

## Introduction – What is Segregation?

**GRADE LEVEL:** Grades 8-10

**SUBJECT:** U.S. History; Sociology;  
Government & Politics

**TIME REQUIRED:** 90 minutes

Life in the Jim Crow South and segregated America. How Segregation affects people and their culture. The role of policy in segregating people

### RATIONALE

In this lesson students will explore key questions around segregation, not just defining it but exploring the effects of segregation on people's lives, especially young children. Segregation and its impact on people and their culture as shaped by policy and practices is a key element of both historical and sociological exploration.

NOTE: While this lesson is planned for 90 min. you may need longer to accommodate student learning, or you could cut activities to reduce the time needed.

This lesson plan and materials needed to teach it can be found at the Thurgood Marshall Institute: <https://tminstituteldf.org/>

### OVERVIEW

#### ESSENTIAL QUESTIONS

1. How does segregation take hold in a society?
2. How does segregation in community's affect people's lives?
3. How do insights about the segregating of streetcars help us understand school segregation better?

#### OUTCOMES AND OBJECTIVES

After the lesson students will...

1. Recognize the ways segregation takes hold in a community and society broadly.
2. Explain the roles of policy, economic interests, and social pressure to segregate (or desegregate) areas of life in a community.
3. Describe insights supported by primary and secondary source materials about the affects of segregation on people's lives.

#### PREPARING TO TEACH

- Review the materials section thoroughly.
- There are a few historical figures who students might not recognize. It would be helpful to make sure you are familiar with their lives to some extent:
  - Mary Morrison of Memphis, TN
  - Mr. Madison S. Jones, II of the NAACP Director of Youth Programs

## SCAFFOLDS AND ACCOMMODATIONS TO SUPPORT LEARNERS

### Reading support...

Reading for this lesson includes two source documents, one academic journal article in the field of history and one historical primary source written by an NAACP director about segregation and desegregation following Brown v. Board of Education 1954 (see materials list).

- Setting a clear purpose for why students are reading and what they should get from it is important as a reading support.
- Tampering with the text: students should have access to the complete text for context and differentiation possibilities but orienting the task around a smaller section of text or rewriting complicated language in every day / present day language is helpful.
- Co-reading: students reading together in small groups or with a partner can support understanding and comprehension.
- Setting context: Sharing sourcing information and the broader context of what was happening at the time of the document or the time when the story takes place supports student understanding of the bigger picture and specific ideas in the text.
- Highlighter strategy: Provide students with 2-3 highlighters each of different colors. Ask them to mark up the documents the first time through with color A for things that are unclear and don't know, color B for things they understand and think are important to responding to the prompts.

## INSTRUCTIONAL ACTIVITIES SEQUENCE

1. **(15 min.) Set context.** What do students already know about segregation:
  - Have students complete a K-W-L chart for this intro level lesson on segregation (see table below).

<b>K</b> What do I already <u>KNOW</u> (or think I know) about segregation?	<b>W</b> What do I <u>WANT</u> to learn more about or need to know?	<b>L</b> What did you <u>LEARN</u> that you didn't know before?
<b>Before the lesson:</b>	<b>Before the lesson:</b>	
<b>After the lesson</b> (what of what I though I knew held up or needs changed?)	<b>After the lesson</b> (what do I want to know more about in the future?)	<b>After the lesson</b>

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- Have students share some of their responses and as the teacher you have the opportunity to share some of the policy, social, and historical contexts for Jim Crow and segregation.
- 2. **(30 min.) Students will read excerpts from** the Bates history article on segregated streetcars in Tennessee in the early 1900s. It might be important to set the context for Jim Crow South policy and practices depending on students' prior knowledge. The primary goal for this task is to think about the tensions and nuances of segregation as it emerges and is more deeply engrained in life in America. Tensions between policy makers and corporate interests contrasted with racial divides in public opinion and the ways they shape the human experience are important to explore here.

Bates, J. L. (2016). Consolidating Support for a Law "Incapable of Enforcement": Segregation on Tennessee Streetcars, 1900-1930. *The Journal of Southern History*, 82(1), 97–126.

<http://www.jstor.org/stable/43918207>

- Important pages to provide...in addition we encourage you to make the full text available for students who might have interest in reading more or for sourcing practice if that's important for student learning.
  - Pages: 97; 103; 105, 106, 113-115
- These pages listed above offer students an opportunity to read excerpts from a complicated historical journal article and make some sense of segregation and the impact on people including the role of policy and corporate interests. Students should respond to the prompts below and point to evidence they highlight in the excerpts. It is good practice to make the entire article available but a good reading support to direct students to segments of complicated reading that are most relevant to the questions.
  - a) Who was Mary Morrison?
  - b) What was Jim Crow? How did legislatures view interracial comingling at the time (1890s/early 1900s)?
  - c) What was it like riding a streetcar?
  - d) Why didn't people care as much about segregation in streetcar systems as they did in other aspects of life, like schools?
  - e) What was the resistance to streetcar segregation and how did streetcar segregation policy play out?
  - f) What was the reaction of the African American/Black community in Tennessee?

3. **(30 min.) Read** about Mr. Jones' perspective on the Brown v. Board of Educ. Ruling and segregation, or rather, hope of desegregation.
  - Sourcing: Who was Madison S. Jones, II?
    - i. <https://news.hrvh.org/veridian/?a=d&d=vcchro19460601-01.2.20&e=-----en-20--1--txt-txIN-----#>
    - ii. Madison S. Jones (the author of the source document) was at one time the director of youth programs for the NAACP in the mid-20<sup>th</sup> century.
  - Read the 11 page document written by Mr. Jones in reaction to the US Supreme Court decision in the 1950s. While reading students can discuss or respond to the following prompts by reading the text and looking up key phrases or ideas as needed:
    - i. What do Plessy v. Ferguson and the 14<sup>th</sup> amendment have to do with segregation? (pgs. 2-3)
    - ii. What are the affects of segregation on people, children especially according to Mr. Jones? (pg. 3-4); What about according to the Kansas court as cited by Mr. Jones? (pg. 4)
    - iii. What does it seem like Mr. Jones is arguing for or urging in this document? (pg. 5 and throughout)
    - iv. How does Mr. Jones attend to resistance to desegregation in society? (pg. 6-8)
    - v. What does Mr. Jones think the impact of desegregation will be on people? And what is needed to bring it about? (pgs. 10-11)

Note: In response to these questions students can also provide direct references to text that demonstrates both reading comprehension and disciplinary practices of using evidence to support a claim.

### **ASSESSMENT (15 min.)**

1. An exit ticket or short response to the essential questions for the lesson:
  - a. How does segregation take hold in a society?
  - b. How does segregation in community's affect people's lives?
  - c. How do insights about the segregating of streetcars help us understand school segregation better?
2. Collect student notes from their reading and discussion.
3. Have students annotate their reading materials with highlighters and margin notes during reading time.
4. Revisit the K-W-L chart to complete the what did I learn section

### **ENRICHMENT**

For an enrichment or further study, students could read the book or excerpts from the book, *Lizzie Demands a Seat: Elizabeth Jennings Fights for Streetcar Rights*, by Beth Anderson and E.B.

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Lewis (illustrator). The authors describe the experiences of Elizabeth Jennings Graham's early life when she worked to ride the then segregated streetcars of New York City. Including this text might help challenge students' taken for granted notion that segregation or oppressive policies and practices only occurred in the American Southeast.

## **MATERIALS NEEDED AND ADDITIONAL RESOURCES FOR ENRICHMENT**

1. Bates, J. L. (2016). Consolidating Support for a Law "Incapable of Enforcement": Segregation on Tennessee Streetcars, 1900-1930. *The Journal of Southern History*, 82(1), 97-126. <http://www.jstor.org/stable/43918207>

Pages: 97; 103; 105, 106, 113-115

These pages listed above offer students an opportunity to read excerpts from a complicated historical journal article and make some sense of segregation and the impact on people including the role of policy and corporate interests. Students should respond to the prompts below and point to evidence they highlight in the excerpts. It is good practice to make the entire article available but a good reading support to direct students to segments of complicated reading that are most relevant to the questions.

Who was Mary Morrison?

What was Jim Crow? How did legislatures view interracial comingling at the time (1890s/early 1900s)?

What was it like riding a street car?

Why didn't people care as much about segregation in street car systems as they did in other aspects of life, like schools?

What was the resistance to streetcar segregation and how did streetcar segregation policy play out?

What was the reaction of the African American/Black community in Tennessee?

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Consolidating Support for a Law "Incapable of Enforcement": Segregation on Tennessee Streetcars, 1900-1930

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# Consolidating Support for a Law “Incapable of Enforcement”: Segregation on Tennessee Streetcars, 1900–1930

By JASON L. BATES

ON SEPTEMBER 19, 1905, A SHELBY COUNTY CRIMINAL COURT GRAND jury in Memphis, Tennessee, indicted Mary Morrison for violating the state’s recently enacted streetcar segregation statute. The indictment charged that ten days earlier, Morrison, an African American, had boarded a car of the Memphis Street Railway Company and refused to take a seat designated for “colored passengers.” Her trial, four months later, attracted attention throughout the state, with Tennessee’s white press—which described Morrison as “belonging to the society element of her race”—reporting that she had violated the law to test its constitutionality. After the court decided against Morrison and fined her the \$25 penalty provided by the statute, she appealed. Though a number of whites feared her challenge would become streetcar segregation’s undoing, her suit was unsuccessful. The Tennessee Supreme Court upheld the new law in August 1906.<sup>1</sup>

<sup>1</sup>“An Act to promote the comfort of public travel by providing for and securing the separation of white and colored passengers on street cars,” April 4, 1905, chap. 150 of *Acts of the State of Tennessee Passed by the Fifty-Fourth General Assembly, 1905* (Nashville, 1905), 321–23 (first quotation on 321); hereinafter cited as *Tenn. Pub. Acts* (1905), chap. 150; “‘Jim Crow’ Test Case Now On,” *Memphis Commercial Appeal*, January 25, 1906, p. 4 (second quotation); Summary of Proceedings, p. 1, *State v. Mary Morrison* (1906), Section J, Shelf 6, Box 995, Tennessee Supreme Court Trial Case Files, 1796–1955, Record Group 170 (Tennessee State Library and Archives, Nashville, Tenn.); *Morrison v. State*, 95 S.W. 494 (1906). Morrison was one in a long line of African American women who took center stage in the fight against segregation generally—and against segregation on common carriers in particular. Evelyn Brooks Higginbotham, Glenda Elizabeth Gilmore, and Kevin K. Gaines, among others, have described upper- and middle-class black women’s efforts to improve their fortunes through adherence to the norms of respectability and by forging cross-racial, intraclass alliances with white women. When those efforts came to naught on segregated railroads, as Barbara Young Welke, Kenneth W. Mack, and Mia Bay have demonstrated, black women often took a leading role in combating segregation, refusing to abide by laws they viewed as a slight to their race and to their status as women. See Evelyn Brooks Higginbotham, *Righteous Discontent: The Women’s Movement in the Black*

JASON L. BATES is a Climenko Fellow and Lecturer on Law at Harvard Law School and a Ph.D. candidate in history at Vanderbilt University.

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present a means to consider segregation's jagged enforcement and to witness early acknowledgment of the fluidity of racial identity and the imprecision of racial categories.

This article relates neither a story of clefs in white supremacy nor one of whites begrudgingly accepting inconveniences in the service of Jim Crow. Instead, it is a tale of white supremacy's ability to overcome common sense and of white Tennesseans' support for formalizing a law they knew could not be fully enforced in practice. It makes clear that Jim Crow amounted to more than the sum of its parts: its reach stretched beyond the physical separation of races and their hierarchical ordering. Jim Crow was also an ideology that allowed little room for naysaying. It compelled streetcar companies to realize fewer profits and African Americans to experience its degradations, to be sure, but it also required whites to substitute its logic for their own and transformed the state's crowded streetcars from mere conveyances into symbolic spaces where power relations were reworked before an audience.<sup>13</sup> And Jim Crow proved protean, with its advocates supplying a mix of justifications for its mandates, most rooted in claims of African Americans' lack of civility and suggestions of their sexual aggression. As these relations of power came to the fore, segregation advocates were able to consolidate support because they succeeded in casting racial strife on streetcars as a declaration of equality by African Americans, all but ensuring whites in Tennessee would rally to claim control over this newly important site.

Jim Crow travel did not arrive in the South in one fell swoop. Instead, when southern legislatures began mandating railroad segregation in the 1880s, nearly all the resulting laws excluded street railways. While later generations would draw a parallel between the two, policy makers and the public initially emphasized the differences between railroads and streetcars. The crowds, noise, and duration of journeys, as well as the very design of the cars on which Tennesseans rode—all facets of ridership that passengers knew well—marked streetcars as distinct. While, for almost twenty-five years, Mary Morrison had been officially prohibited from riding in sections of railroad cars reserved for whites, she took whatever seat she wished on Memphis's streetcars.

<sup>13</sup> The suggestion that streetcars, buses, and railroad cars served as stages where power relations were contested and performed comes from, among others, Robin D. G. Kelley, *Race Rebels: Culture, Politics, and the Black Working Class* (New York, 1994), 55–75; and Erik S. Gellman, "'Carthage Must Be Destroyed': Race, City Politics, and the Campaign to Integrate Chicago Transportation Work, 1929–1943," *Labor: Studies in Working-Class History of the Americas*, 2 (Summer 2005), 81–114.



had to contend while on board. Memphians reported that cars grew sufficiently “crowded so as to be very uncomfortable,” with passengers standing in the aisles waiting for seats to open. Riders complained that crowding had also become the “normal condition” of streetcars in Nashville, where the presence of black manual laborers caused at least one dispute. An extra car was added to the West Nashville line to answer complaints concerning the black employees of Nashville’s fertilizer plants and the odors they brought onto streetcars. With cars packed beyond their capacities in many instances, the notion that passengers would be able or willing to move to designated sections in an orderly fashion must have seemed a folly to many Tennesseans.<sup>17</sup>

At least through the turn of the century, when Tennesseans boarded their cities’ crowded streetcars, they entered a public space that brought them into close contact with people of every description.<sup>18</sup> When they could find a seat at all aboard the state’s bustling railways, Tennesseans, black and white, took open seating for granted, a situation about which many whites complained in their accounts of African American riders. The editors of the *Memphis Commercial Appeal*, for instance, claimed that African Americans boarding cars “almost invariably crowd into” seats occupied by whites. While this complaint suggests that African Americans sat where they wished, newspapers in Nashville and Memphis expressed doubts as to whether white passengers could be made to comply with a segregation statute. The *Nashville American*, for instance, opined that “the whites themselves” would “be the first to violate” the law, as “age, sex, color and previous condition of servitude cut no ice” in the “race for street car seats.” For many denizens of Tennessee’s cities, finding what comfort they could aboard crowded streetcars trumped worry over interracial contact.<sup>19</sup>

The rough and noisy ride aboard streetcars no doubt increased passengers’ concern for finding seats. In 1903 one newspaper compared

<sup>17</sup> “Enough Jim Crow,” *Memphis Commercial Appeal*, April 10, 1905, p. 6 (first quotation); “The Negro on the Streetcars,” *Nashville American*, March 2, 1904, p. 4 (second quotation); Lester C. Lamon, *Black Tennesseans, 1900–1930* (Knoxville, 1977), 20–22.

<sup>18</sup> Unlike in some southern states and cities, where custom required racial separation, passengers in Tennessee appear to have selected whichever seat they wished. By custom as well as by street railway rule, streetcars in Birmingham were segregated. See *Bowie v. Birmingham Railway and Electric Company*, 125 Ala. 397 (1899). For a study of the degree to which white and black passengers rode together on streetcars in the absence of legislation, see Jennifer Roback, “The Political Economy of Segregation: The Case of Segregated Streetcars,” *Journal of Economic History*, 46 (December 1986), 893–917.

<sup>19</sup> “Silly Negroes,” *Memphis Commercial Appeal*, August 1, 1905, p. 6 (first quotation); “Legislative and Otherwise,” *Nashville American*, February 10, 1903, p. 4 (remaining quotations); “The Car Service,” *Memphis Commercial Appeal*, February 8, 1903, p. 4; untitled editorial, *Memphis Commercial Appeal*, June 8, 1903, p. 4.



short length of streetcar rides made segregation less necessary there than aboard railroads: it was "one thing to be forced to travel for hours or days with negroes on railway trains and quite another to ride with them for a few minutes on a street car," claimed the *Nashville American*.<sup>23</sup> These short trips did more than minimize passenger concern with racial separation; they also meant that the number and composition of a car's passengers fluctuated by the minute. This constant boarding and alighting of passengers made it more difficult for even willing conductors to police the color line.

These conditions help explain why in two consecutive legislative sessions, in 1899 and 1901, the Tennessee General Assembly rejected proposed streetcar segregation laws.<sup>24</sup> As the legislature debated the issue again in 1903, public attention focused on New Orleans. Many saw the Crescent City's experiences with Louisiana's 1902 statute as evidence that segregation would prove more bother than benefit. The *Nashville American* concluded that segregation in New Orleans had proved wholly unsatisfactory. When enforced, the law resulted in the "sections of the cars reserved for white people" being "always jammed, while the negro sections" sat empty. Such inconvenience made the law unenforceable in New Orleans, as white passengers simply moved to the "section set aside for negroes" when seats filled. If New Orleanians could not enforce streetcar segregation, Tennesseans would do no better: New Orleans's "heavy negro population," combined with the longer distances passengers rode, provided "stronger reason for such a law." New Orleans's experience, claimed the *American*, demonstrated that it was "almost an impossibility" to carry out a Jim Crow law on streetcars. Support for segregation remained uneven in Tennessee, as many continued to argue that the realities of streetcar ridership made separation of the races both unworkable and unnecessary.<sup>25</sup>

While some Tennesseans vocally opposed segregation on the basis of news out of New Orleans, Tennessee's legislators proved impervious to calls raised against Jim Crow. Choosing to credit neither the evidence

<sup>23</sup> "Jim Crow Law," *Nashville American*, June 15, 1903, p. 4.

<sup>24</sup> *Journal of the House of Representatives of the Fifty-First General Assembly of the State of Tennessee* (Nashville, 1899), 210, 225; *House Journal of the Fifty-Second General Assembly of the State of Tennessee* (Nashville, 1901), 133, 180, 392, 456.

<sup>25</sup> "'Jim Crow' Car Law Attacked," *Nashville American*, January 23, 1903, p. 1 (first and second quotations); "'Jim Crow' Street Cars," *ibid.*, January 24, 1903, p. 4 (third, fourth, and fifth quotations); "Jim Crow Law," *ibid.*, June 15, 1903, p. 4 (sixth quotation). For Louisiana's 1902 law, see "Separation of Races on Street Railroads: Act 64, 1902, p. 89," in Solomon Wolff, comp., *Constitution and Revised Laws of Louisiana, Containing the Constitution of 1898, and the Revised Statutes of the State . . .* (2nd enl. ed.; 2 vols.; New Orleans, 1904), 2:1501-2.



company by the city, “and this was the first thing the city had asked of the company.”<sup>38</sup>

Two sources of anticipated financial loss drove the street railroad’s opposition. First, the statute required the railway to make capital outlays to purchase screens and other necessary equipment. Second, the railway feared a potential loss from a reduced ridership. Not only did company officials fear that black passengers would refuse to ride in Jim Crow streetcars, but also they worried that cordoning off streetcars would leave fewer seats open to whites, leading them to travel by other means. When the statute’s validity was later in question before a Tennessee trial court, the railway’s only witness forecast both of these consequences. He testified that the law would “cost the [railway], in preparing the equipments [*sic*] for the separate accommodations provided for by said Act, and in losses to its business, many thousands of dollars.”<sup>39</sup>

Despite testifying before the General Assembly and making repeated public statements in opposition to the 1903 bill, representatives of the Memphis Street Railway Company insisted it would comply with the statute. Amid persistent rumors of Memphians’ displeasure with the new law’s limited scope—its failure to require fully separate cars—and reports that some planned to sue to enjoin enforcement of the statute, however, the railway never installed the required screens. Instead, the company played a leading role in the constitutional challenge that convinced the Tennessee Supreme Court to overturn the statute.<sup>40</sup>

Two years later, as the General Assembly considered statutes that would apply to railways across the state, the consolidation of legislative and public support for segregation forced streetcar companies to compromise. Yet, even then, streetcar companies angled publicly to secure the most advantageous position possible. As the legislature debated the merits of the bills before it, streetcar officials lobbied against them, and the rancor between legislators and the street railroads’

<sup>38</sup> Judge John Allison, ed., *Notable Men of Tennessee: Personal and Genealogical, with Portraits* (2 vols.; Atlanta, 1905), 2:68–69; “Jim Crow Hearing,” *Memphis Commercial Appeal*, January 30, 1903, p. 2; “The Car Service,” *Memphis Commercial Appeal*, February 8, 1903, p. 4; “The Solution,” *Memphis Commercial Appeal*, February 10, 1903, p. 4; “Memphis ‘Jim Crow’ Bill,” *Nashville American*, February 6, 1903, p. 2 (quotations).

<sup>39</sup> Certified Transcript of Cause, pp. 9–10 (quotation on 10), *State v. Memphis Street Railway Co.*, 1903, Section E, Shelf 6, Box 871, Tennessee Supreme Court Trial Case Files; “The Solution,” *Memphis Commercial Appeal*, February 10, 1903, p. 4; “Jim Crow Cars,” *Memphis Commercial Appeal*, March 27, 1903, p. 6.

<sup>40</sup> “Jim Crow Cars,” *Memphis Commercial Appeal*, March 27, 1903, p. 6; “Jim Crow Law,” *ibid.*, May 6, 1903, p. 7; “Jim Crow Law,” *ibid.*, May 30, 1903, p. 7; “Memphis’ Jim Crow Cars,” *Nashville American*, March 27, 1903, p. 7.





representatives grew. Beginning in March, the state's newspapers raised calls for both sides to make concessions. Acknowledging broadening public support for segregation, the press called the legislators who continued to demand separate car legislation "hot-heads," whose zealotry would doom the proposed statutes, as there was not a company that could "keep out of the hands of a receiver if forced to operate" separate cars. Faced with the possibility of financial calamity, the railways mobilized around the bill that eventually became law, which called for separate seating for white and black passengers but not for separate cars. In the end, to foreclose consideration of what they believed to be a bankrupting alternative, the railways agreed to segregate. More to the point was the public's and policy makers' eventual demand for segregated street railways, notwithstanding the streetcar companies' pronouncement of the potentially devastating economic effects that such segregation might have.<sup>41</sup>

While the executives of Tennessee's street railways compromised with the General Assembly, black Tennesseans were less willing to do so. In the wake of the 1905 law, black Tennesseans protested, calling it, in the words of the Nashville *Clarion*, "an eternal disgrace." Nashville publisher Richard Henry Boyd, who played an instrumental role in black protest against the statute, made clear four years later, in a book summarizing railway segregation laws throughout the South, that black Tennesseans continued to view the law as designed "for the purpose of humiliating and degrading the Negro race in the eye of all the civilized world."<sup>42</sup>

Black Tennesseans reacted to the statute by waging a repeal campaign and by calling for a statewide boycott of streetcars. At a meeting of the Nashville chapter of the National Negro Business League, members resolved "to raise money, which should be used in conjunction with other cities, in the endeavor to have the law repealed." The same week, a group of black Memphians announced they had already raised a fund of \$5,000 to support a repeal effort. As they laid plans to fight the law, black Tennesseans also called for African Americans to boycott street railways across the state. Upon implementation of

<sup>41</sup> "Jim Crow Bills," *Nashville American*, January 7, 1905, p. 4; "'Jim Crow' Street Cars," *Nashville American*, January 16, 1905, p. 4 (quotations); "Jim Crow Bill Guillotined," *Memphis Commercial Appeal*, March 15, 1905, p. 10; "Enough Jim Crow," *Memphis Commercial Appeal*, April 10, 1905, p. 6.

<sup>42</sup> "Fighting 'Jim-Crowism' in Nashville," *Literary Digest*, 31 (October 7, 1905), 474-75 (first quotation on 474); R. H. Boyd, *The Separate or "Jim Crow" Car Laws; or, Legislative Enactments of Fourteen Southern States* (Nashville, 1909), 5 (second quotation).

the new law, black Tennesseans began making journeys on foot and avoiding streetcars, a fact noted in the national black press as well as by local whites. More than three months after the segregation law went into effect, the African American newspaper the *Nashville Clarion* reported—in a bit of hyperbole that nonetheless underscored the depth of black resistance to Jim Crow—that, while there were “40,000 Negroes in Nashville,” it was confident “that the street car companies do not haul 200 of them in the course of a week.”<sup>43</sup>

African American business leaders in Nashville and Chattanooga were determined to press their opposition further. In August 1905 a group of black Nashvillians incorporated the Union Transportation Company (UTC). With an initial capitalization of \$25,000, the company’s incorporators purchased five steam wagons. Each car could accommodate fifteen passengers—far fewer than the thirty-foot cars Tennessee’s existing streetcar companies began deploying after the turn of the century. The UTC allowed whites and blacks aboard its cars. Richard Henry Boyd proclaimed that, if the UTC succeeded, it would ease tensions between the races and provide a model for southerners to form their own transportation companies.<sup>44</sup> During the same month, black business leaders in Chattanooga had already formed a similar venture. “Nine prominent colored men” in that city sought a charter for the Transfer Omnibus Motor Car Company, planning to run automobiles along the same routes on which the streetcar company ran its cars.<sup>45</sup>

African Americans across the country expressed admiration for the stand taken by black Nashvillians. The black-owned *Voice of the Negro*, in Atlanta, wrote about the UTC in December 1905. It praised

<sup>43</sup>“Money to Fight Jim Crow Law,” *Nashville Banner*, August 1, 1905, p. 7 (first quotation); “Silly Negroes,” *Memphis Commercial Appeal*, August 1, 1905, p. 6; “‘Jim Crow’ Street Cars,” *Cleveland (Ohio) Gazette*, July 29, 1905, p. 2; “New Car Law Is in Effect,” *Knoxville Journal and Tribune*, July 6, 1905, p. 5; “New Jim Crow Law Seems to Work Well,” *Knoxville Journal and Tribune*, July 7, 1905, p. 5; “Walk a Little Longer,” *Nashville Clarion*, reprinted as “Bought ‘Autos,’” *Cleveland Gazette*, October 14, 1905, p. 1 (second and third quotations).

<sup>44</sup>“Will Fight ‘Jim Crow’ Cars,” *Cleveland Gazette*, October 7, 1905, p. 2; “Fighting ‘Jim-Crowism’ in Nashville,” *Literary Digest*, 31 (October 7, 1905), 474–75; “Negro Automobile Line,” *Nashville Banner*, September 27, 1905, p. 6; “Automobiles Have Arrived,” *Nashville Banner*, September 29, 1905, p. 9. Boyd’s participation in the National Negro Business League may have been instrumental to the formation of the UTC. At the 1904 general convention, materials highlighted the streetcar segregation ordinance in Jacksonville, Florida, and the efforts by African Americans there to run a competing transportation line. Official Program, “Fifth Annual Convention, Indianapolis, Indiana, August 31–September 2, 1904,” *Records of the National Negro Business League, Part 1* (microfilm; Bethesda, Md., 1994), reel 1.

<sup>45</sup>“Motor Omnibuses,” *Chattanooga Daily Times*, August 30, 1905, p. 8 (quotation); “Negroes Charter Company,” *Nashville American*, August 30, 1905, p. 3; “Granted Charter,” *Nashville American*, September 7, 1905, p. 5.

2. THE IMPACT AND CONSEQUENCES OF THE UNITED STATES SUPREME COURT DECISION OF MAY 17th, 1954 by Mr. Madison S. Jones, II, Director of Youth Programs for the NAACP.

Binder 1, pg. 94-105

THE IMPACT AND CONSEQUENCES OF THE UNITED STATES

*Madison S. Jones*

SUPREME COURT DECISION OF MAY 17th, 1954

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In making any comment on the impact and consequences of the May 17th Supreme Court decision it is important that we understand exactly what the question was before the Court, how and why it was so decided. What happened is as follows: The question was, whether a state can, consistently with the Constitution, exclude children from public schools which otherwise they would be qualified to attend, solely on the ground that they are Negroes. The brief, submitted on behalf of the excluded children, answered the question in the negative. This answer was supported, by exhaustive research, by examining the legal precedents, judicial theories, the intent of the framers of the Fourteenth Amendment and the understanding of the Congress and the ratifying states.

The school authorities, denying this thesis, took the position and urged that exclusion of Negroes, from designated public schools is permissible when the excluded children are afforded admittance to other schools especially reserved for Negroes, if such schools are equal.

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How this question was decided is known to everyone since on an historic date, May 17th, 1954, the doctrine of "separate but equal" was pronounced to have no place in our way of life. Further, the Court said that separate educational facilities are inherently unequal. Therefore, the plaintiffs and others similarly situated are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

Let us look to the reasoning behind this decision. In arriving at its decision the Court inquired into the legislative history of the Amendment in an attempt to determine whether the framers and proponents of that Amendment intended that the states be deprived of power to make distinctions among citizens of the state which were based solely upon race or color, and with a view to determining specifically whether the framers and proponents of the Amendment viewed segregated public school as an act of the states which the Amendment was designed to prohibit. In its opinion, the Court, came to its conclusion that although legislative history did shed some light on the question of segregated schools, it was not enough to resolve the problem with which it was faced. It said it could not

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turn the clock back to 1868 when the Amendment was adopted or even to 1896 when the "separate but equal" doctrine first received Supreme Court approval. The Court stated it was compelled to consider public education in the light of its full development and its present place in American life. Only in this way can it be determined if segregation in public schools deprives Negro children of the equal protection of the laws. In looking at public education in the light of its full development and its present place in our life it concluded that it is perhaps the most important function of state and local governments. Having thus so concluded it proceeded to determine whether segregation of children in public schools, solely on the basis of race, even where the physical facilities and other tangible factors may be equal, deprives the children of the minority group, of equal educational opportunities. The Court concluded that it does. It took into consideration the fact that there are certain intangible factors which are an integral part of education. Some of these factors it found were psychological factors. It said that to separate children of similar age and qualifications, solely because of their race, generates a feeling of inferiority in the children of the segregated

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minority as to their status in the community that may effect their hearts and minds in a way unlikely ever to be undone. It was this psychological factor, this feeling of inferiority, generated by the mere separation which affected the hearts and minds of Negro children in such a way as to perhaps do permanent injury to them. The effect of this feeling of inferiority the Court said was summed up by the Kansas case. This was one of the five school segregation cases before the court. The Kansas Court said:

"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 the 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 racially integrated school system."

This finding was adopted by the United States Supreme Court.





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It concluded that in the field of public education the doctrine of "separate but equal" had no place and separate educational facilities are inherently unequal, the Court said. "Separate but equal" has no place in our societal pattern; it does not and cannot make for a democratic environment or point the way to the fullest realization of human dignity.

We have seen what the question was before the Court and how and why it was so decided.

This decision has become the law of the land. What now of the procedures to carry it out and how long will it take for such implementation? Decrees ordering immediate desegregation in public schools have been asked by attorneys for the NAACP Legal Defense and Educational Fund in briefs already filed with the United States Supreme Court. These were filed in answer to the Courts question on the implementation of the May 17th decision. If the Court issues its decrees at a time when desegregation would present an administrative problem, September 1955, is the date the Court is asked to order the defendants in the five school segregation cases to end their Jim Crow schools. If, however, should the Court decide to grant the



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schools time to develop and institute a gradual desegregation plan, then September, 1956, is asked as the "outside date by which desegregation must be accomplished." Claiming no elaborate decree structure is necessary, the NAACP Legal Defense and Educational Fund does not ask the Court to direct and supervise the decrees. They further argue that while normally, a Supreme Court decision would put an immediate end to an existing unlawful practice, whatever measures the Court may decide upon to implement the decisions, a time limit should be specified.

All parties involved were asked to present their views on whether the Court should direct immediate or gradual desegregation, and when and how it should be done. Should the Court decide on gradual adjustment from segregation to non-segregation, NAACP Legal Defense attorneys ask that the integration program not be allowed to drag on indefinitely. There is no reason to believe that the process of transition would be more effective if allowed to lapse into years. They point out that, "Each day relief is postponed is to the appellants a day of serious and irreparable injury; for this Court has announced that segregation of Negroes in public schools generates a

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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."

It is agreed that delays in some communities might be necessary because of administrative difficulties but it is believed the Court would not place the request of the defendants to prolong and drag out a make-believe process of desegregation above the need for immediate action to give relief to the many thousands of Negro children now being denied a fair and adequate education. Undue delay could result in additional manipulation on the part of those bent on circumventing the law and the decrees. Negro children should be given the opportunity to enjoy the constitutional rights which the Court held on May 17th they are entitled. The decrees should contain no provision for extension of time. To grant more time is merely an invitation to put off a desegregation program.

It is further argued the decrees should also provide that in the event the school authorities for any reason at all fail to comply with the time limitation, the Negro children should immediately be admitted to the schools where they applied for enrollment and



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were refused. NAACP Legal Defense attorneys ask that any decree granting time for gradual desegregation be so framed that no state maintaining segregated school systems will be encouraged to sit back, do nothing and merely wait for court suits on the assumption that the same period of time will be granted to them after the suit hits the court. If the Court should decide to grant gradual adjustment, the attorneys say it should not formulate detailed decrees but "should send these cases back to the Courts where they originated" with "specific instructions to complete desegregation" by a certain date.

They urge the court to issue specific instructions that any decree entered by the district courts should specify "(1) that the process of desegregation be commenced immediately, (2) that appellees be required to file periodic reports to the courts of first instance, and (3) an outer limit by which desegregation must be completed." The lawyers argue, "whatever the reason for gradualism, there is no reason to believe that the process of transition would be more effective if further extended..... Therefore, we submit that if the Court decides to grant further time, then all decrees should specify September, 1956, as the outside date by

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which desegregation must be accomplished."

[ The Court's action will be felt not only in those places where the cases originated but wherever segregation in education now exists. Please note the statement, wherever segregation in education now exists. Emphasis is so placed because we are all conversant with the fact that such segregation, while not due to law, does exist because of custom and residential pattern. ] The Court has looked at education as we know it today and it has included that it is the most important function of state and local governments. In interpreting the decision, the Legal Department of the NAACP has taken the position that the pronouncement is universal in its application and therefore, is not limited to situations where the segregation is compelled or permitted by state statute. It applies wherever children are separated on the basis of race and race alone. The Court said that segregation in the schools generates a feeling in the child of inferiority. Such feeling of inferiority injures the child by impairing his motivation and ability to learn. It is the feeling of the Association that the Supreme Court's decision places an affirmative duty on a





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local public agency, where segregation exists due to custom and residential patterns, to take affirmative action to counteract the effects of this and to provide a democratic environment. There is no point in looking to the cause of the segregation. It has been found that segregation injures the Negro child and this injury public officials have the duty to remedy. Therefore, we see how wide in scope and far reaching in effect is the decision of the Court.

Let us go further. The consequences of the decision are ones which will be felt in every way of life in our country where inequality now exists. We shall see, through the Court's philosophy, the extension of the democratic process to all of our citizens. Note well the statement of the Court when it announced it could not turn the clock back to 1868 when the Fourteenth Amendment was adopted or even to 1896 when the "separate but equal" doctrine was first approved. They considered public education in the light of its full development and its present place in American life. This is the only way to determine whether segregation in the public schools deprives Negro children of the equal protection of the law.

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With this, the Court has established the first criterion for future determinations of cases involving racial segregation. [ In effect, the Court has stated that in deciding cases involving racial segregation in housing, recreation, transportation or hospitals, the Court must not look back to the legislative history of the Fourteenth Amendment to try to determine whether the framers or proponents of the Amendment intended that segregated recreation, housing, transportation and hospitals be within the Amendment's prohibitions, and courts must not look back to the time when Plessy v. Ferguson, "separate but equal" was decided. But rather they must look at the place of recreation, housing, transportation and hospitals in their present places in American life throughout the nation. Therefore, whenever there is segregation in any area which is important enough to the state to induce it to make the facility available to its citizens, Negroes are, by virtue of such segregation, deprived of the equal protection of the laws. ] A new responsibility has been placed upon public officials which cannot be avoided or shifted by trying to find the cause of the segregation. The Court has said, do not look to the cause.

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With the opening of the school year we have seen some overt action in certain areas momentarily challenging the pronouncement of the Court. We have had incidents in Delaware, Maryland, Washington, D.C., and West Virginia. These were momentary and have been settled. By the same token, integration has been taking place in thousands of places, successfully, unannounced and without untoward incident. Similarly, we shall see the whole program taking place, perhaps with momentary flurries of opposition, but eventually coming in line with the Court's edict.

The significance of this decision is such that it will go to the very roots of our every walk of life where segregation now exists. It is all embracing and the decision in the field of education is but the start towards the end of racial segregation in American life.