

The Montgomery Bus Boycott, 1955

*From: Conflict Resolution and United
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Objectives

- ✓ Understand the social context of the “separate but equal” doctrine of racial segregation approved by the U.S. Supreme Court in *Plessy v. Ferguson* (1896)
- ✓ Examine the codification and enforcement of racial segregation (“Jim Crow”) laws that proliferated in the southern states in the 1890s and early 1900s
- ✓ Analyze the legal challenges to segregation brought by the NAACP starting after World War I
- ✓ Examine the influence of World War II and the Cold War on domestic politics and for increasing expectations and challenges by African Americans
- ✓ Understand the scope and limitations of the key desegregation decision by the U.S. Supreme Court in *Brown v. Board of Education* (1954)
- ✓ Analyze the role of women and churches in the Montgomery Bus Boycott
- ✓ Examine the causes, course and consequences of the nonviolent, direct protest led by Rev. Martin Luther King, Jr. against racially segregated seating in public buses in Montgomery, Alabama in 1955-56
- ✓ Understand the difference between interests and fundamental rights.

Historical Background: 1865-1920s



Lynching in Marion, Indiana

- The Emancipation Proclamation freed slaves in the confederate states followed by the 13th Amendment
- Political power in the South in the postwar Reconstruction period encouraged freed male slaves to vote and participate in politics. Followed by a resurgence of conservative, white Democratic control
- Landless former slaves were generally bound to the land as a rural labor force of sharecroppers through vagrancy and other laws
- Intimidation and terrorism enforced their social status as second class citizens
- Lynching—the ultimate instrument for maintaining the subordinated status of blacks, increased in the South during the 1890s and the first two decades of the 20th Century, peaking with more than 80 African Americans a year being hanged or burned to death by white mobs.

The Ku Klux Klan

- “Jim Crow” practice of racial segregation in the South intensified by the 1890s
- Literacy tests, property qualifications and poll taxes were enacted to prevent most blacks from voting.
- Efforts to prevent blacks from voting and from mixing socially with whites were not only sanctioned by law but also backed by campaigns of intimidation and terror.
- The Ku Klux Klan, which carried out campaigns of terror and intimidation against blacks in the South, reached its greatest strength nationally during the early 1920s.



Ku Klux Klan burning a cross, 1923

Legally Segregated facilities



Segregation-era signs:

Left: Tennessee, 1939

Right: Georgia, 1943

- By the turn of the century southern states had adopted laws officially segregating public facilities, including schools, parks, theatres, hotels, restaurants, trains and streetcars.
- Sanctioned by the U.S. Supreme Court in *Plessy v. Ferguson* (1896), which declared “separate but equal” facilities for blacks and white to be constitutional
- Blacks protested, but without intervention by the federal government, the white Democratic state and city governments completed their adoption of “Jim Crow” laws and extralegal groups used violence to enforce them.
- As a result, the South, where 95% of African Americans lived, was rigidly segregated and almost all southern blacks who had previously been registered voters were forced out of the electorate.

Civil Rights groups formed

- Responses by black leaders at the turn of the century varied from Booker T. Washington's advocacy of political acceptance and emphasis on racial economic opportunity and W.E.B. Du Bois' angry attacks on disfranchisement and terrorism
- The National Association for the Advancement of Colored People (NAACP) was an interracial civil right organization formed in 1909 with Du Bois as its first director. It embarked on a series of judicial challenges to segregation and disfranchisement laws, slowly accumulating judicial victories by mid-century.
- The National Urban League, created in 1910, emphasized helping rural black migrant to the cities overcome economic and social obstacles.
- The Great Migration of blacks during and immediately after World War I brought the first large number of African Americans to northeastern and midwestern cities and created urban racial ghettos.
- During the 1930s blacks in the North boycotted stores that discriminated with the slogan "Don't buy where you can't work"

Changes in the 1940s

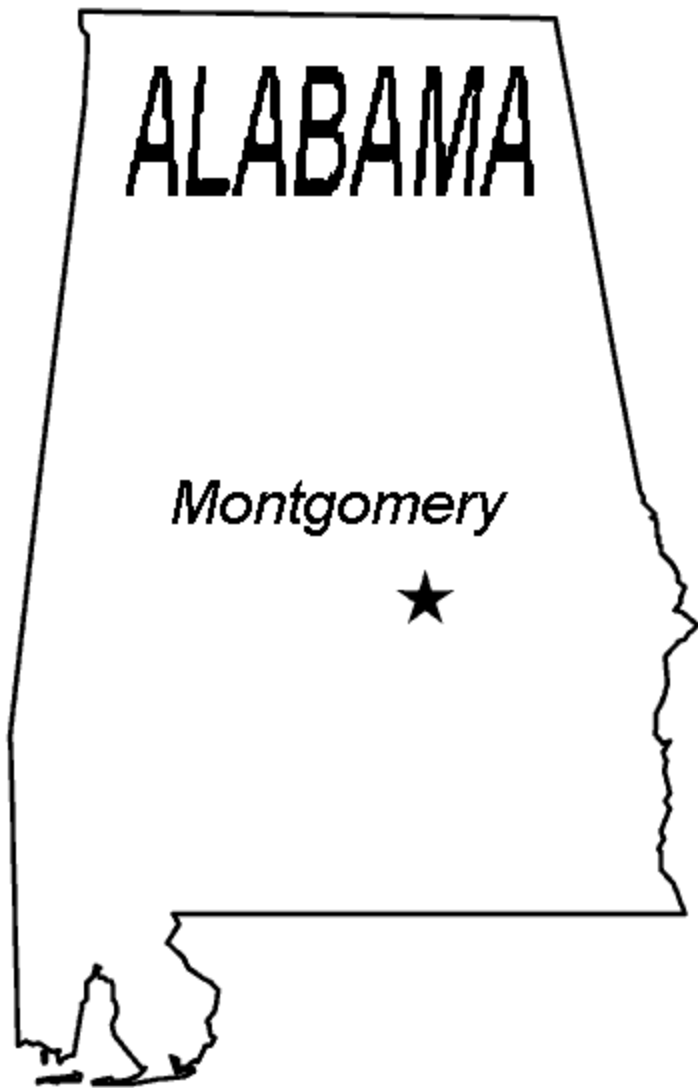
- As government defense contracts began to mobilize the nation, industry at the beginning of World War II, militant black labor leader A. Philip Randolph, president of the Brotherhood of Sleeping Car Porters, stated to organize a massive march on Washington, D.C. in 1941 to protest racial discrimination in hiring. President Franklin D. Roosevelt issues Ex. Order 8802 prohibiting racial discrimination in the government or companies with government contracts. This helped open jobs for black American who flocked to cities with expanding defense plants.
- However, the armed forces remained racially segregated and subject to segregation ordinances in southern towns.
- With blacks and white moving to new urban areas there were major race riots in which whites raged through black neighborhoods in Mobile, AL and Detroit, MI in 1943.
- The Congress of Racial Equality (CORE) formed in 1942, staged a direct protest action in 1947 in an attempt to desegregate interstate bus lines and terminals, without success.
- The fight against Nazism during World War II led many Americans to question the ideology of white supremacy and official racial segregation.
- In 1946, President Truman created a Presidential Committee on civil Rights and in 1948 issued Ex. Order 9981 desegregation the armed services.
- Meanwhile the NAACP won challenges to participation in primary election, separate law schools, separate graduate schools,

Brown v. Board of Education, 1954

- The U.S. Supreme Court held that segregating white and “negro” children in public schools solely on the basis of race pursuant to state laws requiring or permitting such segregation denies “Negro” children the equal protection of the laws guaranteed by the Fourteenth Amendment, even if the physical facilities may be equal.
- These were consolidated cases from the states of Kansas, South Carolina, Virginia and Delaware.
- In each case, African American children sought and were denied admission to schools attended by white children under laws requiring or permitting segregation according to race.
- The history of the Fourteenth Amendment with respect to segregated schools is inconclusive, particularly since free public schools supported by taxation were not widespread at the time. BY contrast, education is now probably the most important function of state and local governments.
- The court found that segregation of white and colored children in public schools has a detrimental effect upon the colored children, especially when sanctioned by law, by denoting a sense of inferiority that can affect their motivation to learn.
- Therefore, the Court concluded that the doctrine of “separate but equal” has no place in the field of public education because separate educational facilities are inherently unequal.

Opposition to the Brown decision

- The landmark decision in *Brown v. Board of Education* was met in most southern states with opposition rather than compliance. Although some school districts, particularly those in the border states, complied, the response of white conservatives in the deep South was to protest the ruling and to call for it be overturned, and even for the impeachment of Chief Justice Warren.
- White supremacist Citizens' Councils were immediately formed in Mississippi, Alabama, Louisiana and other southern states to oppose the end of segregation in public schools or any other efforts to end Jim Crow in the South. They used economic pressures against blacks and their white allies in the South, including foreclosing on mortgages and loans, dismissal from jobs, and boycotts of sympathetic businesses. More extreme white supremacist organizations formed once again, including the previously defunct Ku Klux Klan (KKK), and they espoused intimidation by terrorism.
- One state judge in Mississippi called the decision "an effort to socialize and Communize the United States," and "an illegal usurpation of the legislative prerogative of the state legislatures and of Congress."
- A year later in 1955, the Supreme Court issued a second *Brown* decision that required the public schools to desegregate with "all deliberate speed" (as opposed to "immediately" as had been urged by the NAACP) and ordered the federal courts to supervise the process (since neither the president nor the Congress seemed eager to do so).
- White southern segregationists responded with outrage. In early 1956, the Alabama Legislature adopted a resolution seeking to "nullify" the ruling, and the Virginia legislature sought to "interpose" state's rights against the federal ruling. In March 1956, nineteen southern states and 81 southern members of Congress (the vast majority of the southern representatives in Congress) issued a "Southern Manifesto," pledging to use "all lawful means" to reverse the school desegregation decision.



- Montgomery, Alabama was an agricultural center as well as a manufacturing center for furniture, glass products, machinery, paper, and textiles.
- The business leaders hoped to bring in new plants from major national corporations.
- The post-World War II era had witnessed a dramatic growth in the city's population, which in 1955 totaled 120,000 persons (the third largest city in the state), of which some 63 percent were white and 37 percent were black.
- The greatest growth had been from poor whites from rural areas who came seeking jobs in the city.
- This growth was accompanied by a decline in the political control of the old, patrician white elites and an increase in the voting strength of the white working class and the black middle and working classes.
- Montgomery's black leaders had started a voter registration drive in 1943. In 1953, they had helped to elect one of the three city commissioners.

Segregated city buses

- Although segregation codes were still the prevailing law and custom, by the early 1950s, black residents in Montgomery had made certain gains: the city's first hospital for blacks was established, the first high schools and some park and recreation facilities in African-American areas were opened, and reform of the police department and the hiring of a few black police officers had begun as a step toward the elimination of racial prejudice and brutality in local law enforcement.
- However, Montgomery's blacks had to deal with the daily humiliation of racially segregated seating on the city's buses.
- Black riders on the Montgomery City Lines Bus Company, the majority of them women traveling to jobs as maids, cooks, seamstresses, laundresses, and the like, accounted for more than two-thirds of all passengers.
- They were regularly forced to give up their seats to whites. The City Code and the policy of the bus company required the bus drivers (all of whom were white) to enforce segregated seating.
- In the 36-seat buses, the first 10 seats were reserved irrevocably for whites, even if there were no white passengers on the bus and blacks were standing. Indeed, crowded blacks would sometimes have to stand behind empty seats reserved for whites.
- Official policy was that if there were no seats available for blacks to move back to as additional white passengers boarded, then blacks were not required to give up their seats. In practice, however, whenever a white person needed a seat, the driver would look in the rearview mirror and yell at the "nigras" to move to the back, even if that meant they would have to stand.

Women's Political Council presents grievances

- Starting in 1952, Jo Ann Robinson, an English professor at Alabama State College in Montgomery,. And the Women's Political Caucus, a local black women's organization, presented the following grievances of African-American passengers to the bus company:
 1. Reservation of the first 10 seats for whites meant that often blacks had to stand even when there were empty seats in the front of the bus.
 2. Black passengers were compelled to get on the bus through the front door, pay their fare to the driver and then reenter at the back door to take a seat, rather than simply walking down the aisle.
 3. Busses stopped at every corner in white neighborhoods when requested but only at every other block in black neighborhoods.
 4. Drivers often were discourteous to black passengers and sometimes passed by waiting black passengers.
- The women made their protests again in 1953 and in 1954 they were joined by other black groups.
- Following the Brown decision, white segregationists in Montgomery formed a White Citizens' Council to maintain segregation and white supremacy.
- In May 1954, Jo Ann Robinson, now president of the local Women's Political Caucus, wrote to Mayor Gayle again protesting the treatment of blacks on the municipal buses.

Rosa Parks being fingerprinted after her arrest, Dec. 1, 1955



- December 1, 1955, Rosa Parks, a seamstress at a downtown department store and active NAACP member, boarded a city bus and sat down in the first row of the middle section of seats, open to blacks as long as there were enough seats for white.
- A few stops later, additional white boarded the bus and filled the white-only seats.
- The bus driver asked Parks and three other blacks in the first row of black seats to get up so that the whites who were standing could sit down.
- Nobody moved. The three other blacks got up but Rosa Parks stayed seated.
- The police were summoned and Parks was arrested, taken to the city jail and booked for violating the city ordinance on segregation of public transportation.

Montgomery Improvement Association (MIA) formed

- News of Parks arrest reached E.D. Nixon, who knew Parks from the NAACP, raised her bail and get her out of jail.
- Nixon arrangement a meeting of Montgomery's black ministers and other black leaders.
- Jo Ann Robinson made copies of handbills about Park's case and asked blacks to stay off the buses the following Monday, the day of Park's trial. The Women's Political Council distributed the handbills throughout the black community.
- The story of the impending boycott ran on the front page of the *Montgomery Advertiser*, one of the city's daily newspapers.
- There was fear among some of the ministers and other black leaders that Montgomery's black population might not honor the boycott. But on Monday morning, December 5, 1955, the buses were nearly empty of all blacks.
- Montgomery's 18 black taxi companies had agreed to transport blacks for the same fare they would pay on the bus—ten cents—and on December 5 the taxis were filled with blacks. Other blacks walked and some declined to speak to white people they passed.
- Parks would found guilty of violating Alabama's segregation laws, given a suspended sentence and fined \$10 plus \$4 court costs.
- Sixteen ministers and black leaders got together and formed the Montgomery Improvement Association (MIA)
- Rev. Martin Luther King, Jr., 26 years old, was selected as president.
- The group appointed a committee to draft resolutions to present at a mass meeting of 14 black citizens.

Rev. Martin Luther King, Jr. addressing a crowd at a Montgomery church



- That night, December 5, 1955, the crowd at the Holt Street Church was overflowing.
- King gave a rousing speech in favor of maintaining the boycott against the bus company.
- Rev. Ralph Abernathy read the resolution

December 5, 1955: The crowd at the meeting unanimously endorsed the following requests from the MIA

1. Courteous treatment on buses.
2. Seating on a first-come. First-serve basis with whites in front and blacks in back, but without the need for already seated black passengers to stand if additional white passengers board the bus.
3. Hiring of black drivers on predominantly black bus routes.

The Bus Boycott

- On December 8, 1955, representatives from the MIA, including King and Abernathy, met with the city commissioners and representatives of the bus company
- Jack Crenshaw, the bus company's attorney, denied charges of discourtesy, rejected the idea of black drivers and insisted that the proposed seating plan violated city and state segregation laws.
- City commissioner Clyde Sellers was dead set against the proposal; Commissioner Frank Parks (unrelated to Rosa Parks, but elected with the help of black voters) was willing to accept the plan; Mayor Gayle urged the blacks and the bus company to find a compromise.
- The city informed black taxi drivers that they were legally forbidden to charge less than the set rates. The MIA organized an extensive carpool operation.
- The bus company was losing 30,000-40,000 fares every day. Black passengers accounted for approximately 65% of the bus company's annual income.
- The Men of Montgomery, a group of 40 white businessmen who had organized in October 12, 1955 to try to attract new commercial and industrial development to the city, as well as the city chamber of commerce, had become increasingly concerned with the negative image that the bus boycott was creating.
- Membership in the Montgomery White Citizen's Council rose from 300 to 12,000 by the end of February 1956..
- The Montgomery City Commission called a meeting for December 17, 1955.

Mock Mediation, December 17, 1955

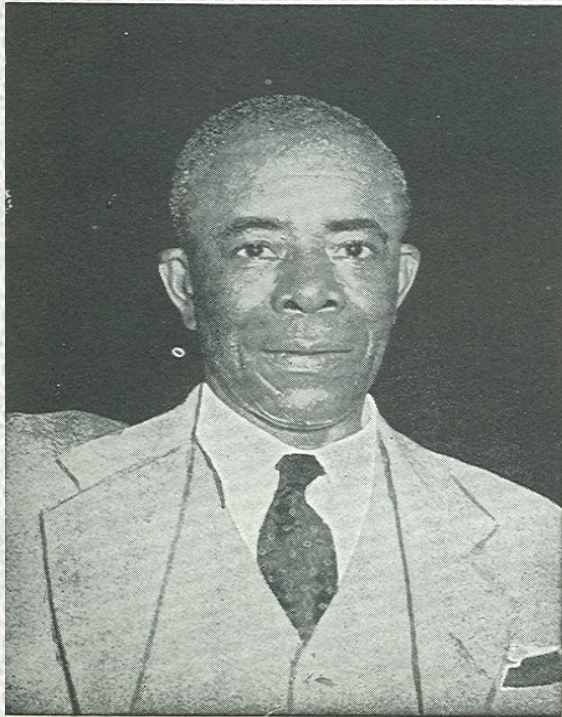
- The Montgomery City Commission called a meeting of all parties involved to be held on December 17, 1955.
- At the meeting, Mayor Gayle proposed an interracial committee to act as mediators between the Montgomery Improvement Association and the Montgomery City Lines, the bus company.
- Rev. Henry Parker, of the white First Baptist Church was the chairman of the committee.
- Mayor Gayle had hoped that Kenneth Totten, vice president of the bus company's owner, would meet with the committee. However, Totten refused to participate.
- For purposes of this exercise, we will take a small step away from history and have Rev. Henry Parker mediate at the meeting on December 17, 1955.

Jo Ann Robinson

Jo Ann Robinson and the Women's Political Council. Jo Ann Robinson was the last of twelve children of a farm owner in Georgia. She grew up in Macon, graduated from college and was a teacher in the Macon public schools. Following her divorce, Robinson earned a Master's degree and after spending some time in the urban Midwest, became a member of the faculty at Alabama State College in Montgomery. At Christmas in 1949, she sat in the front of a bus in Montgomery, Alabama, but the bus driver, with a threatening gesture, forced her go to the back. She bolted from the bus but never forgot the incident. Robinson was a leader at Reverend King's new political affairs committee at Dexter Avenue Baptist Church and a leading member of the local Women's Political Council (WPC). The WPC provided a professional network for black women. Robinson became president of the WPC in 1950. The WPC had been the leading advocate of reform in bus seating throughout the early 1950s and Robinson had taken the lead in pressing for a bus boycott after Rosa Park's arrest. Once the boycott began, Robinson helped with the car-pooling system and edited the MIA's newsletter. In the process, she got no less than 17 tickets: some for allegedly driving too fast, others for driving too slowly.



Edgar D. Nixon



Edgar D. (“E. D.”) Nixon and the NAACP. Nixon was a 56-year-old, homespun railroad porter from Alabama. He was neither educated nor cultivated. Since 1938 he had served as president of the Montgomery local of A. Philip Randolph’s Brotherhood of Sleeping Car Porters union. He was the former president of the local and state branches of the NAACP, as well as president of the Progressive Democratic Association. He was well known in Montgomery for his efforts to help other blacks and was respected by many blacks and whites, although the upper-middle-class blacks who provided the main leadership of the NAACP were put off by Nixon’s lack of education and social polish.

Reverend Martin Luther King, Jr.

Reverend Dr. Martin Luther King, Jr. and the Montgomery Improvement Association. Martin Luther King, Jr. came from a line of preachers. His father succeeded his grandfather as pastor of the Ebenezer Baptist Church in Atlanta, Georgia. King graduated from Morehouse University in Atlanta in 1948, received a B.D. from Crozer Theological Seminary in Pennsylvania in 1951 and Ph.D. in theology from Boston University in 1955. He had just become the new minister of the Dexter Avenue Baptist Church in Montgomery in 1954. He was 26 years old at the time of the Montgomery bus boycott. In addition to being an eloquent preacher and a highly educated theologian, King became a disciple of Mahatma Gandhi's nonviolent, civil disobedience strategy for achieving social change. The Montgomery Improvement Association (MIA) was formed by ministers and black leaders on December 5, 1955 to run the bus boycott.



Reverend Ralph Abernathy



Reverend Ralph D. Abernathy was a native of west Alabama, who had come to Montgomery to attend Alabama State University and had remained when he was offered the position of pastor of Montgomery's First Baptist Church (black). He was 29 at the time of the boycott and, along with E.D. Nixon, had taken a leading role in formulating the MIA's three demands for ending the boycott. During the boycott he chaired the MIA's negotiating committee, and became Martin Luther King's closest friend and ally. Following King's assassination in 1968, Abernathy would succeed King as president of the Southern Christian Leadership Conference.

Jack Crenshaw, attorney for the Montgomery Bus Lines

Jack Crenshaw, attorney for the Montgomery City Lines. The Montgomery City Lines was a private enterprise with the headquarters of its parent company, National City Lines, in Chicago, which had a franchise from the city of Montgomery to operate the city bus line. Jack Crenshaw, a very prominent Alabama attorney, was the company's legal representative in Montgomery. He proved intransigent in his insistence that any modification of the segregation policy was illegal under existing city and state law. Crenshaw was a graduate of Harvard Law School and a highly intelligent lawyer. He was a political ally of the racially moderate governor of Alabama, James Folsom. Despite these facts, Crenshaw proved incapable of viewing a moderate compromise as a way of heading off or at least delaying a full attack upon segregation and white supremacy. He appears to have been a staunch segregationist like his father, who had been president of the Alabama Bar Association and co-author of a book that asserted that the defense of the "railroaded" "Scottsboro Boys" in the 1930s was a Communist plot to challenge racial segregation in the South.

Mayor William "Tacky" Gayle

William A. ("Tacky") Gayle, mayor of Montgomery and one of the three city commissioners. Gayle was from the middle- and upper-class south side of Montgomery, and was the brother-in-law of a Birmingham industrialist, one of the most influential businessmen in the state. Gayle had been a city commissioner since 1935 and a stalwart of the political machine that ran the city government. In the increasingly racially polarized spring 1955 election, however, although Gayle won re-election, he was the only survivor of the once dominant city machine. He now found himself sandwiched between two antagonistic new commissioners. One (Clyde Sellers) was an uncompromising segregationist, who had appealed on racial grounds to the white middle class in south Montgomery and the numerous, lower middle-class whites who had surged into the east side of Montgomery in the previous dozen years. The other (Frank Parks) was a class-emphasizing adversary of Montgomery's wealthy, who carried the black precincts and those of the poorer and lower middle class whites. Caught in the shifting political situation in Montgomery, Gayle, a racial moderate who had followed the machine's paternalistic segregationist policies for years, found it difficult to manage the contending forces and to steer the city in a progressive new direction. During the boycott, Gayle joined the White Citizens' Council.

James J. Bailey

James J. Bailey was the manager of a downtown furniture store and president of the Montgomery Furniture Dealers Association and part of the [Business] Men of Montgomery. The Men of Montgomery was a group of forty of the leading white businessmen who had organized in October 1955, after the city had lost bids for four new factories to other cities. Their initial goal was to create a more favorable situation to encourage new businesses to come to Montgomery. They began by seeking an improved airport terminal. With the initiation of the bus boycott, this business group recognized that the boycott was bad for business at the time and in regard to enticing factories of national corporations in the future. They tried to negotiate an end to the boycott. The business community in the South, however, was often split over the issue of desegregation. The Men of Montgomery were seen by many whites as “traitors” and were unable to put any new proposal on the table. Bailey generally shared the views of progressive business leaders who sought improved race relations as a path to industrial development and community prosperity. He told the interracial committee, “I came here prepared to vote for liberalization of interpretation of the city’s laws with certain conditions.”

Reverend G. Stanley Frazer

Reverend G. Stanley Frazer was the minister of Montgomery's St. James Methodist Church (white). Like Martin Luther King, Jr., he came from a family of clergymen. His father and two brothers were also Methodist ministers. The Frazers were leading segregationists in Alabama's Methodist conference. After the U.S. Supreme Court's decision in 1954 declaring segregated public schools unconstitutional, Frazer led his church in establishing St. James School so that there would be a private all-white school should Montgomery's public schools ever actually be integrated. He was, nevertheless, open to finding some pattern of seating on the buses that would be more acceptable to black riders, as long as segregation was preserved, and he proposed an alternative seating plan to the committee.

The Mediator: Reverend Henry Parker

Reverend Henry Parker was an 84-year old, white minister at the First Baptist Church in Montgomery. He was relatively impartial and tried to get the parties to come to an agreement. He called the parties together for several meetings in December 1955 until he had a disagreement with Reverend King at the meeting on December 19, 1955. At the meeting on December 17, 1955, he might have been able to help the white segregationists and the black bus boycotters find a solution that would have been acceptable to all parties.

Pro-Segregationists Positions and Interests

Positions:

- Segregation had been part of the daily life for decades and was needed to maintain white supremacy.
- The Montgomery City Lines claimed that its hands were tied by state and local laws.
- The White Citizens Council stressed white supremacy, the threat of communism posed by the civil rights movement, the threat to white dignity and the threat to the sanctity of white womanhood.

Interests:

- Fear of what blacks might be able to do if they had any control since they were more than a third of Montgomery's population.
- Recognition of African Americans as equal was inconsistent with the concept of blacks as inferior and second class citizens and would produce psychological and social upheaval.
- Montgomery City Lines was interested in ending the bus boycott. The bus company was losing the daily fares of nearly 40,000 black passengers who provided about 65% of the income for the Montgomery City Lines.
- The Businessmen of Montgomery had an economic interest in ending the bus boycott because it was hurting their business in the short-term and ruining their chances for increased economic prosperity in the long-run by making Montgomery look like a bad place for business. However, they were afraid to directly confront the segregationist arguments of the city commissioners and other political leaders.

Anti-Segregationists Positions and Interests

Positions:

The black bus riders/bus boycotters made three demands:

- Black riders should be treated courteously by bus drivers
- Bus riders should be seated on a first come, first serve basis
- The bus company should hire black bus drivers.

The first item was nonnegotiable. The other two were subject to negotiation.

Interests:

- Respect for African American as human beings.
- Equal access and treatment for black American in public places and facilities,
- Increased economic opportunities for blacks.
- An end to white supremacy, second-class citizenship and the recognition of equal rights and opportunities for black Americans.

Directions for the Mock Mediation

Divide into groups of ten and assign roles:

1. Jo Ann Robinson, Women's Political Council
2. E. D. Nixon, Brotherhood of Railway Sleeping Car Porters
3. Rev. Martin Luther King, Jr.
4. Rev. Ralph Abernathy
5. Jack Crenshaw, attorney for the Montgomery City Lines Bus Company
6. Mayor Gayle
7. James J. Bailey, white businessman
8. Rev. G. Stanley Frazer
9. Rev. Henry Parker, The Mediator
10. An Observer/recorder/reporter

The Roles:

- The participants should negotiate in a manner consistent with their characters and interest, but use conflict resolution skills, especially active listening.
- The mediator should use the Steps in Mediation to help the parties to come to a resolution.
- The observer/recorder/reporters do not participate directly in the mediation. They observe the process and take notes.

Steps in Mediation

1. Mediator introduces himself and the disputants and sets the ground rules—no triggers, no interruptions, respect each other, and agree to work together on resolving the issue.
2. Each side tells story
3. Mediator helps disputants to identify facts and issues through questions, paraphrasing and reframing
4. Mediator summarizes and the parties agree on issues and interests
5. Mediator helps disputants brainstorm alternative solutions
6. Mediator helps disputants to evaluate, discuss and revise solutions
7. Optional Caucus: sometimes the mediator may speak separately with each of the disputants
8. Mediator helps disputants agree on a solution
9. Mediator writes down the agreement, including what to do if the conflict recurs.

Debriefing

Discuss any discomfort playing the roles of the segregationists.

Discuss the Process:

- To what extent did the parties use active listening skills?
- To what extent did the parties brainstorm and evaluate possible alternatives?
- To what extent were the parties able to articulate their interests?
- To what extent did rhetoric get in the way of pursuing the parties' interests?

Discuss the Results:

- Were the parties able to reach a mutually acceptable solution? Why or why not?
- To what extent were the roles played with historical accuracy?

Compare the process and results from the different groups:

- Discuss similarities and differences
- Discuss reasons for similarities and differences

Compare the results of the mock mediation with what actually happened in history

What would have had to have been different in history for a compromise to have been reached?

Discuss whether a compromise solution makes sense in this situation where fundamental rights rather than economic or other interests are involved.

Is mediation the best vehicle when fundamental rights are at issue?

What Really Happened...

- There was no mediator at the December 17, 1955 meeting. The participants circled around trying to find a compromise about where the white reserved section on buses should end, but the members were unable to come to an agreement.
- On December 19, the committee met again but with one new member: Luther Ingalls, founder of the Montgomery White Citizens Council. Rev. King objected to his inclusion on the committee.
- On December 27th, the bus company laid off 32 employees because revenues had declined dramatically.
- The first week of January 1956, the manager of the bus company informed the three city commissioners that the Montgomery City Lines faced imminent bankruptcy.
- The commissioners approved an emergency fare increase.
- On Jan. 9, 1956, the Montgomery Improvement Association asked for another negotiating session with the city commissioners.
- At that meeting, Fred Gray, attorney for the local NAACP, offered to modify the seating plan to specify that as seats became available in the front or back of the bus, riders seated near the middle could move to them, white moving forward and blacks moving back.
- The segregationists, fearing that they were looking weak, hardened their position.
- By January 18, the white members of the committee issued a report admitting failure to find a resolution.

The press enters...

- The Montgomery Advertiser started a series of letters and articles about the boycott in January 1956
- Within a week, the topic had been picked up by national print and electronic media, which provided sympathetic accounts of the peaceful protests buy Montgomery's black workers now voting with their feet against being forced to give up their seats and sit in the back of the bus.
- Financial support began to arrive for the boycott effort from liberal individuals and groups in the North, including various religious groups, the Jewish community, which had long sympathized with the racial oppression of black Americans, the NAACP, and a number of liberal union.
- The MIA was able to buy station wagons to use as taxis.
- The Montgomery city commissioners tried to break the boycott by dividing the black leader.
- As the boycott continued, a white backlash occurred. The membership of the White Citizen's Council doubled from 6,000 to 12,000 during February 1956.

Violence, harassment and law suits



Dr. King arrested, February 1956

- On Jan. 30, 1956 a bomb was thrown onto the porch of the parsonage where Rev. King lived. No one was hurt. E.D. Nixon's house was attacked and there were other bombings.
- The Men of Montgomery arranged to conduct a formal mediation of the controversy and met with both side constantly through February 1956 but the leaders of both sides had given up on trying to reach a compromise.
- The blacks filed a law suit in federal court on February 1 claiming that segregated buses violated the Fourteenth Amendment.
- White segregationists turned to the states courts to maintain segregated bus lines.
- The city now took the position that the bus boycott was illegal and 89 African Americans, including Rev. King and 23 other ministers, were indicted for conspiring to boycott.
- King was arrested, found guilty in a state court and sentenced to pay a \$500 fine.
- This dramatic action against peaceful 35 protestors brought even greater national media attention to the boycott.

Moot Court, February 1956

- On February 1, 1956, following the bombings of the homes of King and Nixon, black attorney Fred Gray had filed a suit, *Browder v. Gayle*, in federal district court on behalf of five local black women who had previously ridden the racially segregated Montgomery bus lines.
- On behalf of these five plaintiffs, Gray asked the court to declare both the state statutes and city ordinances requiring segregation on buses as unconstitutional violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment and to enjoin (prohibit) the enforcement of such unlawful segregation.
- The defendants in the suit were the members of the Board of Commissioners and the Chief of 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.
- Since the issue of how African Americans may legally enter a bus and where they may legally sit involves individual rights and dignity rather than purely economic or ideological interests, it offers an example of a situation where the courts should be used to determine the rights involved.
- We will conduct a mock trial using the facts of this case and compare the results of the moot court to that of the mock mediation.
- A moot court is a mock appellate court hearing. The court, composed of a panel of judges or justices, is asked to rule on a lower court's decision. No witnesses are called, nor are the basic facts of the case in dispute. The focus is on the application, fairness or constitutionality of the law.

Fred Gray, attorney for plaintiffs



Fred Gray was a young African-American lawyer and civil rights advocate. A native of Montgomery, Alabama, he was an honors graduate from Alabama State College and had obtained a law degree on a scholarship at Case Western Reserve University in Cleveland, Ohio. Passing the Alabama bar exam in the fall of 1954, he became the twelfth black lawyer in the state, the second in Montgomery. The 24-year-old Gray immediately became a militant in the crusade for equal rights and within months, despite his youth, was one of the leaders of the black community in Montgomery. As a licensed minister of the Church of Christ, Gray also worked on weekends as a preacher. Gray was asked by Edgar Nixon to defend Rosa Parks following her arrest on December 1, 1955. He also worked with the NAACP lawyers and local white liberal attorney Clifford Durr starting at the end of December 1955 in preparation for filing a suit in federal court. Gray was one of the spokespersons for the Montgomery Improvement Association in many of the negotiations with the city commissioners.

Walter Knabe, attorney for defendants

Walter Knabe (“Nob-aye”) was the City Attorney for the City of Montgomery. Born in Montgomery in 1898, the son of an attorney, he graduated from Harvard Law School; and began to practice law in Montgomery in 1927. He served as an assistant attorney general, and became chief city attorney in 1951. Knabe was a specialist in municipal law. He had been involved in negotiations from the beginning. His position was that change in the segregated seating arrangement was illegal and that the Supreme Court’s 1954 decision in *Brown v. Board of Education* was not applicable to buses because *Brown* had not reversed *Plessy v. Ferguson* outside of the area of public schools.

The Judges: Richard Rives, Frank Johnson and Seybourn Lynn

- The Fifth Circuit Court of Appeals included as Montgomery's representative, Judge Richard Rives, who was allied with the comparatively liberal faction in local politics. However, like most southern federal judges, he was not opposed to segregation. In fact, his actions before President Truman appointed him to the bench had hindered registration of black voters.
- Federal Judge Frank Johnson, Jr., was an upstate, hill-country Republican newly arrived from the northern part of Alabama, who had recently been appointed by President Dwight Eisenhower and confirmed by the U.S. Senate only in January 1956. Johnson was relatively unknown in Montgomery and was not yet the legendary anti-segregationist judge he would become.
- The third of the panel of three federal judges to sit on the Montgomery bus boycott case was Judge Seybourn Lynne of Birmingham, Alabama, an appointee of President Truman and a firm supporter of segregation.

The Precedents

- The U.S. Supreme Court in *Brown v. Board of Education* clearly announced that “in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.” However, the Supreme Court did not explicitly state that “separate but equal” public facilities, such as those in local transportation, were unconstitutional and the logic of its opinion seemed only to be applicable to public schools.
- A decision by an appellate court in the Fourth Circuit in *Flemming v. South Carolina Electric and Gas* (1955) had held segregated city buses unconstitutional. It was neither affirmed nor overturned by U.S. Supreme Court because it was not a final decision. Alabama is part of the Eleventh Circuit, so that a decision from the Fourth Circuit, which has not been affirmed by the U.S. Supreme Court, is not binding precedent.

Plaintiffs' arguments

- The clear implication of the Brown decision is that the “separate but equal” doctrine of *Plessy v. Ferguson* (1896) has been overruled.
- There have been a series of U.S. Supreme Court opinions from 1938 through 1956 outlawing separate but equal facilities for blacks in higher education,
- In *Morgan v. Virginia* (1946), the Supreme Court held that a state statute requiring segregated seats in interstate buses was an unconstitutional burden on interstate commerce.
- The Court made clear that its ruling in Brown was not limited to public education when it remanded cases involving segregated recreational facilities in city parks “for consideration in light of the Segregation Cases” and the Fourth Circuit explicitly repudiated separate but equal recreational facilities as constitutional.
- The Fourth Circuit in *Flemming v. South Carolina Electric & Gas Co.* (1955) voided segregation in intrastate transit as unconstitutional.

Defendants' arguments

- *Plessy v. Ferguson* was not explicitly overturned by Brown in regard to intrastate transportation and so the “separate but equal” doctrine still applies.
- Local transportation is not the same as education.
- Local transportation does not impact interstate commerce.
- The Fourth Circuit decision in *Flemming* outlawing segregation on local buses had not yet been affirmed by the U.S. Supreme Court.
- This court should not extend what was stated by the U.S. Supreme Court in Brown beyond the actual facts of the case.
- The 10th Amendment reserves all powers not delegated to the US to the states, and this includes intrastate transportation.
- The abolition of segregation would lead to violence.

Directions and role for the Moot Court

Divide into four teams:

1. Fred Gray and other NAACP attorneys for the plaintiffs (black bus boycotters)
2. Walter Knabe and other attorneys for the defendants (Montgomery City)
3. Judges Rives, Johnson and Lynne
4. Observer/recorder/reporters (newspaper reporters)

The Roles:

1. Fred Gray and other NAACP attorneys bringing the lawsuit on behalf of five black women riding the Montgomery City buses and others will work together as a team to develop their arguments.
2. Walter Knabe and other attorneys defending the Montgomery City Commissioners, the Chief of 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 should work together to develop their arguments.
3. The judges should select a chief judge who will preside as Judge Rives and should work together to develop questions they might want to ask those seeking and those opposing the issuance of a declaratory judgment and injunction.

Arguments and Decision for the Moot Court

Arguments (20 minutes per side or 4 minutes per person)

1. Those seeking the declaratory judgment, that is a declaration by the court that the state and city bus segregation laws are unconstitutional, and an injunction to prohibit their enforcement, (plaintiffs argue first).
2. Those arguing against the declaratory judgment and injunction (defendants argue second)
3. The judges may interrupt with short, relevant questions.
 - The observer/recorder/reporters (or newspaper reporters) should observe and take notes, using the observer's form.

The Decision (10 minutes)

1. The chief judge will ask the other judges for their inclinations
2. If it is not unanimous, the judges will discuss the merits and try to influence each other
3. The chief judge will seek a final decision (which may be split) and reasoning behind the opinion(s).

Debriefing

1. Discuss the result of the moot court.
2. Discuss the strongest arguments for each side.
3. Compare the results of the moot court with what actually happened in history.
4. Analyze when litigation should be used to enforce fundamental rights and when mediation should be used to help parties to understand their interests and to identify areas for compromise.

The decision in Gayle v. Browder

- On June 5, 1956, the three-judge panel decided the case of *Browder v. Gayle*. The court divided two to one.
- The majority opinion written by Judge Rives, and concurred in by Judge Johnson, invalidated racial segregation on intrastate buses. Their opinion held that “the statutes and ordinances requiring segregation of 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.” Judge Rives found that *Plessy v. Ferguson* had been “impliedly, though not explicitly, overruled” by the series of recent U.S. Supreme Court cases outlawing segregation on interstate buses and railroads as well as public education (*Brown*) and recreational facilities. He also noted the recent Fourth Circuit decision in *Flemming v. South Carolina Electric & Gas Co.* that voided segregation in intrastate transit as unconstitutional.
- Judge Lynne sustained segregated local buses. He concluded that *Brown* as well as the interstate bus transportation cases left the “separate but equal” doctrine unimpaired regarding local transportation and claimed that *Flemming* was not definitive because it had not been affirmed by the U.S. Supreme Court.

The Facts continued



Rev. Abernathy's house was bombed, 1958

- On November 13, 1956, the U.S. Supreme Court upheld the federal court's decision in *Browder v. Gayle* in a *per curiam* ruling.
- In Montgomery the boycott came to an end, and African-American passengers began boarding buses again on December 21, 1956. Black passengers now sat where they wanted.
- However, desegregation did not occur without incident. Violence against black riders increased.
- A pregnant black woman passenger was shot in the leg while riding a bus.
- Reverend Abernathy's house and church were bombed, as were three other black churches and the homes of a white liberal and a black hospital orderly.
- As a result of such violence, the Montgomery city commissioners suspended bus service at first after dark and then altogether. The bombers—Ku Klux Klansmen—were arrested and full bus service resumed in March 1957. The buses were now integrated, and in time (1962), black drivers were hired.
- Under the pressure of the boycott sustained by the black community over twelve months, national public opinion and most directly as a result of a federal court order, Montgomery became one of the first southern cities to end racial segregation on its public transportation system.

The Legacy

- The Montgomery Bus Boycott was important not only for the concrete issues that it raised and won but also because it helped to launch a mass social movement—the modern civil rights movement.
- The boycott showed that nonviolent, direct action could work. It mobilized blacks and inspired black pride and thrust the Reverend Dr. Martin Luther King, Jr. into national prominence initially as the primary spokesman for non-violent protest and civil disobedience against racial oppression in the United States.
- Most immediately, it spawned additional boycotts in Birmingham and Tuskegee, Alabama, and in other southern cities including Tallahassee, Florida.
- While the actual mandate to end segregation on local buses was won in the courts, the direct action boycott was critical for bringing the issue of segregation to national attention and for altering the local power relationships in the South by engaging northern liberal opinion, media and money to support desegregation.
- From the mid-1950s to 1970, in what is sometimes called the “Second Reconstruction,” race relations in the South were dramatically changed with the end of the doctrine of “separate but equal” and its replacement by the doctrine of equal rights for all U.S. citizens regardless of race.
- Out of the boycott arose an informal network of southern Baptist churches. In January 1957, black ministers from eleven southern states met at the Ebenezer Baptist Church of Martin Luther King, Sr. in Atlanta to discuss the value of nonviolent protest and to plan for future direct action against Jim Crow laws and disenfranchisement in the South. These black Baptist ministers formed the Southern Christian Leadership Conference (SCLC), which took a leading role in the emerging civil rights movement in the 1960’s.

The Civil Rights Movement

- In August 1955, Emmett Till, a fourteen-year-old black teenager from Chicago, visiting relatives in rural Mississippi, was brutally beaten, shot and his body thrown in the river for allegedly being rude to a white woman.
- In 1957, President Dwight Eisenhower had to use federal troops to stop angry whites inspired by Governor Orval Faubus, from preventing the desegregation of Central High School in Little Rock, Arkansas.
- Despite such violence, the civil rights movement grew in the 1960s.
- In February 1960, four black college students in Greensboro, North Carolina, staged an impromptu sit-in at a segregated lunch counter in a Woolworth's discount store.
- Soon black students, sometimes joined by whites, were staging sit-ins in more than a hundred southern cities, and a new more radical organization, the Student Nonviolent Coordinating Committee (SNCC), was formed as a result.
- The following year, "freedom rides" were staged by CORE and SNCC despite violent responses in Alabama and Mississippi.
- With the support of the administration of President John F. Kennedy and the use of federal troops, token integration of the main universities in Mississippi and in Alabama was accomplished, despite protests by their governors and, in the case of Mississippi, rioting by white mobs that led to two deaths.

"I Have a Dream"

- In 1963, Mississippi NAACP leader Medgar Evers was murdered and television projected images from Birmingham, Alabama, where Public Safety Commissioner Eugene ("Bull") Connor used attack dogs and fire hoses against peaceful SCLC-led demonstrators and where four black children were killed in the bombing of a Birmingham church.
- Although King was imprisoned and wrote his famous "letter from the Birmingham jail" endorsing the continued use of non-violent demonstrations the civil rights demonstrators had the moral high ground and outlasted their opponents.
- The growing power of the movement and its attempt to pressure the president and the Congress into greater action led to the mass March on Washington in August 1963 with King's "I Have a Dream" speech at the Lincoln Memorial.



Civil Rights March, Washington, D.C.,
August, 1963

Civil Rights Violence



State troopers use tear gas and clubs on right-to-vote demonstrators marching from Selma to Montgomery, Alabama, March 1965

Civil Rights Legislation

- After Kennedy's assassination, President Lyndon B. Johnson skillfully obtained passage of the Civil Rights Act of 1964, a milestone that outlawed discrimination in public accommodations and in employment, and authorized the Justice Department to file suit to implement desegregation.
- The civil rights movement next turned to registration of black voters. When in 1964, hundreds of college students and local volunteers sought to register blacks to vote in the so-called "freedom summer" in Mississippi, they were met with stiff resistance. Three civil rights workers, two whites and a black, were murdered.
- The following year, after continued demonstrations, including a massive protest march from Selma to Montgomery, Alabama, Congress adopted the Voting Rights Act of 1965, which outlawed legally sanctioned disenfranchisement and voter intimidation.
- The Civil Rights Movement also helped to produce a "rights revolution" with more and more groups—women, Hispanic Americans, Asian Americans, homosexuals, older Americans, the disabled—drawing upon the ideology, rhetoric and the methods of the African-American civil rights movement in the streets, in the courts, and in the legislatures and executive offices.
- This is part of the legacy of popular empowerment that goes back to the American Revolution and its promise of equality and human rights.

Questions for Discussion

1. What was the role of women in the boycott, and what was the effect of their involvement? Did the boycott develop a sense of female empowerment, as well as black empowerment?
2. Why didn't segregationist whites accept the original modest demands of blacks for some compromises within the segregationist system?
3. Would the same historical effects have been achieved if the Montgomery bus boycott had been mediated to a successful conclusion on December 17, 1955, after less than two weeks of boycotting? What might have been lost if the boycott had not continued for more than a year and received extensive national media coverage?
4. When fundamental rights are involved, as they were in the Montgomery Bus Boycott, should you try to negotiate/mediate or use the courts to acknowledge and enforce these rights?
5. What might have been gained through mediation? What might have been lost?