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Brown v. Board of Education... and Beyond

An Inquiry Pack to Accompany [LegalTimelines.org](https://www.legaltimelines.org)

Inquiry Question: To what extent and why did the Supreme Court decision in *Brown v. Board of Education* (1954) require the support of the legislative and executive branches and additional decisions to integrate public schools?

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Introduction: Brown v. Board of Education (1954)¹

The 14th Amendment to the U.S. Constitution was ratified in 1868 in the aftermath of the Civil War. The 14th Amendment granted citizenship to formerly enslaved people and said that states must give all people “equal protection of the laws.” The amendment also gave Congress the power to pass laws to enforce the provisions (requirements) of the amendment.

However, almost 30 years later, in 1896, despite the promise of equal protection, the Supreme Court upheld (supported) segregation in public facilities in the *Plessy v. Ferguson* decision. Segregation is the policy or practice of separating people of different races, classes, or ethnic groups, in schools, housing, and public or commercial facilities, especially as a form of discrimination. In *Plessy*, the Supreme Court said that segregation was a matter of social equality, not legal equality; therefore, the justice system could not interfere. The justices said that as long as segregated facilities were of equal quality, segregation did not violate the U.S. Constitution. This concept was known as “separate but equal” and provided the legal foundation for “Jim Crow” segregation. Jim Crow laws were state and local laws that legalized racial segregation. These laws existed mostly in the South from the 1890s until the 1960s. They prevented African Americans from voting and required the segregation of schools, parks, libraries, restrooms, restaurants, and many other places.

By the 1950s, many public facilities had been segregated by race for decades, including many schools across the country. In many states, white children went to one school, and Black children went to a different school. Under segregation, all-white and all-Black schools had buildings, materials, and teachers, but often the all-Black schools had fewer resources, lower quality materials or facilities, and limited financial support. Because states provided fewer all-Black schools, they were often far away from students’ homes. Therefore, many Black children had to travel far to get to their school, often passing all-white schools on the way.

In Topeka, Kansas, a Black student named Linda Brown and her sister, Terry Lynn, had to walk through the Rock Island Railroad Switchyard to get to the bus stop for the ride to the all-Black Monroe School. Linda Brown tried to gain admission to the Sumner School, which was closer to her house, but her application was denied by the Board of Education of Topeka because of her race. The Sumner School was for white children only.

At the time, a Kansas law permitted, but did not require, cities of more than 15,000 people to maintain separate school facilities for Black and white students. On that basis, the Board of Education of Topeka elected to establish segregated elementary schools. The Browns felt the decision of the Board violated the Constitution. They and a group of parents of students denied permission to attend white-only schools sued the Board of Education of Topeka, alleging (claiming) that the segregated school system deprived Linda Brown and the other students of the equal protection of the laws required under the 14th Amendment.

The federal District Court decided that segregation in public education had a detrimental (harmful) effect upon Black children, but the court denied that there was any violation of Brown’s rights because of the “separate but equal” doctrine established in *Plessy*. The court said that the schools were substantially equal with respect to buildings, transportation, curricula (what was being taught), and educational qualifications of teachers. The Browns asked the U.S. Supreme Court to review that decision, and it agreed to do so. The Court combined Linda Brown’s case with similar cases from South Carolina, Virginia, and Delaware.

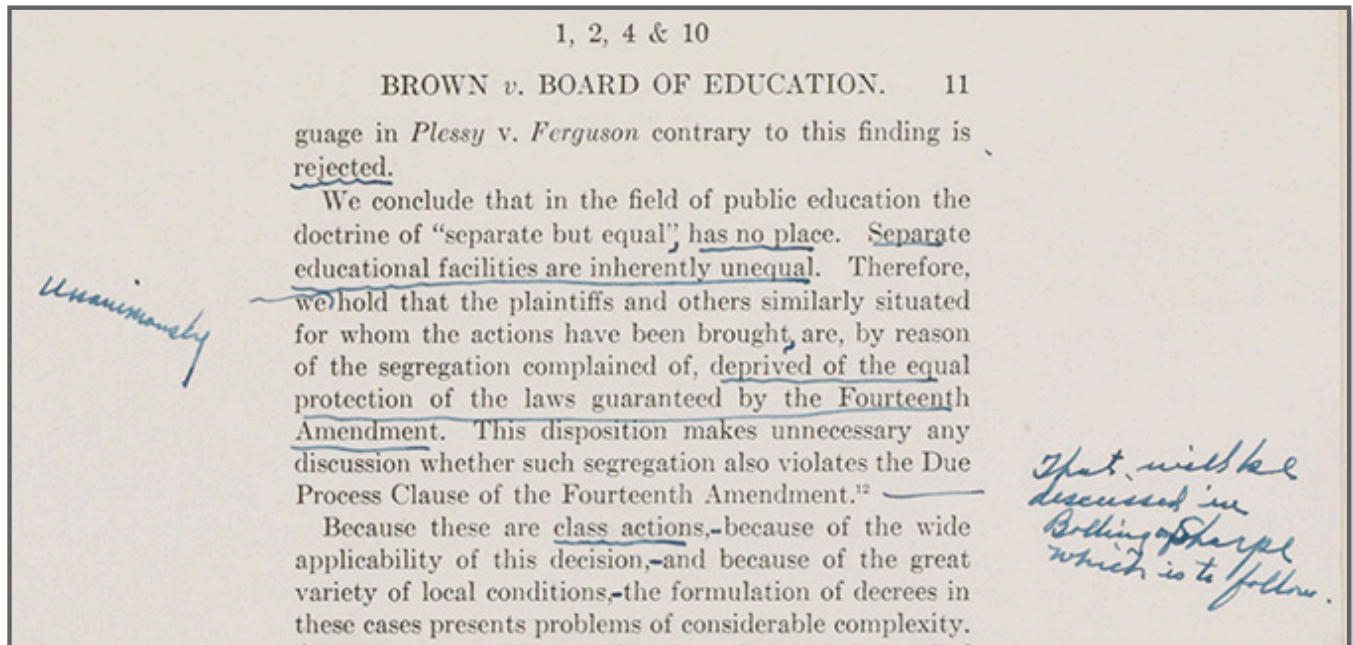
The Supreme Court ruled unanimously. meaning without any disagreement, (9-0) for the Browns and ordered the desegregation (ending of segregation) of public schools across the country. The case, *Brown v. Board of*

Education of Topeka, Kansas, became arguably the most recognizable of all Supreme Court cases. It is well known as the case that ordered the desegregation of public schools. But the problem of school segregation would not be solved quickly or without a fight from those who opposed desegregation. Some see the *Brown* decision as just the beginning of a long road to desegregated public schools.

The Desegregation of Public Schools: Brown v. Board of Education (I)

Brown v. Board of Education went to the Supreme Court where the question was: Does segregation of public schools based on race violate the Equal Protection Clause of the 14th Amendment? The Supreme Court found unanimously (9-0) for Brown that segregated public schools violated the Equal Protection Clause.

Source A: Chief Justice Earl Warren’s reading copy of the *Brown* opinion²



Source A Information: This source is the copy of the majority opinion Chief Justice Earl Warren used to read the decision in the Supreme Court courtroom. He inserted the word “unanimously” in pen and underlined some phrases for emphasis. The word “unanimously” does not appear in the official opinion. When Chief Justice Warren read the word “unanimously” aloud, he reported a wave of emotion throughout the courtroom.³ The other note appearing in the right margin reads: “That will be discussed in *Bolling v. Sharpe* which is to follow.” It refers to a case the Court decided on May 17, 1954—the same day *Brown v. Board of Education* was decided—that found racial segregation in District of Columbia Public Schools to be unconstitutional because it violated the Fifth Amendment. Unlike in *Brown*, the reasoning in *Bolling* was rooted in the Fifth Amendment instead of the 14th Amendment. This was because the 14th Amendment was only applicable to the states, and the District of Columbia was not a state. ([See source at Library of Congress.](#))

Glossary of key terms from the source:

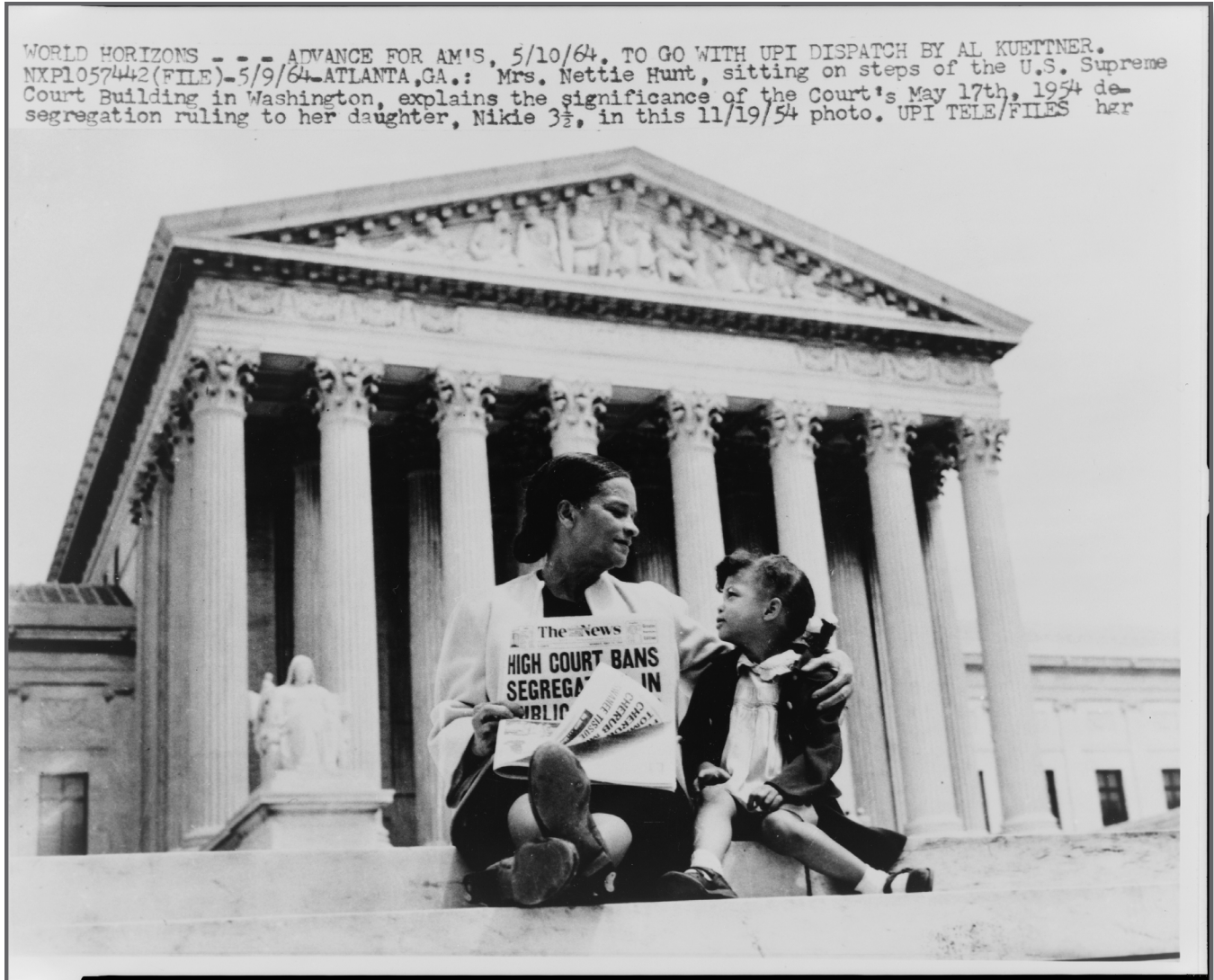
- *inherently*: by its very nature, a basic part of something
- *plaintiff*: a person or group who brings a court case against another person or group
- *unanimously*: without disagreement, with agreement from everyone

Questions to Consider for Source A:

- 1. Observe:** What do you notice first about this source?
- 2. Reflect:** What is the Supreme Court's reasoning for their decision? Why might Chief Justice Warren have thought it was important to write in "unanimous"? Re-read the underlined phrases: Why might Chief Justice Warren have underlined the phrases he did?
- 3. Question:** Write at least one question you have about this source.

Reaction to the Brown Decision

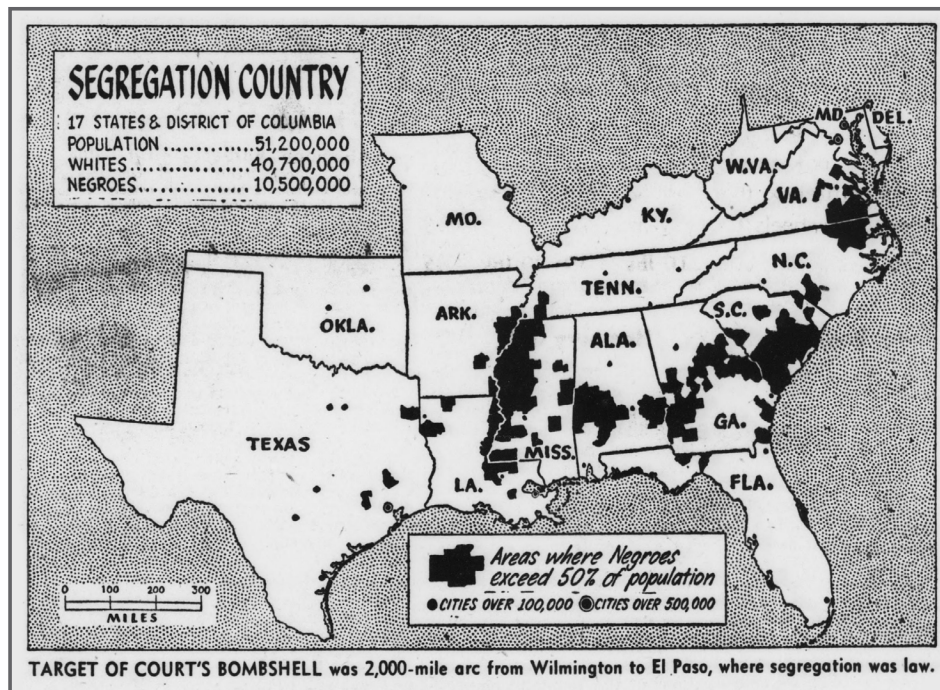
Source B: “Mrs. Nettie Hunt and daughter Nikie on the steps of the Supreme Court” (1954)⁴



Source B Information: This photo of Nettie Hunt and her young daughter, Nikie, sitting on steps of Supreme Court was taken on November 19, 1954. It is part of the New York World-Telegram & Sun Newspaper Photograph Collection at the Library of Congress. ([See source at Library of Congress.](#))

While segregated schools were in no way located only in the South, there were more cities with large numbers of Black residents in that region. These areas were also more likely to have *de jure* (or made by law) segregation. Therefore, the *Brown* decision had a particularly strong impact striking down laws in this region as unconstitutional.

Source C: “Segregation Country” (1954)⁵



Source C Information: This map was part of a full page story entitled “Review of the Week: Supreme Court Kills Segregation” in *The Evening Star* on May 23, 1954. *The Star* was a Washington, DC-based daily newspaper that ran from 1852 until 1981. ([See source at Library of Congress.](#))

Transcript of Key Details in Source C:

Top Left Key: “SEGREGATION COUNTRY, 17 STATES & DISTRICT OF COLUMBIA, POPULATION ...51,200,000, WHITES... 40,700,000, NEGROES... 10,500,000”

Bottom Center Key: filled in areas, “Areas where Negroes exceed 50% of population”... filled in circle, “CITIES OVER 100,000”... circle within a circle, “CITIES OVER 500,000.”

Caption: “TARGET OF COURT’S BOMBSHELL was 2,000-mile arc from Wilmington to El Paso, where segregation was law.”

Questions to Consider for Sources B and C:

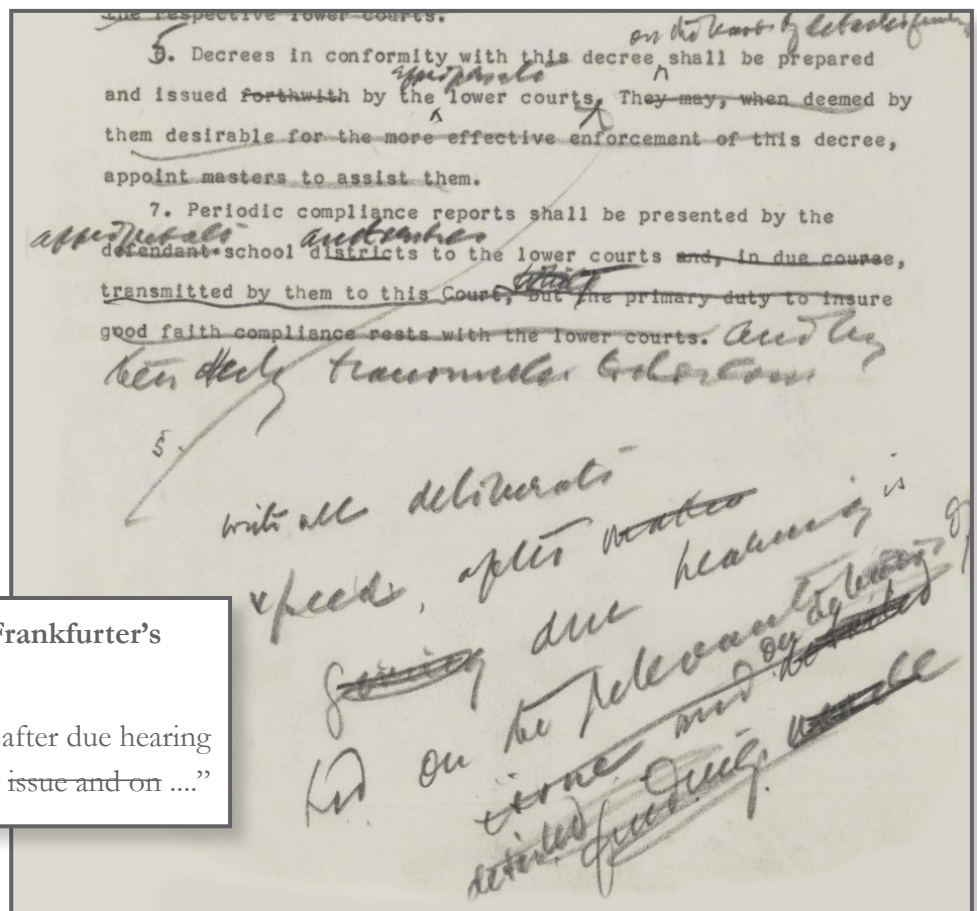
- 1. Observe:** What do you notice first about each of these sources?
- 2. Reflect:** The caption of the photograph (Source B) states that Ms. Hunt is explaining “the significance of the Court’s May 17th, 1954 de-segregation ruling to her daughter.” What do you think she might have said to her daughter based on the Court’s decision? What information do you learn from the map (Source C)? How might that impact (affect) the reaction to the Supreme Court’s *Brown* decision? Taken together, what do these two sources suggest about the reaction to the *Brown* decision?
- 3. Question:** Write at least one question you have about this source.

“All Deliberate Speed”: Brown v. Board of Education (II)

After the *Brown* decision, in a show of resistance, several states did not immediately desegregate their public schools. During the following term in 1955, the Court heard additional arguments in a second case, *Brown v. Board of Education of Topeka, Kansas (II)* regarding enforcing the *Brown* (1954) decision. Justice Felix Frankfurter drafted the Court’s decree, meaning an official order to take a certain action, to desegregate schools. In edits, he replaced the word “forthwith” (meaning immediately or without delay), which was proposed by National Association for the Advancement of Colored People (NAACP) lawyers who wanted to achieve desegregation more quickly. In its place he inserted the phrase “with all deliberate speed” which originated years earlier with Justice Oliver Wendell Holmes, Jr.

Chief Justice Earl Warren delivered the decree for the Court. After his retirement, Chief Justice Warren acknowledged that “all deliberate speed” was chosen because “there were so many blocks preventing an immediate solution of the thing in reality that the best we could look for would be a progression of action.”⁶

Source D: Justice Felix Frankfurter’s draft decree to enforce the *Brown v. Board of Education* decision (1955)⁷



Transcription of Justice Frankfurter’s note:
 “with all deliberate speed, after due hearing is had on the relevant issue and on ...”

Source D Information: This source is a draft of the decree written by Justice Frankfurter on April 8, 1955, including handwritten changes noted by the justice. Chief Justice Warren adopted most of the draft including the phrase “with all deliberate speed” and delivered the Court’s decree. ([See source at Library of Congress.](#))

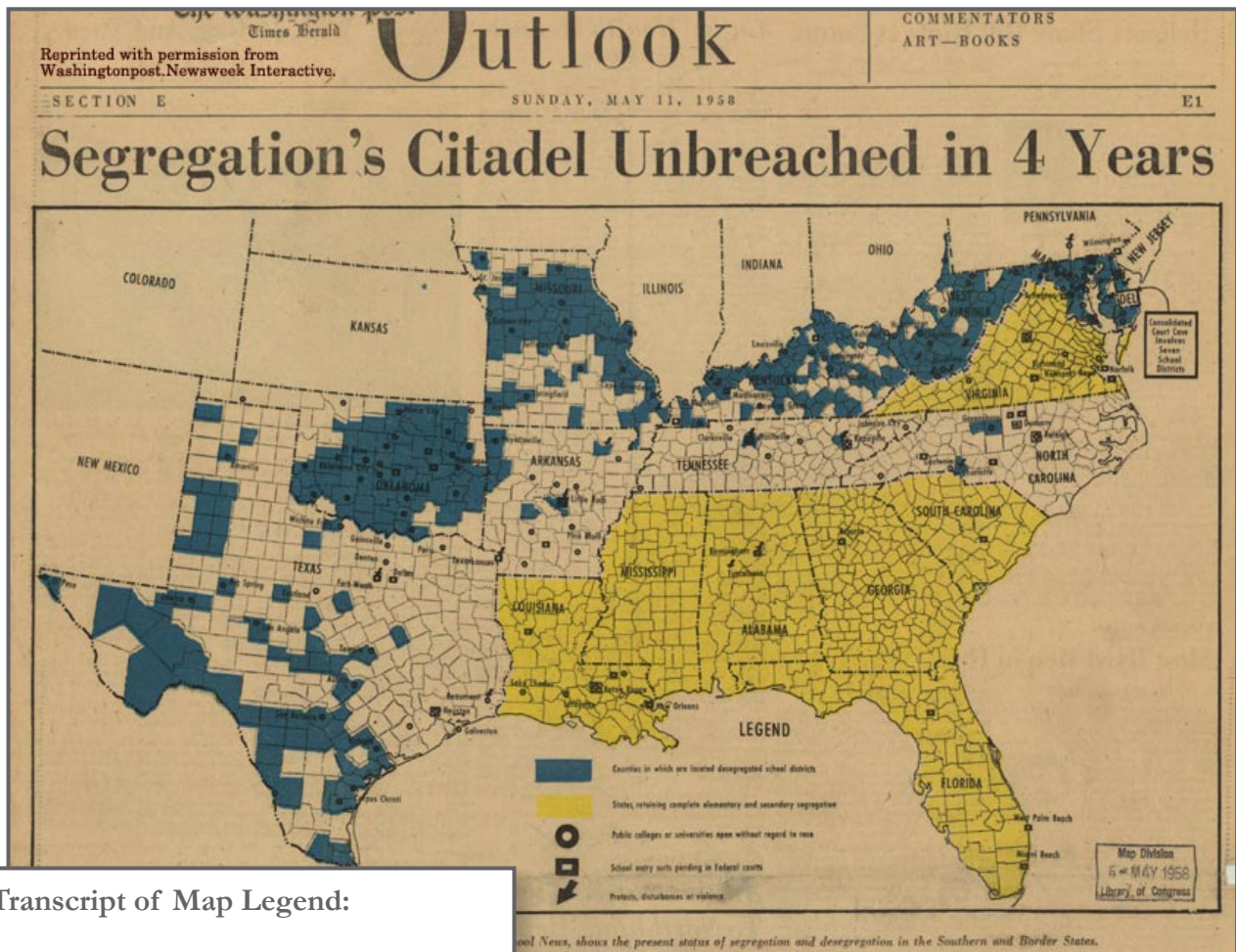
Questions to Consider for Source D:

- 1. Observe:** What do you notice first about this source?
- 2. Reflect:** Why might the Supreme Court have issued a decree to enforce the *Brown* decision during the Supreme Court Term after the *Brown* decision was announced? How does Justice Frankfurter changing “forthwith” to “all deliberate speed” change the meaning of the decree?
- 3. Question:** Write at least one question you have about this source.

“Massive Resistance”

Senator Harry Byrd of Virginia coined (created) the phrase “massive resistance” to describe the campaign waged by Southern states to resist desegregation after it was mandated by the *Brown v. Board of Education* decisions in 1954 and 1955.

Source E: “Segregation’s Citadel Unbreached in 4 Years” (1958)⁸



Transcript of Map Legend:

[Blue =] “counties in which are ... desegregated school districts”

[Yellow =] “states retaining complete elementary and secondary segregation”

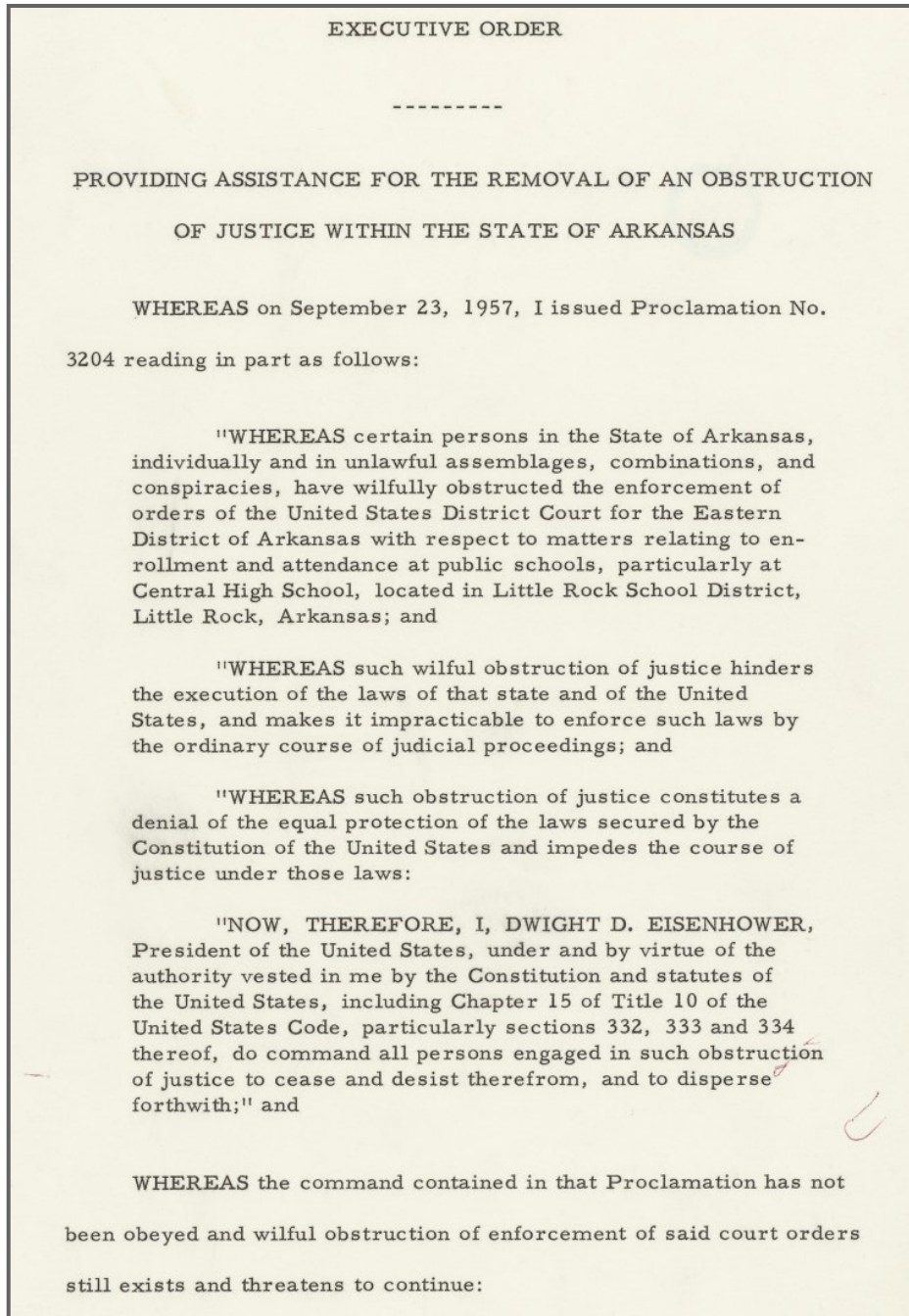
Source E Information: This map (and accompanying article) entitled “Segregation’s Citadel Unbreached in 4 Years,” appeared in the *The Washington Post and Times Herald* on May 11, 1958. After the Washington Post Co. purchased rival paper *The Washington Times-Herald*, the paper was known for a time (1954–1959) as *The Washington Post and Times Herald*. ([See source at Library of Congress.](#))

Glossary of key terms from the source:

- *citadel*: fortress
- *unbreached*: intact

Despite the *Brown (II)* decree to desegregate “with all deliberate speed,” massive resistance continued. In 1957, in response to massive resistance, President Eisenhower issued Executive Order 10730 deploying the National Guard (federal troops) to Little Rock, Arkansas, to enforce the *Brown* rulings by escorting Black students into Central High School. Executive orders are orders from the president to agencies of the executive branch that have the force of law but do not need approval from Congress.

Source F: Executive Order 10730 (September 23, 1957)⁹

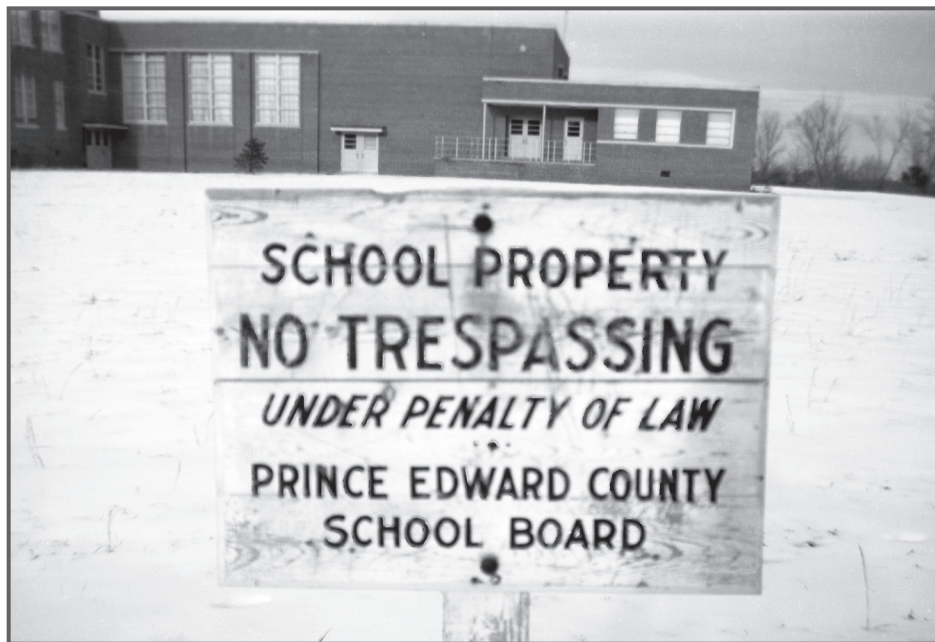


Source F Information: Executive Order 10730, issued by President Eisenhower on September 23, 1957, enforced the *Brown v. Board of Education* Supreme Court decision by “providing assistance for the removal of an obstruction of justice within the state of Arkansas.” ([See source at National Archives.](#))

When Prince Edward County, Virginia, was ordered to desegregate its public schools, it responded by not appropriating any money for the school system, meaning that it did not assign any money to the school system. This forced all public schools to close for five years. The county issued tuition vouchers for students to go to private schools—but there were no private schools for Black students. Therefore, Black students did not receive formal education from 1959 to 1963. Families sued Prince Edward County, arguing that the closing of the county’s public schools violated the 14th Amendment’s Equal Protection Clause.

The case, *Griffin v. School Board of Prince Edward County* (1964), ultimately went to the U.S. Supreme Court, which found for (supported) the families and ruled that the closing of the county’s schools denied Black students an education that was available to white students. Because the schools were closed for the express purpose of denying education to a group of children based on race, the action violated the Equal Protection Clause.¹⁰

Source G: No trespassing sign outside of Robert R. Moton High School in Virginia (1962-1963)¹¹



Source G Information: This photo, taken by Edward H. Peeples, shows a no trespassing sign and the exterior of Robert R. Moton High School, in Prince Edward County, Virginia. It was taken sometime during 1962 or 1963. (See source at [Virginia Commonwealth University](#).)

Questions to Consider for Sources E, F, and G:

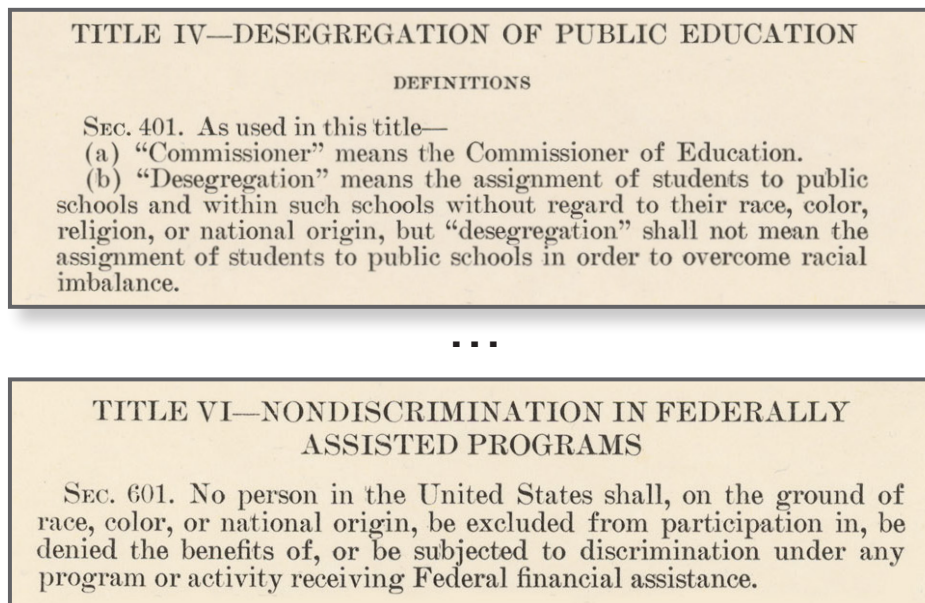
- 1. Observe:** What do you notice first about each of these sources?
- 2. Reflect:** What information do you learn from the map (Source E) about the reaction to the Supreme Court’s *Brown* decisions? How does this map compare to Source C? What do you learn about resistance to the *Brown* decisions from President Eisenhower’s Executive Order 10730 (Source F)? What power will the president use to combat the resistance? What do you learn about Prince Edward County, Virginia’s reaction to the *Brown* decisions and Executive Order 10730 from the photo (Source G)?
- 3. Question:** Write at least one question you have about these sources.

Civil Rights Act of 1964

Desegregation had been established by Supreme Court decisions and executive orders, but not before by congressional legislation (laws passed by Congress). Congress passed the Civil Rights Act and President Lyndon B. Johnson signed it into law on July 2, 1964. Title IV of the Civil Rights Act of 1964 established that discrimination in schools on the basis of race, color, religion, sex, or national origin violates federal law. Title VI of the act also prohibited (forbid) schools that receive federal financial assistance (virtually all public schools and universities receive money from the federal government) from discriminating against students based on race, color, or national origin.

The act also enforced the constitutional right to vote, gave federal courts the power to hear cases dealing with this law, authorized (gave power to) the attorney general to institute suits (to start lawsuits) to protect constitutional rights in public facilities and public education, extended the Commission on Civil Rights, prevented discrimination in federally assisted programs, and established a Commission on Equal Employment Opportunity.¹²

Source H: Civil Rights Act of 1964 (excerpts of Title IV and Title VI)¹³



Source H Information: This source shows excerpts from the Civil Rights Act of 1964. Title IV addresses the desegregation of public education, and Title VI requires that federally assisted programs not discriminate against students because of their race, color, or national origin. The Civil Rights Act was enacted by the 88th Congress and became effective on July 2, 1964. ([See source at National Archives.](#))

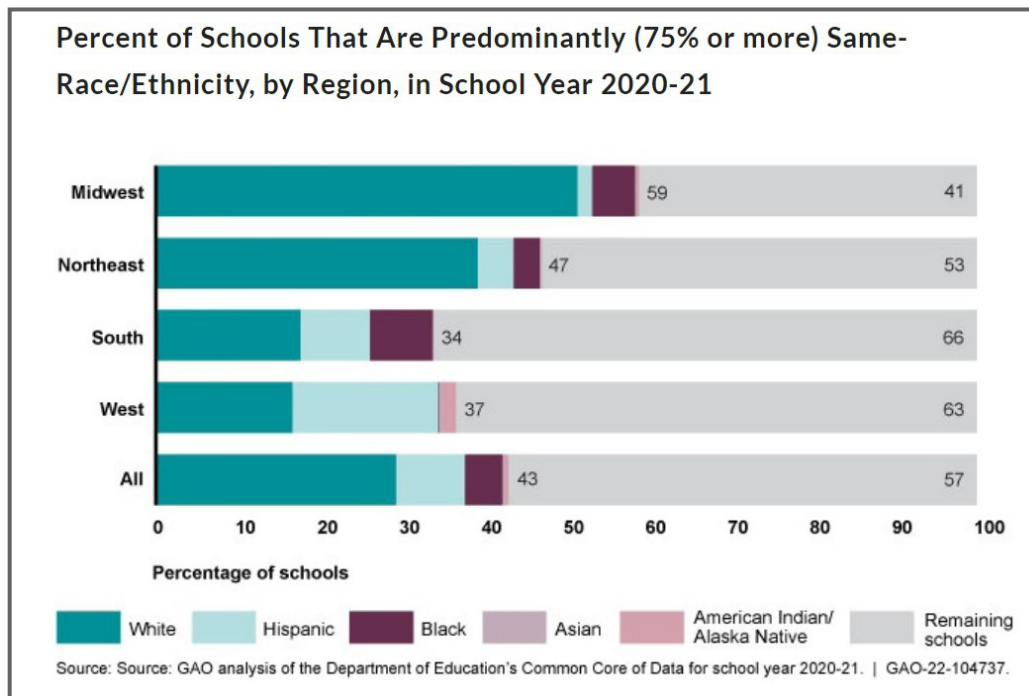
Questions to Consider for Source H:

- 1. Observe:** What do you notice first about this source?
- 2. Reflect:** What is the definition of desegregation in the Civil Rights Act of 1964? Why might Congress have also defined what desegregation is not? What types of organization might be required to desegregate because they receive federal funds?
- 3. Question:** Write at least one question you have about this source.

School Segregation Today

Even as the population of public school students in the United States becomes more diverse, schools remain divided along racial, ethnic, and economic lines. According to a United States Government Accountability Office (GAO) report, “[d]uring the 2020-21 school year, more than a third of students (about 18.5 million) attended schools where 75% or more students were of a single race or ethnicity. Because district boundaries often determine which school a student can attend, school district boundaries can contribute to continued division along racial/ethnic lines.”¹⁴ Patterns of housing discrimination also contribute to this.

Source I: Chart illustrating “Percent of Schools That Are Predominantly (75% or more) Same-Race/Ethnicity” (School Year 2020-2021)¹⁵



Source I Information: This chart was excerpted from a report titled “K-12 Education: Student Population Has Significantly Diversified, but Many Schools Remain Divided Along Racial, Ethnic, and Economic Lines,” published by the U.S. Government Accountability Office (GAO) on June 16, 2022. ([See source at GAO.](#))

Questions to Consider for Source I:

- 1. Observe:** What do you notice first about this source?
- 2. Reflect:** Which region has the highest percentage of schools that are predominantly of one race? List the other regions in descending order. Does anything surprise you? What conclusions can you make about the change in racial diversity in schools in the almost 70 years since the *Brown* decisions?
- 3. Question:** What do you still wonder about this source?

Inquiry Question

To what extent and why did the Supreme Court decision in *Brown v. Board of Education* (1954) require the support of the legislative and executive branches and additional decisions to integrate public schools?

Extension Inquiry Question

Study the data in the chart in Source I. Consider your own lived experiences in your education. Conduct further research about diversity in public schools. Answer the following question:

Has the promise of Brown v. Board of Education been achieved?

You may wish to consider the sources below:

- [“School Segregation Then & Now: How to Move Toward a More Perfect Union,”](#) Center for Public Education.
- [“K-12 Education: Student Population Has Significantly Diversified, but Many Schools Remain Divided Along Racial, Ethnic, and Economic Lines,”](#) U.S. Government Accountability Office.
- [“School Racial Demographics in the United States,”](#) Geographies of Education.
- [“U.S. public school students often go to schools where at least half of their peers are the same race or ethnicity,”](#) Pew Research Center.
- [“What school segregation looks like in the US today, in 4 charts,”](#) The Conversation.

Notes

- ¹ Street Law, Inc., “Brown v. Board of Education (1954),” LandmarkCases.org, <https://landmarkcases.org/cases/brown-v-board-of-education/>.
- ² “Earl Warren’s reading copy of Brown opinion,” May 17, 1954. Library of Congress Manuscript Division, Earl Warren Papers, <https://www.loc.gov/exhibits/civil-rights-act/civil-rights-era.html#obj084>.
- ³ See note 1.
- ⁴ “[Mrs. Nettie Hunt, sitting on steps of Supreme Court, holding newspaper, explaining to her daughter Nikie the meaning of the Supreme Court’s decision banning school segregation],” Photograph, 1954. From Library of Congress Prints and Photographs Division, <https://www.loc.gov/pictures/item/00652489/>.
- ⁵ “Segregation Country,” *The Evening Star* (Washington, DC), Newspaper Map, May 23, 1954. From Library of Congress Chronicling America, <https://chroniclingamerica.loc.gov/lccn/sn83045462/1954-05-23/ed-1/seq-29/>.
- ⁶ See note 6.
- ⁷ “Felix Frankfurter’s draft decree to enforce the Brown v. Board of Education decision,” April 8, 1955. From Library of Congress Manuscript Division, <https://www.loc.gov/resource/mcc.073/?sp=2&r=-0.263,0.053,1.735,1.391,0>.
- ⁸ “Segregation’s Citadel Unbreached in 4 Years,” *The Washington Post and Times Herald*, Newspaper Map, May 11, 1958. From Library of Congress Geography and Map Division, <https://www.loc.gov/exhibits/brown/images/br0140.jpg>.
- ⁹ Dwight D. Eisenhower, “Executive Order 10730, Providing Assistance for the Removal of an Obstruction of Justice within the State of Arkansas,” September 23, 1957, National Archives General Records of the United States Government, Record Group 11, <https://www.archives.gov/files/historical-docs/doc-content/images/eisenhower-little-rock-order.pdf>.
- ¹⁰ “Griffin v. School Board of Prince Edward County,” Oyez, <https://www.oyez.org/cases/1963/592>.
- ¹¹ Edward H. Peebles, “Robert R. Moton High School, Prince Edward County, Va., no trespassing sign, 1962-1963,” Photograph, 1962-1963. Virginia Commonwealth University Edward H. Peebles Prince Edward County (Va.) Public Schools Collection, <https://digital.library.vcu.edu/islandora/object/vcu%3A35762>.
- ¹² “Legal Guidance on Students’ Rights,” National Education Association, March 2018, <https://www.nea.org/resource-library/legal-guidance-students-rights>.
- ¹³ “Civil Rights Act of 1964,” Pub. L. No. 88-352, July 2, 1964. From National Archives, General Records of the United States Government, 299891, <https://catalog.archives.gov/id/299891>.
- ¹⁴ See note 14.
- ¹⁵ “K-12 Education: Student Population Has Significantly Diversified, but Many Schools Remain Divided Along Racial, Ethnic, and Economic Lines,” U.S. Government Accountability Office, June 16, 2022, <https://www.gao.gov/products/gao-22-104737>.