

NOTES

CHAPTER 1: THE SIGNIFICANCE OF *BROWN*

1. *Brown v. Board of Education*, 347 U.S. 483, 495 (1954).
2. "All God's Chillun," *New York Times*, May 18, 1954.
3. James T. Patterson, *Brown v. Board of Education: Civil Rights Milestone and Its Troubled Legacy* (2001), 88 (internal quotation marks omitted).
4. Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court's Brown Decision into a Revolution for Equality* (New York: Simon and Schuster, 1981), 117.
5. The others were: *Briggs et al. v. Elliott et al.*; *Davis et al. v. County School Board of Prince Edward County, Virginia, et al.*; *Gebhart et al. v. Belton et al.*; and *Bolling v. Sharpe*, 347 U.S. 497 (1954).
6. Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Vintage, 1975), 302, 349.
7. "Combined *Brown* Cases, 1951–1954: *Briggs v. Elliot*," *Brown v. Board of Education Orientation Handbook* (Brown Foundation for Educational Equity, Excellence and Research, 1996–2003), available at <http://brownvboard.org/research/handbook/combined/briggs.htm>.
8. Jack Greenberg, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution* (New York: Basic Books, 1994), 119.
9. Clark's conclusion in the Clarendon County tests, which were consistent with the results of the same test he had previously given to over three hundred children, was that the "Negro child accepts as early as six, seven or eight the negative stereotypes about his own group and that a fundamental effect of segregation is basic confusion in the individuals and their concepts about themselves conflicting in their self-images. [The child has] basic feelings of inferiority, conflict, confusion in his self image, resentment, hostility towards himself, hostility towards whites, intensification of sometimes a desire to resolve his basic conflict by . . . escaping or withdrawing." *Ibid.*, 124.
10. *Brown*, 347 U.S. 483, 486 n. 1 (1954).
11. Kluger, *Simple Justice*, 408.
12. *Ibid.*, 409.
13. "Combined *Brown* Cases."
14. *Davis*, 103 F. Supp. 337, 338 (1952)
15. Kluger, *Simple Justice*, 434.
16. *Ibid.*, 521.
17. *Bolling*, 347 U.S. 497.

18. *Brown*, 347 U.S. 483, 493.
19. Greenberg, *Crusaders in the Courts*, 175.
20. *Ibid.*, 171.
21. *Plessy*, 163 U.S. 537 (1896).
22. Greenberg, *Crusaders in the Courts*, 175.
23. Juan Williams, *Thurgood Marshall: American Revolutionary* (New York: Random House, 1998), 219.
24. Greenberg, *Crusaders in the Courts*, 178–82.
25. Morton J. Horowitz, *The Warren Court and the Pursuit of Justice* (New York: Hill and Wang, 1999).
26. *Korematsu*, 323 U.S. 214, 215 (1944).
27. Greenberg, *Crusaders in the Courts*, 188–89.
28. *Brown v. Board of Education*, 349 U.S. 294, 301 (1955).
29. *Patterson v. Board of Education*.
30. The word “deliberate” derives from the Latin *deliberatus*, or the past participle of *deliberare*, which means “to consider carefully.” Scholars believe *deliberare* is an alteration of the Latin *delibrare*, from *de-* + *libra*, which implies justice or fairness. The Latin *libra* loosely translates to “scale.” See *Merriam-Webster’s Collegiate Dictionary*, 11th ed., s.v. “deliberate.” Deliberate speed in literary terms can be described as an oxymoron, a phrase built on the seemingly absurd juxtaposition of opposites. See William Safire, *Safire’s New Political Dictionary* (New York: Random House, 1993), 881.
31. *Virginia*, 222 U.S. 17, 20 (1912).
32. *Sutton v. Leib*, 342 U.S. 402, 414 (1952) (Frankfurter concurring) (“I would remand the case to the Court of Appeals to be held by it until the plaintiff seeks *with all deliberate speed* a decision on the crucial question of the case”); *First Iowa Hydro-Electric Co-op. v. Federal Power Commission*, 328 U.S. 152, 188 (1946) (Frankfurter dissenting) (“In any event, mere speed is not a test of justice. *Deliberate speed* is. *Deliberate speed* takes time. But it is time well spent.”); *Radio Station WOW v. Johnson*, 326 U.S. 120, 132 (1945) (“We think that State power is amply respected if it is qualified merely to the extent of requiring it to withhold execution of that portion of its decree requiring retransfer of the physical properties until steps are ordered to be taken, *with all deliberate speed*, to enable the Commission to deal with new applications in connection with the station”); *Addison v. Holly Hill Fruit Products*, 322 U.S. 607, 619 (1944) (“the case should be remanded to the district court with instructions to hold it until the Administrator, by making a valid determination of the area *with all deliberate speed*, acts within the authority given him by Congress”); *Chrysler Corp. v. United States*, 316 U.S. 556, 568 (1942) (Frankfurter dissenting) (“In order to justify a modification having such drastic

- business consequences, it was surely incumbent upon the Government to show that it had proceeded *with all deliberate speed* against General Motors”) (all emphasis in note added.)
33. Also translated as “hurry slowly.”
 34. Abraham Lincoln, *Great Speeches* (New York: Dover, 1991).
 35. Lincoln’s response is consistent with the *Black’s Law Dictionary* definition of “with all deliberate speed”: as quickly as the maintenance of law and order and the welfare of the people will allow. *Black’s Law Dictionary*, ed. Matthew Garner (West Group: St. Paul, Minnesota, 7th ed. 1994), 438.
 36. *Safire’s New Political Dictionary*, 882.
 37. Former President Clinton recently used “all deliberate speed” to describe his promise to remove the military ban on homosexuality. Clinton is quoted shortly after his first election as saying, “[I] will proceed with all deliberate speed to lift the restriction.” *Ibid.*
 38. *Cooper*, 358 U.S. 1 (1958).
 39. Constance Baker Motley, *Equal Justice under Law: An Autobiography* (New York: Farrar, Straus, and Giroux, 1998), 187.
 40. *Mayor of Baltimore v. Dawson*, 350 U.S. 877 (1955).
 41. *Holmes v. City of Atlanta*, 350 U.S. 879 (1955).
 42. *Gayle v. Browder*, 352 U.S. 903 (1956).
 43. *New Orleans City Park Improvement Association v. Detiege*, 358 U.S. 54 (1958).
 44. *Johnson v. Virginia*, 373 U.S. 61 (1963).
 45. *Lee v. Washington*, 390 U.S. 333 (1968).
 46. *Palmer v. Thompson*, 403 U.S. 217 (1971).
 47. *Ibid.*, 218–19.
 48. *Ibid.*, 220–27.
 49. See *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); *Bolling v. Sharpe*, 347 U.S. 497 (1954); *Brown v. Bd. of Educ.*, 349 U.S. 294 (1955); *Fla. ex rel. Hawkins v. Bd. of Control*, 350 U.S. 413 (1956); *Cooper v. Aaron*, 358 U.S. 1 (1958); *Goss v. Bd. of Educ.*, 373 U.S. 683 (1963); *Griffin v. County Sch. Bd.*, 377 U.S. 218 (1964); *Bradley v. Sch. Bd.*, 382 U.S. 103 (1965); *Green v. County Sch. Bd.*, 391 U.S. 430 (1968); *Raney v. Bd. of Educ.*, 391 U.S. 443 (1968); *Monroe v. Bd. of Comm’rs*, 391 U.S. 450 (1968); *United States v. Montgomery County Bd. of Educ.*, 395 U.S. 225 (1969); *Alexander v. Holmes County Bd. of Educ.*, 396 U.S. 19 (1969); *Dowell v. Bd. of Educ.*, 396 U.S. 269 (1969); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971); *Davis v. Bd. of Sch. Comm’rs*, 402 U.S. 33 (1971); *McDaniel v. Barresi*, 402 U.S. 39 (1971); *N.C. State Bd. of Educ. v. Swann*, 402 U.S. 43 (1971).
 50. *Dred Scott v. Sandford*, 60 U.S. 393, 407 (1857).
 51. *Plessy v. Ferguson*, 163 U.S. 537, 544 (1896).