

The Montgomery Bus Boycott, 1955-1956

Documents

**From: *Conflict Resolution and United States
History* (Chambers and Gardner, 2007)**

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Document 1:

Fourteenth Amendment
Ratified July, 1868

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Source: U.S. Constitution, Fourteenth Amendment, ratified July 1868.

Document 2:

Excerpts from *Plessy v. Ferguson*

163 U.S. 537

1896

Henry Billings Brown (Opinion of the Court) and John Marshall Harlan (Dissent)

This was a petition for writs of prohibition and certiorari originally filed in the supreme court of the state by Plessy, the plaintiff in error, against the Hon. John H. Ferguson, judge of the criminal district court for the parish of Orleans, and setting forth, in substance, the following facts:

That petitioner was a citizen of the United States and a resident of the state of Louisiana, of mixed descent, in the proportion of seven-eighths Caucasian and one-eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every recognition, right, privilege, and immunity secured to the citizens of the United States of the white race by its constitution and laws; that on June 7, 1892, he engaged and paid for a first-class passage on the East Louisiana Railway, from New Orleans to Covington, in the same state, and thereupon entered a passenger train, and took possession of a vacant seat in a coach where passengers of the white race were accommodated; that such railroad company was incorporated by the laws of Louisiana as a common carrier, and was not authorized to distinguish between citizens according to their race, but, notwithstanding this, petitioner was required by the conductor, under penalty of ejection from said train and imprisonment, to vacate said coach, and occupy another seat, in a coach assigned by said company for persons not of the white race, and for no other reason than that petitioner was of the colored race; that, upon petitioner's refusal to comply with such order, he was, with the aid of a police officer, forcibly ejected from said coach, and hurried off to, and imprisoned in, the parish jail of New Orleans, and there held to answer a charge made by such officer to the effect that he was guilty of having criminally violated an act of the general assembly of the state, approved July 10, 1890, in such case made and provided...

Mr. Justice BROWN, after stating the facts in the foregoing language, delivered the opinion of the court.

This case turns upon the constitutionality of an act of the general assembly of the state of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races. Acts 1890, No. 111, p. 152.

The first section of the statute enacts "that all railway companies carrying passengers in their coaches in this state, shall provide equal but separate accommodations for the white, and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations: provided, that this section shall not be construed to apply to street railroads. No person or persons shall be permitted to occupy seats in coaches, other than the ones assigned to them, on account of the race they belong to. " ...

The information filed in the criminal district court charged, in substance, that Plessy, being a passenger between two stations within the state of Louisiana, was assigned by officers of the

company to the coach used for the race to which he belonged, but he insisted upon going into a coach used by the race to which he did not belong. ...

The constitutionality of this act is attacked upon the ground that it conflicts both with the thirteenth amendment of the constitution, abolishing slavery, and the fourteenth amendment, which prohibits certain restrictive legislation on the part of the states.

1. That it does not conflict with the thirteenth amendment, which abolished slavery and involuntary servitude, except a punishment for crime, is too clear for argument. Slavery implies involuntary servitude, -a state of bondage; the ownership of mankind as a chattel, or, at least, the control of the labor and services of one man for the benefit of another, and the absence of a legal right to the disposal of his own person, property, and services. This amendment was said in the Slaughter-House Cases, 16 Wall. 36, to have been intended primarily to abolish slavery, as it had been previously known in this country, and that it equally forbade Mexican peonage or the Chinese coolie trade, when they amounted to slavery or involuntary servitude, and that the use of the word 'servitude' was intended to prohibit the use of all forms of involuntary slavery, of whatever class or name. It was intimated, however, in that case, that this amendment was regarded by the statesmen of that day as insufficient to protect the colored race from certain laws which had been enacted in the Southern states, imposing upon the colored race onerous disabilities and burdens, and curtailing their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value; and that the fourteenth amendment was devised to meet this exigency.

So, too, in the Civil Rights Cases, it was said that the act of a mere individual, the owner of an inn, a public conveyance or place of amusement, refusing accommodations to colored people, cannot be justly regarded as imposing any badge of slavery or servitude upon the applicant, but only as involving an ordinary civil injury, properly cognizable by the laws of the state, and presumably subject to redress by those laws until the contrary appears. 'It would be running the slavery question into the ground,' said Mr. Justice Bradley, 'to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theater, or deal with in other matters of intercourse or business.'

A statute which implies merely a legal distinction between the white and colored races--a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color--has no tendency to destroy the legal equality of the two races, or re-establish a state of involuntary servitude. Indeed, we do not understand that the thirteenth amendment is strenuously relied upon by the plaintiff in error in this connection.

2. By the fourteenth amendment, all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are made citizens of the United States and of the state wherein they reside; and the states are forbidden from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, or shall deprive any person of life, liberty, or property without due process of law, or deny to any person within their jurisdiction the equal protection of the laws.

The object of the amendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation, in places where they are liable to be brought into contact, do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which have been held to be a valid exercise of the legislative power even by courts of states where the political rights of the colored race have been longest and most earnestly enforced. The distinction between laws interfering with the political equality of the negro and those requiring the separation of the two races in schools, theaters, and railway carriages has been frequently drawn by this court. ...

So far, then, as a conflict with the fourteenth amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and with respect to this there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness, it is at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the fourteenth amendment than the acts of congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case, and is not unlikely to be so again, the colored race should become the dominant power in the state legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race, at least, would not acquiesce in this assumption. The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals. As was said by the court of appeals of New York in *People v. Gallagher*, 93 N. Y. 438, 448: 'This end can neither be accomplished nor promoted by laws which conflict with the general sentiment of the community upon whom they are designed to operate. When the government, therefore, has secured to each of its citizens equal rights before the law, and equal opportunities for improvement and progress, it has accomplished the end for which it was organized, and performed all of the functions respecting social advantages with which it is endowed.' Legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane.

The judgment of the court below is therefore affirmed.

Mr. Justice HARLAN dissenting.

... Thus, the state regulates the use of a public highway by citizens of the United States solely upon the basis of race.

However apparent the injustice of such legislation may be, we have only to consider whether it is consistent with the constitution of the United States.

In respect of civil rights, common to all citizens, the constitution of the United States does not, I think, permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights. Every true man has pride of race, and under appropriate circumstances, when the rights of others, his equals before the law, are not to be affected, it is his privilege to express such pride and to take such action based upon it as to him seems proper. But I deny that any legislative body or judicial tribunal may have regard to the race of citizens when the civil rights of those citizens are involved. Indeed, such legislation as that here in question is inconsistent not only with that equality of rights which pertains to citizenship, national and state, but with the personal liberty enjoyed by every one within the United States.

The thirteenth amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. It decreed universal civil freedom in this country. This court has so adjudged. But, that amendment having been found inadequate to the protection of the rights of those who had been in slavery, it was followed by the fourteenth amendment, which added greatly to the dignity and glory of American citizenship, and to the security of personal liberty, by declaring that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside,' and that 'state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' These two amendments, if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship. ...

These notable additions to the fundamental law were welcomed by the friends of liberty throughout the world. They removed the race line from our governmental systems. ... They declared, in legal effect, this court has further said, 'that the law in the states shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the states; and in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color.' ...

It was said in argument that the statute of Louisiana does not discriminate against either race, but prescribes a rule applicable alike to white and colored citizens. But this argument does not meet the difficulty. Every one knows that the statute in question had its origin in the purpose, not so much to exclude white persons from railroad cars occupied by blacks, as to exclude colored people

from coaches occupied by or assigned to white persons. Railroad corporations of Louisiana did not make discrimination among whites in the matter of accommodation for travelers. The thing to accomplish was, under the guise of giving equal accommodation for whites and blacks, to compel the latter to keep to themselves while traveling in railroad passenger coaches. No one would be so wanting in candor as to assert the contrary. The fundamental objection, therefore, to the statute, is that it interferes with the personal freedom of citizens.

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a state to regulate the enjoyment by citizens of their civil rights solely upon the basis of race.

In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott Case.

I am of opinion that the state of Louisiana is inconsistent with the personal liberty of citizens, white and black, in that state, and hostile to both the spirit and letter of the constitution of the United States. ...Such a system is inconsistent with the guaranty given by the constitution to each state of a republican form of government, and may be stricken down by congressional action, or by the courts in the discharge of their solemn duty to maintain the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding.

For the reason stated, I am constrained to withhold my assent from the opinion and judgment of the majority.

Source: Cornell Law School Legal Information Institute

Document 3: Code of Alabama of 1940, Title 48, as amended

Section 301 (31a). Separate accommodations for white and colored races. All passenger stations in this state operated by any motor transportation company shall have separate waiting rooms or space and separate ticket windows for the white and colored races, but such accommodations for the races shall be equal. All motor transportation companies or operators of vehicles carrying passengers for hire in this state, whether intrastate or interstate passengers, shall at all time provide equal by separate accommodations on each vehicle for the white and colored races. The conductor or agent of the motor transportation company in charge of any vehicle is authorized and required to assign each passenger to the division of the vehicle designated for the race to which the passenger belongs; and, if the passenger refuses to occupy the division to which he is assigned, the conductor or agent may refuse to carry the passenger on the vehicle; and, for such refusal, neither the conductor or agent of the motor transportation company shall be liable in damages. Any motor transportation company or person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars for each offense; and each day's violation of this section shall constitute a separate offense.

The provisions of this section shall be administered and enforced by the Alabama public service commission in the manner in which provisions of the Alabama motor carrier Act of 1939 are administered and enforced. (1945, p. 731. appvd. July 6, 1945.)

Section 301 (31b). Operator of passenger stations and carriers authorized to segregate white and colored races. All passenger stations in this state operated by or for the use of any motor transportation company shall be authorized to provide separate waiting rooms, facilities, for the white and colored races, but such accommodations for the races shall be equal. All motor transportation companies and operators of vehicles, carrying passengers for hire in this state, whether intrastate or interstate passengers are authorized and empowered to provide separate accommodations on each vehicle for the white and colored races. Any officer or agent of such motor transportation company or operator, in charge of any vehicle, is authorized to assign or reassign each passenger or person to a division, section or seat on the vehicle designated by such company or operator, or by such officer or agent, for the race to which the passenger or person belongs; and if the passenger or person refuses to occupy the division, section or seat to which he is so assigned, such officer or agent may refuse further to carry the passenger on the vehicle. For such refusal neither the officer nor agent, nor the motor transportation company, nor operator shall be liable in damages. (1947, p.40. 1, appvd. July 18, 1947.)

Section 301 (31c). Failure to comply with rules and regulations as to segregation of white and colored races. It shall be unlawful for any person willfully to refuse or fail to comply with any reasonable rule, regulation, or directive of any operator of a passenger station in this state operated by or for the use of any such motor transportation company or of any authorized officer or agent of such operator, providing separate waiting rooms, facilities or space, or separate ticket windows, for white and colored races; or willfully to refuse or fail to comply with any reasonable assignment or reassignment by any officer or agent in charge of any vehicle of any such motor transportation company or of any operator of vehicles carrying passengers for hire, of any passenger or persons to a division, section, or seat on such vehicle designated by such officer or agent for the race to which such passenger or person belongs; any person refusing or failing to comply with any such reasonable rule, regulation, or assignment, as aforesaid, shall be guilty of a

misdemeanor and upon conviction shall be fined not more than \$500.00 for such offense. (1947, p. 40. 2, appvd. July 18, 1947)

Source: The State of Alabama

**Document 4: President Franklin D. Roosevelt's Executive
Order 8802**

June 25, 1941

Reaffirming Policy Of Full Participation In The Defense Program By All Persons, Regardless Of Race, Creed, Color, Or National Origin, And Directing Certain Action In Furtherance Of Said Policy
June 25, 1941

"WHEREAS it is the policy of the United States to encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the Nation can be defended successfully only with the help and support of all groups within its borders; and

WHEREAS there is evidence that available and needed workers have been barred from employment in industries engaged in defense production solely because of considerations of race, creed, color, or national origin, to the detriment of workers' morale and of national unity:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the statutes, and as a prerequisite to the successful conduct of our national defense production effort, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin, and I do hereby declare that it is the duty of employers and of labor organizations, in furtherance of said policy and of this order, to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed, color, or national origin;

And it is hereby ordered as follows:

1. All departments and agencies of the Government of the United States concerned with vocational and training programs for defense production shall take special measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin;
2. All contracting agencies of the Government of the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate against any worker because of race, creed, color, or national origin;
3. There is established in the Office of Production Management a Committee on Fair Employment Practice, which shall consist of a chairman and four other members to be appointed by the President. The Chairman and members of the Committee shall serve as such without compensation but shall be entitled to actual and necessary transportation, subsistence and other expenses incidental to performance of their duties. The Committee shall receive and investigate complaints of discrimination in violation of the provisions of this order and shall take appropriate steps to redress grievances which it finds to be valid. The Committee shall also recommend to the several departments and agencies of the Government of the United States and to the President all

measures which may be deemed by it necessary or proper to effectuate the provisions of this order."

Franklin D. Roosevelt
The White House,
June 25, 1941

Source: The Federal Registrar, The National Archives

**Document 5: President Harry S. Truman's Executive
 Order 9981**

July 26, 1948

WHEREAS it is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense:

NOW THEREFORE, by virtue of the authority vested in me as President of the United States, by the Constitution and the statutes of the United States, and as Commander in Chief of the armed services, it is hereby ordered as follows:

1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.
2. There shall be created in the National Military Establishment an advisory committee to be known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services, which shall be composed of seven members to be designated by the President.
3. The Committee is authorized on behalf of the President to examine into the rules, procedures and practices of the Armed Services in order to determine in what respect such rules, procedures and practices may be altered or improved with a view to carrying out the policy of this order. The Committee shall confer and advise the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, and shall make such recommendations to the President and to said Secretaries as in the judgment of the Committee will effectuate the policy hereof.
4. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Committee in its work, and to furnish the Committee such information or the services of such persons as the Committee may require in the performance of its duties.
5. When requested by the Committee to do so, persons in the armed services or in any of the executive departments and agencies of the Federal Government shall testify before the Committee and shall make available for use of the Committee such documents and other information as the Committee may require.
6. The Committee shall continue to exist until such time as the President shall terminate its existence by Executive order.

Harry Truman
July 26, 1948

Source: The Federal Registrar, The National Archives

Document 6:

Brown v. Board of Education

347 U.S. 483

Argued December 9, 1952
Reargued December 8, 1953
Decided May 17, 1954

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS*

Syllabus

Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment -- even though the physical facilities and other "tangible" factors of white and Negro schools may be equal.

- (a) The history of the Fourteenth Amendment is inconclusive as to its intended effect on public education.
- (b) The question presented in these cases must be determined not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the full development of public education and its present place in American life throughout the Nation.
- (c) Where a State has undertaken to provide an opportunity for an education in its public schools, such an opportunity is a right which must be made available to all on equal terms.
- (d) Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors may be equal.
- (e) The "separate but equal" doctrine adopted in **Plessy v. Ferguson, 163 U.S. 537**, has no place in the field of public education.
- (f) The cases are restored to the docket for further argument on specified questions relating to the forms of the decrees.

Opinion

WARREN

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

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

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

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

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

An additional reason for the inconclusive nature of the Amendment's history with respect to segregated schools is the status of public education at that time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken hold. Education of white children was largely in the hands of private groups. Education of Negroes was almost nonexistent, and practically all of the race were illiterate. In fact, any education of Negroes was forbidden by law in some states. Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences, as well as in the business and professional world. It is true that public school education at the time of the Amendment had advanced further in the North, but the effect of the Amendment on Northern States was generally ignored in the congressional debates. Even in the North, the conditions of public education did not approximate those existing today. The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states, and compulsory school attendance was virtually unknown. As a consequence, it is not surprising that there should be so little in the history of the Fourteenth Amendment relating to its intended effect on public education.

In the first cases in this Court construing the Fourteenth Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race. The doctrine of "separate but equal" did not make its appearance in this Court until 1896 in

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

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

In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when **Plessy v. Ferguson** was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

In **Sweatt v. Painter**, *supra*, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court relied in large part on "those qualities which are incapable of objective measurement but which make for greatness in a law school." In **McLaurin v. Oklahoma State Regents**, *supra*, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations: ". . . his ability

to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

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

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

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

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

It is so ordered.

Source: The National Center for Public Policy Research

Document 7:

"The Southern Manifesto"

Responding to the Supreme Court decision in *Brown v. Board of Education*

March 12, 1956

Mr. [Walter F.] GEORGE. Mr. President, the increasing gravity of the situation following the decision of the Supreme Court in the so-called segregation cases, and the peculiar stress in sections of the country where this decision has created many difficulties, unknown and unappreciated, perhaps, by many people residing in other parts of the country, have led some Senators and some Members of the House of Representatives to prepare a statement of the position which they have felt and now feel to be imperative.

I now wish to present to the Senate a statement on behalf of 19 Senators, representing 11 States, and 77 House Members, representing a considerable number of States likewise. . . .

DECLARATION OF CONSTITUTIONAL PRINCIPLES

The unwarranted decision of the Supreme Court in the public school cases is now bearing the fruit always produced when men substitute naked power for established law.

The Founding Fathers gave us a Constitution of checks and balances because they realized the inescapable lesson of history that no man or group of men can be safely entrusted with unlimited power. They framed this Constitution with its provisions for change by amendment in order to secure the fundamentals of government against the dangers of temporary popular passion or the personal predilections of public officeholders.

We regard the decisions of the Supreme Court in the school cases as a clear abuse of judicial power. It climaxes a trend in the Federal Judiciary undertaking to legislate, in derogation of the authority of Congress, and to encroach upon the reserved rights of the States and the people.

The original Constitution does not mention education. Neither does the 14th Amendment nor any other amendment. The debates preceding the submission of the 14th Amendment clearly show that there was no intent that it should affect the system of education maintained by the States.

The very Congress which proposed the amendment subsequently provided for segregated schools in the District of Columbia.

When the amendment was adopted in 1868, there were 37 States of the Union. . . .

Every one of the 26 States that had any substantial racial differences among its people, either approved the operation of segregated schools already in existence or subsequently established such schools by action of the same law-making body which considered the 14th Amendment.

As admitted by the Supreme Court in the public school case (*Brown v. Board of Education*), the doctrine of separate but equal schools "apparently originated in *Roberts v. City of Boston* (1849),

upholding school segregation against attack as being violative of a State constitutional guarantee of equality." This constitutional doctrine began in the North, not in the South, and it was followed not only in Massachusetts, but in Connecticut, New York, Illinois, Indiana, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania and other northern states until they, exercising their rights as states through the constitutional processes of local self-government, changed their school systems.

In the case of *Plessy v. Ferguson* in 1896 the Supreme Court expressly declared that under the 14th Amendment no person was denied any of his rights if the States provided separate but equal facilities. This decision has been followed in many other cases. It is notable that the Supreme Court, speaking through Chief Justice Taft, a former President of the United States, unanimously declared in 1927 in *Lum v. Rice* that the "separate but equal" principle is "within the discretion of the State in regulating its public schools and does not conflict with the 14th Amendment."

This interpretation, restated time and again, became a part of the life of the people of many of the States and confirmed their habits, traditions, and way of life. It is founded on elemental humanity and commonsense, for parents should not be deprived by Government of the right to direct the lives and education of their own children.

Though there has been no constitutional amendment or act of Congress changing this established legal principle almost a century old, the Supreme Court of the United States, with no legal basis for such action, undertook to exercise their naked judicial power and substituted their personal political and social ideas for the established law of the land.

This unwarranted exercise of power by the Court, contrary to the Constitution, is creating chaos and confusion in the States principally affected. It is destroying the amicable relations between the white and Negro races that have been created through 90 years of patient effort by the good people of both races. It has planted hatred and suspicion where there has been heretofore friendship and understanding.

Without regard to the consent of the governed, outside mediators are threatening immediate and revolutionary changes in our public schools systems. If done, this is certain to destroy the system of public education in some of the States.

With the gravest concern for the explosive and dangerous condition created by this decision and inflamed by outside meddlers:

We reaffirm our reliance on the Constitution as the fundamental law of the land.

We decry the Supreme Court's encroachment on the rights reserved to the States and to the people, contrary to established law, and to the Constitution.

We commend the motives of those States which have declared the intention to resist forced integration by any lawful means.

We appeal to the States and people who are not directly affected by these decisions to consider the constitutional principles involved against the time when they too, on issues vital to them may be the victims of judicial encroachment.

Even though we constitute a minority in the present Congress, we have full faith that a majority of the American people believe in the dual system of government which has enabled us to achieve our greatness and will in time demand that the reserved rights of the States and of the people be made secure against judicial usurpation.

We pledge ourselves to use all lawful means to bring about a reversal of this decision which is contrary to the Constitution and to prevent the use of force in its implementation.

In this trying period, as we all seek to right this wrong, we appeal to our people not to be provoked by the agitators and troublemakers invading our States and to scrupulously refrain from disorder and lawless acts.

Signed by:

MEMBERS OF THE UNITED STATES SENATE

Walter F. George, Richard B. Russell, John Stennis, Sam J. Ervin, Jr., Strom Thurmond, Harry F. Byrd, A. Willis Robertson, John L. McClellan, Allen J. Ellender, Russell B. Long, Lister Hill, James O. Eastland, W. Kerr Scott, John Sparkman, Olin D. Johnston, Price Daniel, J.W. Fulbright, George A. Smathers, Spessard L. Holland.

MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES

Alabama: Frank W. Boykin, George M. Grant, George W. Andrews, Kenneth A. Roberts, Albert Rains, Armistead I. Selden, Jr., Carl Elliott, Robert E. Jones, George Huddleston, Jr.

Arkansas: E.C. Gathings, Wilbur D. Mills, James W. Trimble, Oren Harris, Brooks Hays, W.F. Norrell.

Florida: Charles E. Bennett, Robert L.F. Sikes, A.S. Herlong, Jr., Paul G. Rogers, James A. Haley, D.R. Matthews.

Georgia: Prince H. Preston, John L. Pilcher, E.L. Forrester, John James Flynt, Jr., James C. Davis, Carl Vinson, Henderson Lanham, Iris F. Blitch, Phil M. Landrum, Paul Brown.

Louisiana: F. Edward Hebert, Hale Boggs, Edwin E. Willis, Overton Brooks, Otto E. Passman, James H. Morrison, T. Ashton Thompson, George S. Long.

Mississippi: Thomas G. Abernathy, Jamie L. Whitten, Frank E. Smith, John Bell Williams, Arthur Winstead, William M. Colmer.

North Carolina: Herbert C. Bonner, L.H. Fountain, Graham A. Barden, Carl T. Durham, F. Ertel Carlyle, Hugh Q. Alexander, Woodrow W. Jones, George A. Shuford.

South Carolina: L. Mendel Rivers, John J. Riley, W.J. Bryan Dorn, Robert T. Ashmore, James P. Richards, John L. McMillan.

Tennessee: James B. Frazier, Jr., Tom Murray, Jere Cooper, Clifford Davis.

Source: Congressional Record, 84th Congress Second Session. Vol. 102, part 4 (March 12, 1956). Washington, D.C.: Governmental Printing Office, 1956. 4459-4460.

**City Code of Montgomery, Alabama
1952**

Chapter 6

Sec. 10. Separation of races—Required.

Every person operating a bus line in the city shall provide equal but separate accommodations for white people and negroes on his buses, by requiring the employees in charge thereof to assign passengers seats on the vehicle under their charge in such a manner as to separate the white people from the negroes, where there are both white and negroes on the same car; provided, however, that negro nurses having in charge white children or such or infirm white persons, may be assigned seats among white people.

Nothing in this section shall be construed as prohibiting the operators of such bus lines from separating the races by means of separate vehicles if they see fit. (Code 1938, §§ 603, 606.)

Sec. 11. Same--Powers of persons in charge of vehicle; passengers to obey directions.

Any employee in charge of a bus operated in the city shall have the powers of a police officer of the city while in actual charge of any bus, for the purpose of carrying out the provisions of the preceding sections, and it shall be unlawful for any passenger to refuse or fail to take a seat among those assigned to the race to which he belongs, at the request of any such employee in charge, if there is such a seat vacant. (Code 1938, § 604.)

Source: Montgomery City Archives

Document 9:

Letter from Jo Ann Robinson to Mayor Gayle

May 21, 1954

May 21, 1954

Honorable Mayor W.A. Gayle
City Hall
Montgomery, Alabama

Dear Sir:

The Women's Political Council is very grateful to you and the City Commissioners for the hearing you allowed our representative during the month of March, 1954, when the "city-bus-fare-increase case" was being reviewed. There were several things the Council asked for:

1. A city law that would make it possible for Negroes to sit from back toward front, and whites from front toward back until all the seats are taken.
2. That Negroes not be asked or forced to pay fare at front and go to the rear of the bus to enter.
3. That buses stop at every corner in residential sections occupied by negroes as they do in communities where whites reside.

We are happy to report that buses have begun stopping at more corners now in some sections where Negroes live than previously. However, the same practices in seating and boarding the bus continue.

Mayor Gayle, three-fourths of the riders of these public conveyances are Negroes. If Negroes did not patronize them, they could not possibly operate.

More and more of our people are already arranging with neighbors and friends to ride to keep from being insulted and humiliated by bus drivers.

There has been talk from twenty-five or more local organizations of planning a city-wide boycott of busses. We, sir, do not feel that forceful measures are necessary in bargaining for a convenience which is right for all bus passengers. We, the Council, believe that when this matter has been put before you and the Commissioners, that agreeable terms can be met in a quiet and unostensible manner to the satisfaction of all concerned.

Many of our Southern cities in neighboring states have practiced the policies we seek without incident whatsoever. Atlanta, Macon and Savannah in Georgia have done this for years. Even Mobile, in our own state, does this and all the passengers are satisfied.

Please consider this plea, and if possible, act favorably upon it, for even now plans are being made to ride less, or not at all, on our busses. We do not want this.

Respectfully yours,
The Women's Political Council
Jo Ann Robinson, President

Source: Stewart Burns, ed., *Daybreak of Freedom...The Montgomery Bus Boycott*. Chapel Hill, NC: University of North Carolina Press, 1997 p. 58.

Document 10:

Martin Luther King, Jr. addresses MIA Mass Meeting at Holt Street Baptist Church, Montgomery, AL

December 5, 1955

My friends, we are certainly very happy to see each of you out this evening. We are here this evening for serious business. (Yes) We are here in a general sense because first and foremost we are American citizens (*That's right*) and we are determined to apply our citizenship to the fullness of its meaning. (Yeah, *That's right*) We are here also because of our love for democracy, (Yes) because of our deep-seated belief that democracy transformed from thin paper to thick action (Yes) is the greatest form of government on earth. (*That's right*)

But we are here in a specific sense, because of the bus situation in Montgomery. (Yes) We are here because we are to get the situation corrected. This situation is not at all new. The problem has existed over endless years. (*That's right*) For many years now Negroes in Montgomery and so many other areas have been inflicted with the paralysis of crippling fears (Yes) on buses in our community. (*That's right*) On so many occasions, Negroes have been intimidated and humiliated and impressed-oppressed-because of the sheer fact that they were Negroes. (*That's right*) I don't have time this evening to go into the history of these numerous cases. Many of them now are lost in the thick fog of oblivion, (Yes) but at least one stands before us now with glaring dimensions. (Yes)

Just the other day, just last Thursday to be exact, one of the finest citizens in Montgomery (*Amen*)-not one of the finest Negro citizens (*That's right*) but one of the finest citizens in Montgomery--was taken from a bus (Yes) and carried to jail and arrested (Yes) because she refused to get up to give her seat to a white person. (Yes, *That's right*) Now the press would have us believe that she refused to leave a reserved section for Negroes, (Yes) but I want you to know this evening that there is no reserved section. (*All right*) The law has never been clarified at that point. (*Hell no*) Now I think I speak with, with legal authority--not that I have any legal authority, but I think I speak with legal authority behind me (*All right*)--that the law, the ordinance, the city ordinance has never been totally clarified. (*That's right*)

Mrs. Rosa Parks is a fine person. (*Well, well said*) And since it had to happen I'm happy that it happened to a person like Mrs. Parks, for nobody can doubt the boundless outreach of her integrity. (*Sure enough*) Nobody can doubt the height of her character, (Yes) nobody can doubt the depth of her Christian commitment and devotion to the teachings of Jesus. (*All right*) And I'm happy since it had to happen, it happened to a person that nobody can call a disturbing factor in the community. (*All right*) Mrs. Parks is a fine Christian person, unassuming, and yet there is integrity and character there. And just because she refused to get up, she was arrested.

And you know, my friends, there comes a time when people get tired of being trampled over by the iron feet of oppression. [*Thundering applause*] There comes a time, my friends, when people get tired of being plunged across the abyss of humiliation where they experience the bleakness of nagging despair. (*Keep talking*) There comes a time when people get tired of being pushed out of

the glittering sunlight of life's July, and left standing amid the piercing chill of an alpine November. *(That's right)* [Applause] There comes a time. *(Yes sir, Teach)* [Applause continues]

We are here, we are here this evening because we're tired now. *(Yes)* [Applause] And I want to say, that we are not here advocating violence. *(No)* We have never done that. *(Repeat that, Repeat that)* [Applause] I want it to be known throughout Montgomery and throughout this nation *(Well)* that we are Christian people. *(Yes)* [Applause] We believe in the Christian religion. We believe in the teachings of Jesus. *(Well)* The only weapon that we have in our hands this evening is the weapon of protest. *(Yes)* [Applause] That's all.

And certainly, certainly, this is the glory of America, with all of its faults. *(Yeah)* This is the glory of our democracy. If we were incarcerated behind the iron curtains of a Communistic nation we couldn't do this. If we were dropped in the dungeon of a totalitarian regime we couldn't do this. *(All right)* But the great glory of American democracy is the right to protest for right. *(That's right)* [Applause] My friends, don't let anybody make us feel that we to be compared in our actions with the Ku Klux Klan or with the White Citizens Council. [Applause] There will be no crosses burned at any bus stops in Montgomery. *(Well, That's right)* There will be no white persons pulled out of their homes and taken out on some distant road and lynched for not cooperating. [Applause] There will be nobody amid, among us who will stand up and defy the Constitution of this nation. [Applause] We only assemble here because of our desire to see right exist. [Applause] My friends, I want it to be known that we're going to work with grim and bold determination to gain justice on the buses in this city. [Applause]

And we are not wrong, we are not wrong in what we are doing. *(Well)* If we are wrong, the Supreme Court of this nation is wrong. *(Yes sir)* [Applause] If we are wrong, the Constitution of the United States is wrong. *(Yes)* [Applause] If we are wrong, God Almighty is wrong. *(That's right)* [Applause] If we are wrong, Jesus of Nazareth was merely a utopian dreamer that never came down to earth. *(Yes)* [Applause] If we are wrong, justice is a lie: *(Yes)* love has no meaning. [Applause] And we are determined here in Montgomery to work and fight until justice runs down like water *(Yes)* [Applause] and righteousness like a mighty stream. *(Keep talking)* [Applause]

I want to say that in all of our actions we must stick together. *(That's right)* [Applause] Unity is the great need of the hour *(Well, That's right)* and if we are united we can get many of the things that we not only desire but which we justly deserve. *(Yeah)* And don't let anybody frighten you. *(Yeah)* We are not afraid of what we are doing, *(Oh no)* because we are doing it within the law. *(All right)* There is never a time in our American democracy that we must ever think we're wrong when we protest. *(Yes sir)* We reserve that right. When labor all over this nation came to see that it would be trampled over by capitalistic power, it was nothing wrong with labor getting together and organizing and protesting for its rights. *(That's right)*

We, the disinherited of this land, we who have been oppressed so long, are tired of going through the long night of captivity. And now we are reaching out for the daybreak of freedom and justice and equality. [Applause] May I say to you my friends, as I come to a close, and just giving some idea of why we are assembled here, that we must keep--and I want to stress this, in all of our doings, in all of our deliberations here this evening and all of the week and while--whatever we do, we must keep God in the forefront. *(Yeah)* Let us be Christian in all of our actions. *(That's right)* But

I want to tell you this evening that it is not enough for us to talk about love, love is one of the pivotal points of the Christian faith, faith. There is another side called justice. And justice is really love in calculation. (*All right*) Justice is love correcting that which revolts against love. (*Well*)

The Almighty God himself is not the only, not the, not the God just standing out saying through Hosea, "I love you, Israel." He's also the God that stands up before the nations and said: "Be still and know that I'm God, (*Yeah*) that if you don't obey me I will break the backbone of your power, (*Yeah*) and slap you out of the orbits of your international and national relationships." (*That's right*) Standing beside love is always justice (*Yeah*) and we are only using the tools of justice. Not only are we using the tools of persuasion but we've come to see that we've got to use the tools of coercion. Not only is this thing a process of education but it is also a process of legislation. [*Applause*]

As we stand and sit here this evening and as we prepare ourselves for what lies ahead, let us go out with a grim and bold determination that we are going to stick together. [*Applause*] We are going to work together. [*Applause*] Right here in Montgomery, when the history books are written in the future, (*Yes*) somebody will have to say, "There lived a race of people, (*Well*) a *black* people, (*Yes sir*) 'fleecey locks and black complexion,' (*Yes*) a people who had the moral courage to stand up for their rights. [*Applause*] And thereby they injected a new meaning into the veins of history and of civilization." And we're gonna do that. God grant that we will do it before it is too late. (*Oh yeah*)

Now at this point, Reverend Abernathy, pastor of the First Baptist Church of Montgomery, will come to us and read the resolutions and recommendations. I want you to listen to this and be very careful in listening to it. Listen with a great deal of interest so that you will know everything he said, because we want you to vote on it after it's over. Reverend Abernathy of the First Baptist Church.

[*Abernathy*]: Thank you, Dr. King. All of you who know me, know very well that I would love to make a speech now. [*Laughter, applause*] I, whenever you start talking about freedom and start talking about justice, you know I have something to say about it. (*Well*) And you further know, those of you who heard me on this past Sunday morning by radio, beyond a shadow of doubt I stand for integration in this American society. (*Amen*) [*Applause*] But I have been asked to read these resolutions. And I want to read them carefully to you in order that you might understand them. I've only received them a few moments ago, and it may be that I'll read slow. I'm sorry that some members of the press have dismissed themselves because there are some things in here I'd really want them to have. [*Applause*] I certainly hope, I certainly hope that the television man will come back. (*Well*) [*Applause*] You know, it isn't fair to get part of it. I want you to get all of it. [*Applause*] I guess I better read. (*Read*) [*Laughter, applause*] Resolution:

Whereas, there are thousands of Negroes in the city and county of Montgomery who ride buses owned and operated by the Montgomery City Lines, Incorporated, and

Whereas, said citizens have been riding buses owned and operated by said company over a number of years, and

Whereas, said citizens, over a number of years, and on many occasions, have been insulted, embarrassed, (*Yeah*) and have been made to suffer great fear of bodily harm (*That's right*) by drivers of buses owned and operated by said bus company, (*Yeah*) and

Whereas, the drivers of said buses have never requested a white passenger riding on any of its buses to relinquish his seat and to stand so that a Negro may take his seat. [*Applause*] However, said drivers have on many occasions, too numerous to mention, requested Negro passengers on said buses to relinquish their seats and to stand so that white passengers may take their seats. [*Applause*] and

Whereas, said citizens of Montgomery city and county pay their fares just as all other persons who are passengers on said buses, (*All right*) and are entitled to fair and equal treatment, (*Yeah*) [*Applause*] and

Whereas, there has been any number of arrests of Negroes caused by drivers of said buses, and they are constantly put in jail for refusing to give white passengers their seats and to stand. (*All right*) [*Applause*]

Whereas, in March of 1955, a committee of citizens did have a conference with one of the officials of the said bus line; at which time said officials arranged a meeting between attorneys representing the Negro citizens of this city and attorneys representing the Montgomery City Lines, Incorporated, and the city of Montgomery, and

Whereas, the official of the bus line promised that as a result of the meeting between said attorneys, he would issue a statement of policy clarifying the law with reference to the seating of Negro passengers on the buses, and

Whereas, said attorneys did have a meeting and did discuss the matter of clarifying the law, however, the official of said bus lines did not make public the statement as to its policy with reference to the seating of passengers on its buses, and

Whereas, since that time, at least two ladies have been arrested for an alleged violation of the city segregation law with reference to bus travel, and

Whereas, said citizens of Montgomery city and county believe that they have been grossly mistreated as passengers on the buses owned and operated by said bus company (*All right*) in spite of the fact that they are in the majority with reference to the number of passengers riding the said buses. [*Applause*]

In light of these observations, be it therefore resolved as follows:

Number One. That the citizens of Montgomery are requesting that every citizen in Montgomery, regardless of race, color or creed, to refrain from riding buses owned and operated in the city of Montgomery by the Montgomery Lines, Incorporated, [*Applause*] until some arrangement has been worked out [*Applause*] between said citizens and the Montgomery City Lines, Incorporated.

Now I'm reading it slow and I want you to hear every word of it.

Number Two. That every person owning or who has access to an automobile will use their automobiles in assisting other persons to get to work without charge. *[Applause]*

Number Three. That the employees, I repeat, that the employers of persons whose employees live a great distance from them, as much as possible, afford transportation for your own employees. *[Applause]*

That the Negro citizens of Montgomery are ready and willing to send a delegation of citizens to the Montgomery City Lines, Incorporated, to discuss their grievances and to work out a solution for the same. *(All right) [Applause]*

Be it further resolved, that we have not, I said, we have not, we are not, and we have no intentions of using any unlawful means or any intimidation *(Go ahead)* to persuade persons not to ride the Montgomery City Lines buses. *[Applause]* However, we call upon your conscience, *(All right)* both moral and spiritual, to give your whole-hearted support *(That's right)* to this worthy undertaking. *[Applause]* We believe we have a just complaint and we are willing to discuss this matter with the proper authorities. *(Yes) [Applause]*

Thus ends the resolution. *[Applause]* Dr. King, prayerfully, spiritually, sincerely, I wish to offer a motion. I move that this resolution shall be adopted. *(Dr. King, I second the motion) [Applause]*

[King:] It has been moved, it has been moved, and seconded, that these recommendations and these resolutions would be accepted and adopted by the citizens of Montgomery. Are you ready for the question? *(Thundering Yes)*

All in favor, stand on your feet. *[Enthusiastic applause]* Opposers do likewise. Opposers do likewise. *[Laughter]* There is a prevailing majority.

Source: Martin Luther King, Jr. Estate Collection, at Stanford University Libraries

**Document 11: Letter to Editor by white boycott sympathizer
in the *Montgomery Advertiser***

December 12, 1955

"Lesson From Gandhi," by Juliette Morgan

Editor, *The Advertiser*—Not since the First Battle of the Marne [September 1914] has the taxi been put to as good use as it has this last week in Montgomery. However, the spirit animating our Negro citizens as they ride these taxis or walk from the heart of Cloverdale to Mobile Road has been more like that of Gandhi than of the "taxicab army" that saved Paris.

As you remember, Gandhi set out on his "Salt March" from Sabarmati to the sea—about 150 miles—as a boycott against the government's salt monopoly. He took with him only a loin cloth, a bamboo walking stick, and a consuming idea. He vowed that he would not return until India was independent. Depending on their point of view, people laughed, sneered, or shook their heads, but 17 years later India was free. Passive resistance combined with freedom from hate is a power to be reckoned with.

The Negroes of Montgomery seem to have taken a lesson from Gandhi—and our own Thoreau, who influenced Gandhi. Their own task is greater than Gandhi's, however, for they have greater prejudice to overcome.

One feels that history is being made in Montgomery these days, the most important in her career. It is hard to imagine a soul so dead, a heart so hard, a vision so blinded and provincial as not to be moved with admiration at the quiet dignity, discipline, and dedication with which the Negroes have conducted their boycott. Yes, there have been "incidents," but the actual damage inflicted has been rather less than that done by the Lanier students in their protests against the abolition of sororities and fraternities. And a great deal less than in most strikes.

Of course, the fewer "incidents," the stronger the case for the Negroes. Their cause and their conduct have filled me with great sympathy, pride, humility and envy. I envy their unity, their good humor, their fortitude, and their willingness to suffer for great Christian and democratic principles, or just plain decent treatment. The other side is willing to fight all right, say cruel things, and to make others suffer, but the case is such that it calls for no suffering or sacrifice on their parts. That weakens their case.

It is sad indeed that the most reasonable and moderate requests presented to the bus company and City Commission by the Rev. M.L. King were met with such a "Ye rebels! Disperse!" attitude as voiced by their attorney and others. No, the law must be enforced with all pharisaical zeal and inflexibility. Well, I say the law ought to be changed. And I recommend to those in authority Edmund Burke's Speech on Conciliation with the Colonies.

I am all for law and order, the protection of person and property against violence, but I believe the Constitution and Supreme Court of the United States constitute the supreme law of the land. I find it ironical to hear men in authority who are openly flouting this law speak piously of law enforcement.

I also find it hard to work up sympathy for the bus company. I have ridden the buses of Montgomery ever since they have been running. I have ridden them from once to four times a day for the past 14 years until this October. Personally I have received courteous and friendly treatment. I consider many of the drivers my good friends. With no exception I have never seen

any human being give such excellent service to the public as Mr. Alton Courtney. Mr. Eliot I. Newman and others are fine too. On the other hand, I have heard some bus drivers use the tone and manners of mule drivers in their treatment of Negro passengers. (Incidentally Negroes pay full fare for fourth class treatment.) Three times I've gotten off the bus because I could not countenance treatment of Negroes. I should have gotten off on several other occasions. Twice I have heard a certain driver with high seniority mutter quite audibly "black ape." I could not tell whether the Negro heard or not, but I did and felt insulted.

It is interesting to read editorials on the legality of this boycott. They make me think of that famous one that turned America from a tea to a coffee drinking nation. Come to think of it, one might say that this nation was founded upon a boycott.

The likening of the bus boycott to those of the White Citizens Councils is misleading. The difference in the causes and in the spirit behind each is vast. Just compare the speeches delivered at Selma and here in the City Hall with those at the Holt Street Baptist Monday night. Read them side by side as reported in *The Advertiser*—and blush. Joe Azbell's account of the Holt Street meeting is the best reporting I have ever read.

Instead of acting like sullen adolescents whose attitude is "Make me," we ought to be working out plans to span the gap between segregation and integration to extend public services—schools, libraries, parks—and transportation to Negro citizens. Ralph McGill's [Atlanta Constitution editor] is the best advice I've heard: "Segregation is on its way out, and he who tries to tell the people otherwise does them great disservice. The problem of the future is how to live with the change."

This may be a minority report, but a number of Montgomerians not entirely inconsequential agree with my point of view.

Montgomery *Advertiser*, December 12, 1955

Source: *The Montgomery Advertiser*, December 12, 1955

Document 12: Pro and anti-boycott letters in the Montgomery Advertiser

January, 1956

“Overbearing Bus Drivers,” by Will T. Sheehan

Editor, *The Advertiser*: As the magnificent and successful bus boycott continues I would like to make it a matter of record that there are white bus riders in Montgomery who are honoring the request of our colored friends by refraining from patronizing the City Lines in an effort to express our sympathy.

The plaintive plea of Mayor Gayle, calling for public support of bus service has a futile and hollow ring, coming from a man who has callously ignored the appeals of delegations who have called upon him repeatedly in the past for redress. Someone should scrawl across his office wall, “It is later than you think.”

The demands of the Negro populace are extremely moderate and within the law. I challenge any legal light in the state to show how these modest requests are outside of the law, though city hall politicians, City Lines counsel, and curbstone lawyers continue to prattle about the sacrosanct inviolateness of state statutes.

Man and boy, I have ridden street cars and buses in Montgomery for over 40 years. Seamy and sordid have been the scenes I have witnessed. The charges brought by the Negro protestants in their paid advertisement of Dec. 25, are confirmed by personal observation many times over. Has the bus company ever conducted a training program among its drivers stressing courtesy and consideration to its customers?

There are bus drivers who are courteous to both races, but has any effort been made to weed out the belligerent, overbearing and profaned drivers who have caused most of the trouble? Would any responsible businessman permit his employees to insult his customers in such ways and expect to remain in business? Are our city fathers less aware of their responsibility than the leaders of Mobile and Houston, Texas? Are our newspapers less capable of keeping citizens abreast of the changing times than the publications of those two cities? Are those of us who sympathize too timid to make our views known? There is ample blame to share among all of us.

Answering the mayor’s appeal to save the franchise by patronizing the bus lines, here is one white ex-bus rider who would like to declare that as long as the bus boycott is on, it will be a dreary, rainy day, when I have sprained ankle, and less than 45c cab fare, before I board one of those yellow rolling cell blocks again.

Montgomery Advertiser, January 4, 1956.

“Negroes, Look Around You,” by Hill Lindsay

Editor, *The Advertiser*: The white people of Montgomery are typical of the other white people of America, slow to anger and slow to make up their minds. But once they do they have always come out victorious.

The bus fare has already been raised 50%. Should you continue the bus boycott six months the loss would be repaid in 18 months and you will keep on paying and paying as long as you live. So what have you gained?

Where is your appreciation, your sense of duty? Look around your home. Who furnished the "know how" to build your homes and furnish them? Who furnished the "know how" to prepare your foods and medicines, give you electricity, make your clothes, design and build your cars and every other convenience you so richly enjoy, that goes with civilization. Now what have you done for yourself?

You are indebted to the white people of Montgomery for life itself. As the white doctor brought most of you into the world. The white man paid about 95 percent for your education, furnished you jobs and a place to live, etc. Now suppose the white people of Montgomery would not hire you any longer or give you a place to live, where would you go or do?

Montgomery Advertiser, January 13, 1956

Source: The Montgomery Advertiser

Document 13: Excerpts from *Browder v. Gayle*

142 F. Supp. 707

United States District Court
M.D. Alabama, N.D.
June 5, 1956

Action for declaratory judgment that statutes of state and ordinances of City of Montgomery, Alabama, requiring segregation of white and colored races on motor buses of the City of Montgomery and its police jurisdiction were unconstitutional and also to enjoin enforcement of such statutes and ordinances. The District Court, Rives, Circuit Judge, held that statutes and ordinances requiring segregation violated due process and equal protection of law clauses of fourteenth amendment to Constitution of United States.

Order accordingly.

Lynne, District Judge, dissented.

...

Statement of the Case

The purpose this action is to test the constitutionality of both the statutes of the State of Alabama and the ordinances of the City of Montgomery which require the segregation of the white and colored races on the motor buses of the Montgomery City Lines, Inc., a common carrier of passengers in said City and its police jurisdiction.

The plaintiffs are four Negro citizens who bring this action for themselves and on behalf of all other Negroes similarly situated. The defendants are the members of the Board of Commissioners and the Chief of the Police of the City of Montgomery, the members of the Alabama Public Service Commission, The Montgomery City Lines, Inc., and two of its employee drivers.

Each of the four named plaintiffs has either been required by a bus driver or by the police to comply with said segregation laws or has been arrested and fined for her refusal so to do. The plaintiffs, along with most other Negro citizens of the City of Montgomery, have since December 5, 1955, and up to the present time, refrained from making use of the transportation facilities provided by Montgomery City Lines, Inc. Plaintiffs and Negroes desire and intend to resume the use of said buses if and when they can do so on a non-segregated basis without fear of arrest.

The members of the Board of Commissioners and the Chief of Police of the City of Montgomery in their answers to the complaint admit "that they seek to enforce the statutes of the State of Alabama and the ordinances of the City of Montgomery, Alabama", and further aver that "segregation of privately owned buses within cities within the State of Alabama is in accordance with the laws of the State of Alabama and the City of Montgomery."

...

The Montgomery City Lines, Inc., admits that it has operated, and pursuant to orders of a State Court continues to operate "its buses as required by the Statutes and Ordinances set out in the Complaint requiring it to provide equal but separate accommodations for the white and colored races". Without dispute the evidence is to the effect that, other than being separate, such accommodations are equal.

The defendants, Blake and Cleere, admit they are employees of the Montgomery City Lines and drivers of its buses, that as such they have acted pursuant to orders of said Company

which “has operated its buses on the basis of racial segregation as required by said statutes and ordinances”. They deny that as drivers of said buses they are exercising the powers of police officers in the enforcement of said statutes and ordinances.

The complaint prays for the convening of a three-judge district court as provided by Title 28 of the United States Code, §2284; for a declaratory judgment as to whether the enforcement of said statutes and ordinances abridges the privileges and immunities of plaintiffs as citizens of the United States, or deprives them of liberty without due process of law, or denies to them the equal protection of the laws, as secured by the Fourteenth Amendment to the Constitution of the United States, and the rights and privileges secured to them by Title 42, United States Code, §§ 1981 and 1983. The Complaint further prays that the defendants be both temporarily and permanently enjoined from enforcing the statutes and ordinances claimed to be unconstitutional and in conflict with said Federal statutes.

...

Jurisdiction of Three Judge District Court

A three judge district court is required for the granting of “An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State”. 28 U.S.C.A. § 2281. According to the complaint and the answers, the separation of the races on the buses is required both by State statutes and by City ordinances. Admittedly, therefore, State statutes are involved. The defendants claim, however, that the statutes and ordinances are being enforced by municipal officers only, and not by “any officer of such State”. 28 U.S.C.A. § 2281, *supra*.

...

Comity

[5] The defendants, relying on *Alabama Public Service Commission v. Southern Railway Co.*, 341 U.S. 341, 71 S.Ct. 762, 95 L.Ed. 1002, insist that even if the Federal court has jurisdiction, it should, in its discretion as a court of equity, and for reasons of comity, decline to exercise such jurisdiction until the State courts have ruled on the construction and validity of the statutes and ordinances. The short answer is that doctrine has no application where the plaintiffs complain that they are being deprived of constitutional civil rights, for the protection of which the Federal courts have a responsibility as heavy as that which rests on the State courts.

...

Validity of Separate but Equal Doctrine as Applied to Intrastate Transportation

The ultimate question is whether the statutes and ordinances requiring the segregation of the white and colored races on the common carrier motor buses in the City of Montgomery and its police jurisdiction are unconstitutional and invalid. Unless prohibited by the Constitution of the United States, the power to require such segregation is reserved to the States or to the people.— See Tenth Amendment.

[10] In their private affairs, in the conduct of their private businesses, it is clear that the people themselves have the liberty to select their own associates and the persons with whom they will do business, unimpaired by the Fourteenth Amendment. The Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835. Indeed, we think that such liberty is guaranteed by the due process clause of that Amendment.

[11] There is, however, a difference, a constitutional difference, between voluntary adherence to custom and the perpetuation and enforcement of that custom by law. *Shelley v. Kraemer*, 334 U.S. 1, 13, 68 S.Ct. 836, 92 L.Ed. 1161. The Fourteenth Amendment provides that “No State shall * * * deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

[12, 13] Those provisions do not interfere with the police power of the States so long as the state laws operate alike upon all persons and property similarly situated. *Barbier v. Connolly*, 113 U.S. 27, 31, 32, 5 S.Ct. 357, 28 L.Ed. 923. That Amendment “merely requires that all persons subjected to such legislation shall be treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed.” *Marchant v. Pennsylvania Railroad Co.*, 153 U.S. 380, 390, 14 S.Ct. 894, 897, 38 L.Ed. 751. The equal protection clause requires equality of treatment before the law for all persons without regard to race or color. ...

In *Plessy v. Ferguson*, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256, decided in 1896, the Supreme Court held as to intrastate commerce that a Louisiana statute, LSA-R.S. 45:528 et seq., requiring railway companies to provide equal but separate accommodations for the white and colored races was not in conflict with the provisions of the Fourteenth Amendment. That holding was repeatedly followed in later cases....

In *Morgan v. Virginia*, 1946, 328 U.S. 373, 66 S.Ct. 1050, 90 L.Ed. 1317, the Court held that a state statute requiring segregated seats for Negro passengers on interstate buses was an unconstitutional burden of interstate commerce. In *Henderson v. United States*, 1950, 339 U.S. 816, 70 S.Ct. 843, 94 L.Ed. 1302, the Court held that interstate railroad regulations and practices assigning a separate table in a dining car to Negroes contravened the Interstate Commerce Act, 49 U.S.C.A. § 1 et seq. The Court referred to the statutory right as “a fundamental right of equality of treatment,” and cited cases construing the Fourteenth Amendment, see 339 U.S. 825, 70 S.Ct. 847, though the Court did not reach the constitutional question. The reasoning applied was similar to that employed in *Shelley v. Kraemer*, 334 U.S. 1, 22, 68 S.Ct. 836, 92 L.Ed. 1161, where the Court recognized that the underlying philosophy of the Fourteenth Amendment is the equality before the law of each individual.

In the field of college education, beginning in 1938 and continuing to the present time, the Court has first weakened the vitality of, and has then destroyed, the separate but equal concept.

...

We cannot in good conscience perform our duty as judges by blindly following the precedent of *Plessy v. Ferguson*, supra, when our study leaves us in complete agreement with the Fourth Circuit's opinion in *Flemming v. South Carolina Electric & Gas Co.*, 224 F.2d 752, appeal dismissed April 23, 1956, 351 U.S. 901, 76 S.Ct. 692, that the separate but equal doctrine can no longer be safely followed as a correct statement of the law. In fact, we think that *Plessy v. Ferguson* has been impliedly, though not explicitly, overruled, and that, under the later decisions, there is now no rational basis upon which the separate but equal doctrine can be validly applied to public carrier transportation within the City of Montgomery and its police jurisdiction. The application of that doctrine cannot be justified as a proper execution of state police power.

[16] We hold that the statutes and ordinances requiring segregation of the white and colored races on the motor buses of a common carrier of passengers in the City of Montgomery and its police jurisdiction violate the due process and equal protection of the law clauses of the Fourteenth Amendment to the Constitution of the United States.

...

LYNNE, District Judge (dissenting).

...

Judges of trial courts frequently find themselves in disagreement with the rationale of an old, but clearly controlling precedent. That is so because their positions do not insulate them from those changing physical and metaphysical concepts which form a part of the life process. But they are neither designed nor equipped to perform the legislative function of putting off the old and putting on the new. To arrogate to themselves this prerogative, in my humble opinion, would be the

first, fatal step in making hollow the proud boast that ours is a “government of laws and not of men.”

Judge Rives, just the other day, delivering the opinion of the Court of Appeals for the Fifth Circuit, sitting en banc, in *Howard v. United States*, 232 F2d 274, 275, stated my position, clearly and concisely:

“...This Circuit follows the law as stated by the Supreme Court and leaves any need for modification thereof to that Court * * *.”

...

A comparatively new principle of pernicious implications has found its way into our jurisprudence. Lower courts may feel free to disregard the precise precedent of a Supreme Court opinion if they perceive a “pronounced new doctrinal trend” in its later decisions which would influence a cautious judge to prophesy that in due time and in a proper case such established precedent will be overturned explicitly. ...

...

In 1955, in *Flemming*, an intrastate transportation case, reversing the district judge, the court wrote:

“We do not think that the separate but equal doctrine of *Plessy v. Ferguson*, supra, can any longer be regarded as a correct statement of the law. That case recognizes segregation in the public schools; and the recent decisions in *Brown v. Board of Education [of Topeka]*, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 and *Bolling v. Sharpe* 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884, which relate to public schools, leave no doubt that the separate but equal doctrine approved in *Plessy v. Ferguson* has been repudiated. That the principle applied in the school cases should be applied in cases involving transportation, appears quite clearly from the recent case of *Henderson v. United States*, 339 U.S. 816, 70 S.Ct. 843, 94 L.Ed. 1302, where segregation in dining cars held violative of a section of the interstate commerce act providing against discrimination.”

...the Supreme Court had spoken pertinently but once, in the case of *Brown v. Board of Education of Topeka*... My study of *Brown* has convinced me that if left unimpaired the “ ‘separate but equal’ ” doctrine in a local transportation case and I perceive no pronounced new doctrinal trend there in.

...

It seems to me that the Supreme Court therein recognized that there still remains an area within our constitutional scheme of state and federal governments wherein that doctrine may be applied even though its applications are always constitutionally suspect and for sixty years it may have been more honored in the breach than in the observance. Granted that the trend of its opinions is to the effect that segregation is not to be permitted in public facilities furnished by the state itself and the moneys of the state, as in the case of public schools or public parks.... On the plain theory that if the state is going to provide such facilities at all, it must provide them equally to the citizens, it does not follow that it may not be permitted in public utilities holding nonexclusive franchises.

...

Because I would dismiss the action on the authority of *Plessy v. Ferguson*, I do not reach the procedural questions discussed in the majority opinion. I respectfully dissent.

Source: Stanford Law School

Excerpts from Martin Luther King, Jr.'s *Letter from Birmingham Jail*

April 16, 1963

MY DEAR FELLOW CLERGYMEN:

...I am in Birmingham because injustice is here. Just as the prophets of the eighth century B.C. left their villages and carried their "thus saith the Lord" far beyond the boundaries of their home towns, and just as the Apostle Paul left his village of Tarsus and carried the gospel of Jesus Christ to the far corners of the Greco-Roman world, so am I, compelled to carry the gospel of freedom beyond my own home town. Like Paul, I must constantly respond to the Macedonian call for aid.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider anywhere within its bounds.

You deplore the demonstrations taking place in Birmingham. But your statement, I am sorry to say, fails to express a similar concern for the conditions that brought about the demonstrations... Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of brutality is widely known. Negroes have experienced grossly unjust treatment in the courts. There have been more unsolved bombings of Negro homes and churches in Birmingham than in any other city in the nation. These are the hard, brutal facts of the case. On the basis of these conditions, Negro leaders sought to negotiate with the city fathers. But the latter consistently refused to engage in good-faith negotiation.

Then, last September, came the opportunity to talk with leaders of Birmingham's economic community. In the course of the negotiations, certain promises were made by the merchants --- for example, to remove the stores humiliating racial signs. On the basis of these promises, the Reverend Fred Shuttlesworth and the leaders of the Alabama Christian Movement for Human Rights agreed to a moratorium on all demonstrations. As the weeks and months went by, we realized that we were the victims of a broken promise. A few signs, briefly removed, returned; the others remained.

As in so many past experiences, our hopes had been blasted, and the shadow of deep disappointment settled upon us. We had no alternative except to prepare for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and the national community. Mindful of the difficulties involved, we decided to undertake a process of self-purification. We began a series of workshops on nonviolence, and we repeatedly asked ourselves : "Are you able to accept blows without retaliating?" "Are you able to endure the ordeal of jail?"...

You may well ask: "Why direct action? Why sit-ins, marches and so forth? Isn't negotiation a better path?" You are quite right in calling, for negotiation. Indeed, this is the very purpose of direct action. Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. My citing the creation of tension as part of the work of the nonviolent-resister may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, we must see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood.

The purpose of our direct-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in a tragic effort to live in monologue rather than dialogue. ...My friends, I must say to you that we have not made a single gain civil rights without determined legal and nonviolent pressure. Lamentably, it is an historical fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but, as Reinhold Niebuhr has reminded us, groups tend to be more immoral than individuals.

We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have yet to engage in a direct-action campaign that was "well timed" in the view of those who have not suffered unduly from the disease of segregation. For years now I have heard the word "Wait!" It rings in the ear of every Negro with piercing familiarity. This "Wait" has almost always meant "Never." We must come to see, with one of our distinguished jurists, that "justice too long delayed is justice denied."

We have waited for more than 340 years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jetlike speed toward gaining political independence, but we stiff creep at horse-and-buggy pace toward gaining a cup of coffee at a lunch counter. Perhaps it is easy for those who have never felt the stinging dark of segregation to say, "Wait." But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick and even kill your black brothers and sisters; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her eyes when she is told that Funtown is closed to colored children, and see ominous clouds of inferiority beginning to form in her little mental sky, and see her beginning to distort her personality by developing an unconscious bitterness toward white people; when you have to concoct an answer for a five-year-old son who is asking: "Daddy, why do white people treat colored people so mean?"; when you take a cross-county drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading "white" and "colored"; when your first name becomes "nigger," your middle name becomes "boy" (however old you are) and your last

name becomes "John," and your wife and mother are never given the respected title "Mrs."; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tiptoe stance, never quite knowing what to expect next, and are plagued with inner fears and outer resentments; when you no longer fighting a degenerating sense of "nobodiness" then you will understand why we find it difficult to wait. There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into the abyss of despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us consciously to break laws. One may well ask: "How can you advocate breaking some laws and obeying others?" The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that "an unjust law is no law at all"

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. Segregation, to use the terminology of the Jewish philosopher Martin Buber, substitutes an "I-it" relationship for an "I-thou" relationship and ends up relegating persons to the status of things. Hence segregation is not only politically, economically and sociologically unsound, it is morally wrong and awful. Paul Tillich said that sin is separation. Is not segregation an existential expression of man's tragic separation, his awful estrangement, his terrible sinfulness? Thus it is that I can urge men to obey the 1954 decision of the Supreme Court, for it is morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong.

Let us consider a more concrete example of just and unjust laws. An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is difference made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is sameness made legal.

Let me give another explanation. A law is unjust if it is inflicted on a minority that, as a result of being denied the right to vote, had no part in enacting or devising the law. Who can say that the legislature of Alabama which set up that state's segregation laws was democratically elected? Throughout Alabama all sorts of devious methods are used to prevent Negroes from becoming registered voters, and there are some counties in which, even though Negroes constitute a majority of the population, not a single Negro is registered. Can any law enacted under such circumstances be considered democratically structured?

Sometimes a law is just on its face and unjust in its application. For instance, I have been arrested on a charge of parading without a permit. Now, there is nothing wrong in having an ordinance which requires a permit for a parade. But such an ordinance becomes unjust when it is used to maintain segregation and to deny citizens the First Amendment privilege of peaceful assembly and protest.

I hope you are able to ace the distinction I am trying to point out. In no sense do I advocate evading or defying the law, as would the rabid segregationist. That would lead to anarchy. One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

Of course, there is nothing new about this kind of civil disobedience. It was evidenced sublimely in the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar, on the ground that a higher moral law was at stake. It was practiced superbly by the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks rather than submit to certain unjust laws of the Roman Empire. To a degree, academic freedom is a reality today because Socrates practiced civil disobedience. In our own nation, the Boston Tea Party represented a massive act of civil disobedience.

We should never forget that everything Adolf Hitler did in Germany was "legal" and everything the Hungarian freedom fighters did in Hungary was "illegal." It was "illegal" to aid and comfort a Jew in Hitler's Germany. Even so, I am sure that, had I lived in Germany at the time, I would have aided and comforted my Jewish brothers. If today I lived in a Communist country where certain principles dear to the Christian faith are suppressed, I would openly advocate disobeying that country's antireligious laws.

...Like a boil that can never be cured so long as it is covered up but must be opened with an its ugliness to the natural medicines of air and light, injustice must be exposed, with all the tension its exposure creates, to the light of human conscience and the air of national opinion before it can be cured.

In your statement you assert that our actions, even though peaceful, must be condemned because they precipitate violence. But is this a logical assertion? Isn't this like condemning a robbed man because his possession of money precipitated the evil act of robbery? Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical inquiries precipitated the act by the misguided populace in which they made him drink hemlock? Isn't this like condemning Jesus because his unique God-consciousness and never-ceasing devotion to God's will precipitated the evil act of crucifixion? We must come to see that, as the federal courts have consistently affirmed, it is wrong to urge an individual to cease his efforts to gain his basic constitutional rights because the quest may precipitate violence. Society must protect the robbed and punish the robber...

...Oppressed people cannot remain oppressed forever. The yearning for freedom eventually manifests itself, and that is what has happened to the American Negro. Something within has

reminded him of his birthright of freedom, and something without has reminded him that it can be gained. Consciously or unconsciously, he has been caught up by the Zeitgeist, and with his black brothers of Africa and his brown and yellow brothers of Asia, South America and the Caribbean, the United States Negro is moving with a sense of great urgency toward the promised land of racial justice. If one recognizes this vital urge that has engulfed the Negro community, one should readily understand why public demonstrations are taking place. The Negro has many pent-up resentments and latent frustrations, and he must release them. So let him march; let him make prayer pilgrimages to the city hall; let him go on freedom rides-and try to understand why he must do so. If his repressed emotions are not released in nonviolent ways, they will seek expression through violence; this is not a threat but a fact of history. So I have not said to my people: "Get rid of your discontent." Rather, I have tried to say that this normal and healthy discontent can be channeled into the creative outlet of nonviolent direct action. And now this approach is being termed extremist.

But though I was initially disappointed at being categorized as an extremist, as I continued to think about the matter I gradually gained a measure of satisfaction from the label. Was not Jesus an extremist for love: "Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you." Was not Amos an extremist for justice: "Let justice roll down like waters and righteousness like an ever-flowing stream." Was not Paul an extremist for the Christian gospel: "I bear in my body the marks of the Lord Jesus." Was not Martin Luther an extremist: "Here I stand; I cannot do otherwise, so help me God." And John Bunyan: "I will stay in jail to the end of my days before I make a butchery of my conscience." And Abraham Lincoln: "This nation cannot survive half slave and half free." And Thomas Jefferson: "We hold these truths to be self-evident, that all men are created equal ..." So the question is not whether we will be extremists, but what kind of extremists we will be. We will be extremists for hate or for love? Will we be extremists for the preservation of injustice or for the extension of justice? In that dramatic scene on Calvary's hill three men were crucified. We must never forget that all three were crucified for the same crime---the crime of extremism. Two were extremists for immorality, and thus fell below their environment. The other, Jesus Christ, was an extremist for love, truth and goodness, and thereby rose above his environment. Perhaps the South, the nation and the world are in dire need of creative extremists.

...I have no fear about the outcome of our struggle in Birmingham, even if our motives are at present misunderstood. We will reach the goal of freedom in Birmingham, and all over the nation, because the goal of America is freedom. Abused and scorned though we may be, our destiny is tied up with America's destiny. Before the pilgrims landed at Plymouth, we were here. Before the pen of Jefferson etched the majestic words of the Declaration of Independence across the pages of history, we were here. For more than two centuries our forebears labored in this country without wages; they made cotton king; they built the homes of their masters while suffering gross injustice and shameful humiliation-and yet out of a bottomless vitality they continued to thrive and develop. If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands...

...Over the past few years I have consistently preached that nonviolence demands that the means we use must be as pure as the ends we seek. I have tried to make clear that it is wrong to use immoral means to attain moral ends. But now I must affirm that it is just as wrong, or perhaps even more so, to use moral means to preserve immoral ends...

I wish you had commended the Negro sit-inners and demonstrators of Birmingham for their sublime courage, their willingness to suffer and their amazing discipline in the midst of great provocation. One day the South will recognize its real heroes. They will be the James Merediths, with the noble sense of purpose that enables them to face Jeering, and hostile mobs, and with the agonizing loneliness that characterizes the life of the pioneer. They will be old, oppressed, battered Negro women, symbolized in a seventy-two-year-old woman in Montgomery, Alabama, who rose up with a sense of dignity and with her people decided not to ride segregated buses, and who responded with ungrammatical profundity to one who inquired about her weariness: "My fleet is tired, but my soul is at rest." They will be the young high school and college students, the young ministers of the gospel and a host of their elders, courageously and nonviolently sitting in at lunch counters and willingly going to jail for conscience' sake. One day the South will know that when these disinherited children of God sat down at lunch counters, they were in reality standing up for what is best in the American dream and for the most sacred values in our Judeo-Christian heritage, thereby bringing our nation back to those great wells of democracy which were dug deep by the founding fathers in their formulation of the Constitution and the Declaration of Independence...

If I have said anything in this letter that overstates the truth and indicates an unreasonable impatience, I beg you to forgive me. If I have said anything that understates the truth and indicates my having a patience that allows me to settle for anything less than brotherhood, I beg God to forgive me.

I hope this letter finds you strong in the faith. I also hope that circumstances will soon make it possible for me to meet each of you, not as an integrationist or a civil rights leader but as a fellow clergyman and a Christian brother. Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities, and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.

Yours for the cause of Peace and Brotherhood,

MARTIN LUTHER KING, JR.

Source: The Modern History Sourcebook, Fordham University Department of History

Document 15: Martin Luther King, Jr.'s "I Have a Dream" Speech

**Washington, D.C.
August 28, 1963**

I am happy to join with you today in what will go down in history as the greatest demonstration for freedom in the history of our nation.

Five score years ago, a great American, in whose symbolic shadow we stand today, signed the Emancipation Proclamation. This momentous decree came as a great beacon light of hope to millions of Negro slaves who had been seared in the flames of withering injustice. It came as a joyous daybreak to end the long night of their captivity.

But one hundred years later, the Negro still is not free. One hundred years later, the life of the Negro is still sadly crippled by the manacles of segregation and the chains of discrimination. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later, the Negro is still languishing in the corners of American society and finds himself an exile in his own land. So we have come here today to dramatize a shameful condition.

In a sense we have come to our nation's capital to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights of life, liberty, and the pursuit of happiness.

It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked "insufficient funds." But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. So we have come to cash this check — a check that will give us upon demand the riches of freedom and the security of justice. We have also come to this hallowed spot to remind America of the fierce urgency of now. This is no time to engage in the luxury of cooling off or to take the tranquilizing drug of gradualism. Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quick sands of racial injustice to the solid rock of brotherhood. Now is the time to make justice a reality for all of God's children.

It would be fatal for the nation to overlook the urgency of the moment. This sweltering summer of the Negro's legitimate discontent will not pass until there is an invigorating autumn of freedom and equality. Nineteen sixty-three is not an end, but a beginning. Those who hope that the Negro needed to blow off steam and will now be content will have a rude awakening if the nation returns to business as usual. There will be neither rest nor tranquility in America until the Negro is granted his citizenship rights. The whirlwinds of revolt will continue to shake the foundations of our nation until the bright day of justice emerges.

But there is something that I must say to my people who stand on the warm threshold which leads into the palace of justice. In the process of gaining our rightful place we must not be guilty of wrongful deeds. Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred.

We must forever conduct our struggle on the high plane of dignity and discipline. We must not allow our creative protest to degenerate into physical violence. Again and again we must rise to the majestic heights of meeting physical force with soul force. The marvelous new militancy which has engulfed the Negro community must not lead us to a distrust of all white people, for many of our white brothers, as evidenced by their presence here today, have come to realize that their destiny is tied up with our destiny. They have come to realize that their freedom is inextricably bound to our freedom. We cannot walk alone.

As we walk, we must make the pledge that we shall always march ahead. We cannot turn back. There are those who are asking the devotees of civil rights, "When will you be satisfied?" We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. We can never be satisfied, as long as our bodies, heavy with the fatigue of travel, cannot gain lodging in the motels of the highways and the hotels of the cities. We cannot be satisfied as long as the Negro's basic mobility is from a smaller ghetto to a larger one. We can never be satisfied as long as our children are stripped of their selfhood and robbed of their dignity by signs stating "For Whites Only". We cannot be satisfied as long as a Negro in Mississippi cannot vote and a Negro in New York believes he has nothing for which to vote. No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.

I am not unmindful that some of you have come here out of great trials and tribulations. Some of you have come fresh from narrow jail cells. Some of you have come from areas where your quest for freedom left you battered by the storms of persecution and staggered by the winds of police brutality. You have been the veterans of creative suffering. Continue to work with the faith that unearned suffering is redemptive.

Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our northern cities, knowing that somehow this situation can and will be changed. Let us not wallow in the valley of despair.

I say to you today, my friends, so even though we face the difficulties of today and tomorrow, I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident: that all men are created equal."

I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

I have a dream today. I have a dream that one day, down in Alabama, with its vicious racists, with its governor having his lips dripping with the words of interposition and nullification; one day right there in Alabama, little black boys and black girls will be able to join hands with little white boys and white girls as sisters and brothers.

I have a dream today. I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the rough places will be made plain, and the crooked places will be made straight, and the glory of the Lord shall be revealed, and all flesh shall see it together.

This is our hope. This is the faith that I go back to the South with. With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day.

This will be the day when all of God's children will be able to sing with a new meaning, "My country, 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride, from every mountainside, let freedom ring."

And if America is to be a great nation this must become true. So let freedom ring from the prodigious hilltops of New Hampshire. Let freedom ring from the mighty mountains of New York. Let freedom ring from the heightening Alleghenies of Pennsylvania!

Let freedom ring from the snowcapped Rockies of Colorado!

Let freedom ring from the curvaceous slopes of California!

But not only that; let freedom ring from Stone Mountain of Georgia!

Let freedom ring from Lookout Mountain of Tennessee!

Let freedom ring from every hill and molehill of Mississippi. From every mountainside, let freedom ring.

And when this happens, when we allow freedom to ring, when we let it ring from every village and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, "Free at last! free at last! thank God Almighty, we are free at last!"

Source: Martin Luther King Jr. Collections, Boston University

Civil Rights Act of 1964

July 2, 1964

An Act To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

TITLE I--VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall--

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974--74e; 74 Stat. 88): Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are

blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

"(3) For purposes of this subsection--

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)":

"(f) When used in subsection (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

"(h) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief justice of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

An appeal from the final judgment of such court will lie to the Supreme Court.

"In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the

district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

Source: PL 88-352, 88th Congress, H.R. 7152, July 2, 1964

Voting Rights Act of 1965

August 6, 1965

AN ACT To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965."

SEC. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

SEC. 3. (a) Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such State or subdivision: Provided, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If in any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or

subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: Provided, That no such declaratory judgment shall issue with respect to any plaintiff for a period of five years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff. An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 percentum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 percentum of such persons voted in the presidential election of November 1964.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e)(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language. (2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that, in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

Source: United States Department of Justice