and resigned her teaching post in compliance with school district policy prohibiting the employment of married females as teachers.

Mrs. Todd went on to become the secretary of the Topeka Chapter of the NAACP. She became the first to volunteer to serve as a plaintiff on behalf of her daughter, Nancy, in the organizations planned school integration case. After the U.S. Supreme Court decision of 1954 ending legal segregation in public schools, Mrs. Todd returned to teaching. She retired in 1965. Mr. & Mrs. Todd died in 1995 and 1996 respectively.

Source: Brown Oral History Collection, Brown Foundation for Educational Equity, Excellence, and Research.

## **Vivian M. Scales**

Mrs. Vivian M, Scales and her sister, Mrs. Shirla Fleming (deceased), secured their places in history as two of the thirteen parent plaintiffs in the NAACP's *Brown* case of 1954. Mrs. Scales was a participant on behalf of her daughter, Ruth Ann Scales (Everett). Mrs. Fleming participated on behalf of her children Silas and Duane.

Vivian M. Scales was born, March 11, 1922, in Winfield, Kansas. She lived in this small central Kansas community until her 3rd grade year in school. Her parents, Sarah and James Willhoite, moved their seven daughters and one son to Topeka. Both parents had come to Kansas from the south. Her mother was born in Jackson, Mississippi and her father in Memphis, Tennessee,

Ironically Winfield was a second-class city based on population and according to Kansas law could not operate segregated schools. Consequently both Vivian and Shirla came to Topeka's segregated schools from an integrated rural education. Once in Topeka they attended McKinley Elementary School, one of only four schools for African American children. From there they went on to Curtis Junior High and Topeka Senior High, both integrated schools. However, the high school was only integrated for academics. Extra curricular activities were segregated.

As adults and young parents, these sisters were members of the Topeka Chapter of the NAACP. It was through this organization that they were asked to participate in a class action suit to challenge segregated public elementary schools in Topeka. Vivian Scales was willing because her daughter, Ruth Ann attended segregated Washington and later Monroe Elementary Schools. Both of these schools were of some distance from their home while Parkdale Elementary for white children was just two blocks away. In the fall of 1950 Vivian Scales and her sister took a stand. By following the instructions given by the NAACP legal counsel, their unsuccessful attempts to enroll their children provided evidence to file a court challenge to segregated public elementary schools in Topeka.

Scales said that Topeka was a stressful place during the trial, “we were church going people and we didn’t put up with anything wrong. It (segregation) was wrong.” After the verdict, Scales said her neighborhood was a place of celebration. “We’d come a long, long way!” In looking back on the entire event, Scales said she was very glad that she participated. She said that it all was worth it, that her “daughter had a better life because of it. I feel like a winner.”

Sources: Brown Oral History Collection, Brown Foundation for Educational Equity, Excellence, and Research; McConnell, Judith Lynne, Ed. D. “I Was A Plaintiff in the Brown vs. Topeka Board of Education Decision: Vivian Scales’s Story” presentation given November 1999.

## **Oliver L. Brown**

Oliver L. Brown garnered his place in history by accepting an invitation to join an assembly of parents who would ultimately become plaintiffs for the Topeka NAACP legal challenge to segregated public schools. As fate would have it this now touted case when filed in Federal District Court, February 28, 1951 was named for him--*Oliver L. Brown et. al. vs. The Board of Education of Topeka, Kansas*.

Oliver Leon Brown was born August 2, 1918, in Topeka, Kansas. He was the last of the Brown family's ten children. His parents worked hard to provide for their growing family. His mother was a domestic worker who cooked, ironed and cleaned in several homes. His father Francis "Frank" Brown worked a short time in the coal mines of Burlingame, Kansas, from there to the Topeka Transport Company and finally as a custodian for the Santa Fe. The Brown children attended segregated Buchanan Elementary School, one year of Boswell Junior High and went to Topeka High School. While attending high school he met his future wife Leola Williams. They were married in 1939. To support his new wife Oliver Brown worked as a waiter at the Jayhawk Hotel and from there as a shop welder for the Santa Fe Railroad. During this time he joined a social club of fellow African American railroad workers. They called themselves the Iron Horsemen. For a time he followed his dream of becoming a boxer like his idol, Joe Lewis. Oliver trained and participated as a heavy weight contender in the amateur Golden Gloves boxing league. The rough and tumble world of boxing did not agree with his physical ailment, a heart condition. His health also prevented him from military service in World War II. In 1944 their first child was born, a daughter they named Linda, by 1947 the family expanded with the birth of their second daughter Terry. During the late 1940s Oliver Brown began study to complete his calling to the ministry. He had been raised in a religious home where church attendance was a weekly family affair. He enrolled in theology courses at Washburn University but completed his study through correspondence courses from the Bible College of Chicago.

In 1950 Charles Scott, a childhood friend and lawyer, approached Oliver about joining the NAACP challenge to segregated public schools. After several weeks of contemplation Oliver Brown agreed to become a plaintiff for the NAACP class action suit. That same year the Brown's welcomed the birth of their third daughter Cheryl. In February of 1951 the NAACP filed the class action suit on behalf of the thirteen families, now considered case plaintiffs. During that same year Oliver Brown was ordained and officially became an African Methodist Episcopal Minister. He served as pastor of St. Mark AME Church in Topeka from 1953 to 1959 and of Benton Avenue in Springfield, Missouri from 1959 to 1961. Oliver Brown died in 1961. Brown's widow and three daughters live in Topeka.

Source: Brown Oral History Collection, Brown Foundation for Educational Equity, Excellence, and Research.

## **Walter Huxman**

Walter Huxman was born in Reno County, Kansas on February 16, 1887. His father was a preacher, and the family also owned a farm. Many of the locals hoped that Walter would follow in his father's footsteps and go into the field of theology, but he had other plans for himself. He attended the Teacher's Institute and received a teaching degree at the age of eighteen. He spent the next four years of his life working in local schools as a teacher and principal. After this he decided to go to law school. He graduated from the University of Kansas Law School in 1914. After graduation, he started his own law practice in Hutchinson, Kansas and also became involved in politics. He became the Hutchinson City Attorney in 1919, an official position that he was appointed to. In 1936 he ran for governor of Kansas and won by around 22,000 votes. He was known as a strong Democrat, often using his speeches to campaign for President Franklin D. Roosevelt. Huxman used his power as governor to allow black student admittance to the University of Kansas School of Medicine. The school was trying to deny acceptance of the student because he was black. This was Huxman's first dealings with these issues, but the most important would come several years later. Huxman was nominated to the Tenth Circuit of the US Circuit Court of Appeals. He would serve in this position for a quarter of a century. In 1951, the court heard the *Brown v Board* case. Huxman was faced with a great dilemma. Other courts around the country were denying the NAACP cases that were similar to the *Brown* case. Huxman had said before that segregation only hurt students. However, the Supreme Court stood in his way of giving a verdict that would support his feelings. Since he could not overrule *Plessy vs. Ferguson*, and it had not been overruled, there was nothing he could do. In his opinion, Huxman said, "Segregation of white and colored children in public schools is detrimental to colored children. The impact is greater when it has the sanctions of the law." He said that the cases were for the plaintiffs were for higher education, not elementary school aged children. He said that he couldn't reverse *Plessy*, but the Supreme Court could. Because of his opinion, Thurgood Marshall went to the Supreme Court and won the *Brown v Board of Education* case. Huxman continued to serve as judge until 1957, when he became senior status and retired. He died on June 25, 1972.

Sources: Dean, Virgil W., "Judge Walter A. Huxman and the first *Brown v Board* Decision Paper for *Brown*, presentation at Brown Colloquium, Washburn University, Spring 2003.

## **Kenneth Clark**

Kenneth Clark was born on July 24, 1914, in the Panama Canal Zone. When he was a small child his mother took him and his sister to New York, for more opportunities. He grew up in Harlem, which was a mixed community, consisting of not only black families, but also Jewish and Irish people. Clark grew up in a world where people expected less from blacks. Although his grades were excellent in school, he was encouraged to go to vocational school because he was black, and blacks could only get a certain number of low paying jobs. When he told his mother this, she promptly went to the school, telling the counselor that she didn't move her family from Panama so her children could be factory workers, and enrolled him in George Washington High School. There, he had his first dealings with racism. He had earned an award in economics, the teacher refused to give it to him because of his race, and he then decided not to further his studies in economics. This led to his interest in the psychology of racism. After high school, he went to Howard University. When Clark first went to college he wanted to study medicine. However, this changed when he took a psychology class in his sophomore year. He earned his degree and eventually worked his way up to getting his doctorate in 1940, from Columbia University. He was the first black doctoral candidate in the program. After graduating, Clark taught at the university level and worked for the federal government. He did several important works, but nothing as important as what he did with his wife, Mamie. In 1946, the Clarks established the Northside Testing and Consultation Center in Harlem. This is where Clark's work became so important. He did a study to find if racism helped make a negative attitude towards ones self. His most important study would be done using dolls. When given a choice between a brown doll and a white one, and being told, "Give me the one that looks bad" black children would pick out the brown doll. They would pick out the white doll when asked for the doll that was a nice color. The Clarks wrote several articles on this. School desegregation was becoming a huge issue in the United States. The results of Plessy vs. Ferguson were still in effect. The NAACP was beginning to challenge the ruling. They called upon Kenneth Clark during the Brown vs. Board of Education US Supreme Court trial, where he presented his findings. The Supreme Court ruled "separate educational facilities are inherently unequal." After the ruling in favor of the Brown family, Clark became a celebrity in the nationwide community of social scientists.

Sources: <http://www.findarticles.com>;

Kluger, Richard *Simple Justice: The History of Brown V. Board of Education and Black America's Struggle for Equality*. New York: Knopf 1976.

## **Earl Warren**

Earl Warren was born in Los Angeles, California, on March 19, 1891. He was educated at the University of California. Warren began practicing law in San Francisco in 1914. Warren had a long political career in California. He served four years as the state's Attorney General, and was elected governor in 1942. He was re-elected governor in 1946 and also in 1950. His only political loss was in 1948 when he was a candidate for vice president in the unsuccessful presidential campaign of Thomas E. Dewey.

In 1953 Dwight D. Eisenhower appointed Warren as the fourteenth Chief Justice of the United States Supreme Court. He was involved in many cases, but the most notable is *Brown vs. Board of Education*. Warren was assigned the case after one of the original Justices died. He worked at length to convince the other members of the court how important a unanimous decision would be. The Court's unanimous vote changed history forever when they voted to overturn *Plessy vs. Ferguson*. Warren said in his opinion, "Separate educational facilities are inherently unequal." Warren also noted that the 'Separate but Equal' doctrine had "no place" in public education.

Warren was on the U.S. Supreme Court until he retired in 1969. He died five years later in Washington, D.C. on July 9, 1974. He was one of two Justices to lie in state in the Supreme Court chambers.

Sources: <http://www.watson.org/~lisa/blackhistory/early-civilrights/brown.html>;  
Kluger, Richard *Simple Justice: The History of Brown V. Board of Education and Black America's Struggle for Equality*. New York: Knopf 1976.

### Brown Player Information Chart

<b>Brown Player</b>	<b>Time frame/ Dates noted</b>	<b>Where they lived or worked</b>	<b>Occupation</b>	<b>Famous Quote/ Miscellaneous Fact</b>	<b>Connection To Brown</b>
<b>Homer Plessy</b>					
<b>Charles Houston</b>					
<b>Thurgood Marshall</b>					
<b>McKinley Burnett</b>					
<b>Lucinda Todd</b>					
<b>Oliver Brown</b>					
<b>Vivian Scales</b>					
<b>Walter Huxman</b>					
<b>Kenneth Clark</b>					
<b>Earl Warren</b>					

Table 1

## Who's Who in Brown ?

Student Players Brown Player										
<b>Homer Plessy</b>										
<b>Charles Houston</b>										
<b>Thurgood Marshall</b>										
<b>McKinley Burnett</b>										
<b>Lucinda Todd</b>										
<b>Oliver Brown</b>										
<b>Vivian Scales</b>										
<b>Walter Huxman</b>										
<b>Kenneth Clark</b>										
<b>Earl Warren</b>										

Table 2

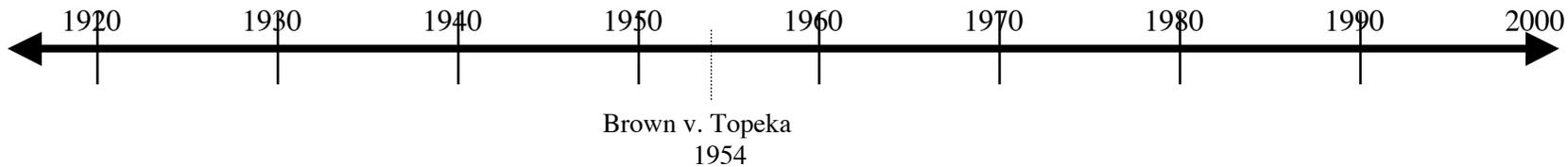
## SCHOOL DAYS BACK WHEN

NAME \_\_\_\_\_

Going to school has changed over time. Before 1954 many African Americans and Euro-Americans attended different schools in certain towns or regions. Interview someone over 55 years old to find out about their educational experience. Mark and label the subject's year of birth on the timeline.

Name of Subject: \_\_\_\_\_ Age: \_\_\_\_\_ Year of Birth \_\_\_\_\_

Where they went to school \_\_\_\_\_ Segregated or desegregated \_\_\_\_\_



Write Answers on the back of this page.

1. What are some things you remember about your school days?
2. How did you get to school?
3. Who was your favorite teacher?
4. What was your favorite subject?
5. What was different back then it is now?

Figure 2