

Article: "Introduction"
Author: Christopher H. Foreman
Issue: Apr. 2004
Journal: *PS: Political Science & Politics*



This journal is published by the American Political Science Association. All rights reserved.

APSA is posting this article for public view on its website. APSA journals are fully accessible to APSA members and institutional subscribers. To view the table of contents or abstracts from this or any of APSA's journals, please go to the website of our publisher Cambridge University Press (<http://journals.cambridge.org>).

This article may only be used for personal, non-commercial, or limited classroom use. For permissions for all other uses of this article should be directed to Cambridge University Press at permissions@cup.org.

Introduction—The *Brown* Decision at Age 50: Limitations and Emanations

The two best-known Supreme Court decisions of the twentieth century differ in many ways but especially in the controversies they bequeathed to the twenty-first. Handed down the day former President Lyndon Johnson died, and bitterly contested ever since, *Roe v. Wade* (1973) has transformed national politics, especially in the realm of judicial appointments.

But while many yearn passionately for a world without *Roe*, few would admit to similar feelings about *Brown v. Board of Education of Topeka, Kansas* (1954). Indeed, the decision “has become a beloved legal and political icon,” (Balkin 2001, 3) lauded even by critics of race-based affirmative action.¹ And yet this broad-based respect is leavened with bitterness, for mention of *Brown* today regularly evokes a sense of derailed policy and frustrated opportunity. The subtitles of recent books point to the decision’s “quiet reversal”

(Orfield et al. 1996), its “broken promise” (Irons 2002), and its “troubled legacy” (Patterson 2001). One contributor to this symposium reiterates here

his well-known critique of *Brown* as a vastly overrated civil rights victory (Rosenberg 1991). Both *Roe* and *Brown* were trailblazing civil rights decisions that prompted significant backlash. But the societal expectations concentrated on *Brown* were naturally much greater, and resistance to its implementation even more pervasively traumatic. To a degree that few would have predicted a half century ago, courts, communities, and civil rights advocates have all largely accommodated to racially segregated schooling, though K-12 education today stands far more politicized, federalized, and scrutinized than it was then.

The fiftieth anniversary of the initial *Brown* decision—which preceded by one year a companion remedial opinion bearing the famously ill-fated call for school desegregation “with all

deliberate speed,” the so-called *Brown II*—invites reflection on what the *Brown* breakthrough meant, and what it might have meant. The five articles in this symposium address a few of the decision’s countless “limitations and emanations.”

While Gerald Rosenberg argues that the decision’s consequences have been misperceived, Neal Devins challenges conventional wisdom regarding its origins. Indeed, Devins pairs *Brown* with the Rehnquist Court’s *United States v. Lopez* (1995) to emphasize the primacy of broad social and political forces, above crafty and determined litigation, as a principal driver of those opinions and of judicial behavior more generally. Paul Sracic considers a “lost legacy” of *Brown*, its assessment of the civic importance of education, a loss stemming importantly from the political predisposition of Justice Lewis F. Powell. Marion Orr and Hanes Walton direct attention to the often painful human consequences of the southern political establishment’s fierce rebuff of *Brown*. Through them we hear what it was like, as two Georgia cities moved at last to comply with the Court’s directive, to live day-by-day as an opening wedge for school desegregation. Jennifer Hochschild explores the failure of political science to grapple convincingly with three issues stemming directly from *Brown* and its aftermath: the alleged failure of desegregation; the gap between elite ideology and constituent preference on both sides of the school voucher issue; and the apparent willingness of policymakers across the country to subject both themselves and a well organized interest (i.e., teachers) to the accountability of standards and testing.

These articles only begin to suggest the richness of *Brown* as a focus (or, at least, as a timely excuse) for political analysis. This symposium reaches readers of *PS* as many similar endeavors are under way. One hopes it will help energize public debate, scholarly inquiry, and classroom teaching, especially for those who still know little about, or have not thought much about, what may be the most iconic judicial decision since *Marbury v. Madison* (1803).

by
Christopher H. Foreman, Jr.,
University of Maryland

Note

1. For example, Stephan and Abigail Thernstrom (1997, 97–101) see *Brown* as “a true watershed moment. It began a process of irrevocable change in the South . . . *Brown* remains the most important Supreme Court decision in [the

twentieth] century.” As Jack M. Balkin (2002, 10) notes: “[Affirmative action opponents believe that such] programs violate the spirit of *Brown* because they bestow benefits through classifying individuals according to their race.”

References

- Balkin, Jack M. 2001. “*Brown* as Icon.” In *What Brown v. Board of Education Should Have Said: The Nation's Top Legal Experts Rewrite America's Landmark Civil Rights Decision*, ed. Jack M. Balkin. New York: New York University Press.
- Irons, Peter. 2002. *Jim Crow's Children: The Broken Promise of the Brown Decision*. New York: Viking.
- Orfield, Gary, Susan E. Eaton, and the Harvard Project on School Desegregation. 1996. *Dismantling Desegregation: The Quiet Reversal*

- of Brown v. Board of Education*. New York: The New Press.
- Patterson, James T. 2001. *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy*. Oxford: Oxford University Press.
- Rosenberg, Gerald N. 1991. *The Hollow Hope: Can Courts Bring About Social Change?* Chicago: University of Chicago Press.
- Thernstrom, Stephan, and Abigail Thernstrom. 1997. *American in Black and White: One Nation, Indivisible*. New York: Simon and Schuster.

SYMPOSIUM AUTHORS' BIOS

Neil Devins is Goodrich Professor of Law and professor of government, College of William and Mary. Thanks to Chris Foreman for asking me to participate in this symposium and to Stacy Haney for exceptional research assistance. Portions of this essay are drawn from “Congress as Culprit: How Lawmakers Spurred on the Rehnquist Court's Federalism Revolution,” *Duke Law Journal* 51: 435 (2001) and “The Judicial Role in Equality Decisionmaking,” Neal Devins and Davison M. Douglas, eds., *Redefining Equality* (1998: 218).

Christopher H. Foreman, Jr. is professor and director of the Social Policy program in the School of Public Affairs at the University of Maryland, College Park. A non-resident senior fellow in the Governance Studies Program at the Brookings Institution, he is the author of *The Promise and Peril of Environmental Justice* (Brookings, 1998) and the editor of *The African American Predicament* (1999).

Jennifer Hochschild is Henry LaBarre Jayne Professor of Government at Harvard University, with a joint appointment in the Department of African and African-American Studies. She is the founding editor of *Perspectives on Politics*. Her most recent book is *The American Dream and the Public Schools*, co-authored with Nathan Scovronick (Oxford University Press, 2003.) Her current research examines change and continuity in

American racial and ethnic politics through the lenses of skin color hierarchy and multiracialism.

Marion Orr is professor of political science at Brown University. He is the author of *Black Social Capital: The Politics of School Reform in Baltimore* (1999) and co-author of *The Color of School Reform: Race, Politics and the Challenge of Urban Education* (1999). He is a graduate of Savannah High School.

Gerald N. Rosenberg teaches political science and law at the University of Chicago. His interests are in the use of courts to further the goals of the relatively disadvantaged.

Paul Sracic is associate professor of political science at Youngstown State University. He is co-author, with William Binning and Larry Esterly, of *The Encyclopedia of American Parties, Campaigns, and Elections* (Greenwood 1999). He is currently working on a book entitled *Wealth, Education, and Citizenship: The Case of San Antonio v. Rodriguez*, which will be published by the University Press of Kansas.

Hanes Walton, Jr. is professor of political science at the University of Michigan. Among his recent books are *Reelection: William Jefferson Clinton as a Native-son Presidential Candidate* (2000) and *Liberian Politics: The Portrait by African-American Diplomat J. Milton Turner* (2002). He is a graduate of Athens High School.