Since *Plessy v. Ferguson* (1896), public education in the U.S. had largely adhered to the policy of "separate but equal."

The *Plessy* case had involved public transportation and the Fourteenth Amendment, which had been ratified just after the end of the American Civil War a generation before.

The amendment reads, in part: *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

This was the first amendment to specifically address what the states (not just the federal government) *could* or *could not* do in reference to citizens – a group which now included former slaves and their descendants.

For nearly a century after Reconstruction, America was pretty good at "separate" but much less concerned with "equal."

This was especially true when it came to public education; not all schools were segregated, but it was far more common than not.

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In the early 1950s, the NAACP began challenging the "separate but equal" doctrine in public schools.

The organization's legal team, led by future Supreme Court Justice Thurgood Marshall, had been watching closely as the Supreme Court began to periodically cite the Fourteenth Amendment's Due Process and Equal Protection Clauses to address deep-rooted inequalities.

Marshall and his team wanted to see just how far this might stretch.

A direct challenge to segregation seemed unlikely to succeed, so they instead chipped away on two fronts.

First, NAACP attorneys aggressively litigated cases involving graduate and professional programs in southern universities.

Because the students involved were adults and the issues more immediately economic and professional, they believed they could build momentum and establish some case law which might later be referenced to tackle wider systemic issues.

Second, Marshall and company pushed the "equal" part of "separate but equal," forcing school districts and state legislatures to demonstrate compliance with their own proclaimed standards.

Black parents and students in a half-dozen different states attempted to enroll their children in local all-white schools; when they were turned away, the NAACP challenged on their behalf.

In short, it was on.

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***Brown v. Board of Education* (1954) was actually a combination of five related cases which came before the Supreme Court as a package deal.**

In one of the five, *Gebhart v. Belton* from Delaware, the District Court had ordered that Black students be admitted to White schools based on the disparities in facilities and funding.

In three others, states had quickly scrambled to address their disparities; the lower courts thus allowed "separate but equal" to continue.

Only in the case from Topeka was there no substantial evidence of preferential funding for White campuses over Black.

It was because of this that the District Court had declined to force integration.

It was thus a bold (and risky) move when NAACP lawyer Thurgood Marshall decided to treat *Brown* as the flagship of their complaint and insist that segregation itself, whatever its trappings, was harmful for students of color and thus *inherently* unconstitutional.

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The sticking point in *Brown* for most justices wasn't the ethics of segregation (most were opposed to it on principle) but the question of judicial authority – did the Supreme Court have the power to reverse a century of case law and essentially rewrite the scope and intent of the Fourteenth Amendment?

And what would happen if they did?

It's all fine and well to discuss the theoretical role of the three branches and make nice little charts showing checks-and-balances, but even members of the highest court at times consider the practical impact of their rulings.

(Most would rather not send the country into chaos or accidentally start another civil war or something.)

Chief Justice Warren shared his personal thinking on the issue (he wanted to desegregate), then asked the remaining justices to consider what might bring them on board.

Rather than push the issue on his own terms, Warren visited his colleagues individually, seeking their insights and adjusting his reasoning to accommodate them whenever possible.

In the end, Warren won over his peers, with Justice Reed signing on last, primarily out of the desire to avoid a divided Court in what would no doubt be a controversial decision.

He wasn't wrong.

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On May 17, 1954, the Court announced its unanimous decision in *Brown v. Board of Education*.

The majority opinion, written by Chief Justice Warren, was not lengthy or technical.

It offered only a few relatively straightforward arguments.

First, the Court conceded that the Fourteenth Amendment did not directly call for desegregated schools.

However, Warren explained, the role of public education had evolved in the century since:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society...

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

Second, Warren continued, "separate but equal" doesn't actually work – at least not in public schools:

We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the 14th Amendment.

It was no longer constitutional to segregate schools by race. While many would argue that reality has yet to match this ruling in many places, at least the courts no longer support unequal schooling based on the color of the students who attend.