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IN THE

Supreme Court of the United States

October Term, 1952

No. 8—1

OLIVER BROWN, MRS. RICHARD LAWTON, MRS. SADIE EMMANUEL, ET AL.,
Appellants,

VS.

BOARD OF EDUCATION OF TOPEKA, SHAWNEE COUNTY, KANSAS, ET AL.

On Appeal from the United States District Court for the District of Kansas

BRIEF OF AMERICAN JEWISH CONGRESS AS *AMICUS CURIAE*

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BRIEF OF AMERICAN JEWISH CONGRESS AS *AMICUS CURIAE*

STATEMENT OF INTEREST

This brief *amicus curiae* is submitted with the consent of the parties.

The American Jewish Congress is an organization committed to the principle that the destinies of all Americans are indissolubly linked and that any act which unjustly injures one group necessarily injures all. Out of this firmly held belief, the American Jewish Congress created its Commission on Law and Social Action in 1945, in part "to fight every manifestation of racism and to promote the civil and political equality of all minorities in America."

Believing as we do that Jewish interests are inseparable from the interests of justice, the American Jewish Congress cannot remain impassive or disinterested when persecution, discrimination or humiliation is inflicted upon any human being because of his race, religion, color, national origin or ancestry. Through the thousands of years of our tragic history we have learned one lesson well: the persecution at any time of any minority portends the shape and intensity of persecution of all minorities.

There is, however, an additional reason for our interest. The special concern of the Jewish people in human rights derives from an immemorial tradition which proclaims the common origin and end of all mankind and affirms, under the highest sanction of faith and human aspirations, the common and inalienable rights of all men. The struggle for human dignity and liberty is thus of the very substance of the Jewish tradition.

We submit this brief *amicus* because we are convinced that the policy of segregation has had a blighting effect upon Americans and consequently upon American democratic institutions. We believe that the doctrine of "separate but equal" has engendered hatred, fear and ignorance. We recognize in this triumvirate our greatest enemy in the struggle for human freedom. But our concern must not be construed as limited to minorities alone. The treatment of minorities in a community is indicative of its political and moral standards and ultimately determinative of the happiness of all its members. Our immediate objective here is to secure unconditional equality for Americans of Negro ancestry. Our ultimate objective in this case, as in all others, is to preserve the dignity of all men so that we may achieve full equality in a free society.

STATEMENT OF THE CASE

The City of Topeka, pursuant to authority granted it by the General Statutes of Kansas of 1949 (Ch. 72-1724), maintains a segregated system of schools for the first six grades. The appellants, adult and infant Negroes, filed a class suit in the U. S. District Court against the Topeka School Board seeking a declaration of unconstitutionality and an injunction restraining the enforcement of the Kansas statutes and the segregation instituted thereunder, on the ground that such segregation violated the Fourteenth Amendment of the United States Constitution in that (1) Negro schools were inferior in facilities and (2) segregation, in and of itself, constituted an inequality in educational advantage. The State of Kansas intervened as a defendant.

A three-judge Court rejected appellant's first contention finding that the Negro schools were substantially equal to those allotted to whites (R. 245), a finding which appellants here do not challenge. Although the court found that segregation of white and colored children in public schools had "a detrimental effect upon the colored children" (R. 245), it considered itself bound by this Court's opinion in *Plessy* v. *Ferguson,* 163 U. S. 537, and therefore also rejected appellant's second contention (R. 243-244). Appellants on direct appeal are now seeking a review of that decision. The decision below is unreported.

THE QUESTION TO WHICH THIS BRIEF IS ADDRESSED

This brief is addressed solely to whether the requirement of equality contained in the Fourteenth Amendment of the United States Constitution is satisfied by affording "separate but equal" public grade school facilities to Negro and white children.

SUMMARY OF ARGUMENT

When a state establishes racially segregated public grade schools, it thereby perpetuates inequality between the races and discriminates against the Negro race in violation of the "equal protection" clause of the Fourteenth Amendment.

A. State imposed segregation stems from a theory of superiority of the white race over the Negro race inherited as a remnant of the institution of slavery.

B. The social inequality which was one of the results of slavery changes in both degree and nature when it is incorporated in the laws of a state. Such incorporation places the power of the state behind the inequality, freezes the unequal status and impedes its gradual change. The inequality, which thus receives the imprimatur of the state, causes a denial of the equal protection of the laws if it results in an inequality of values in the facilities provided by the state or causes oppression of a race.

C. (1) Segregated public grade schools do adopt a pre-existing inequality and place a badge of inferiority

on the Negro race. Since the value of facilities is determined in part by the standing in the community of those who use them, the result is an inequality of value in the public school facilities provided for the separate races.

(2) In addition, because of the adoption of the preexisting inequality, the Negro race suffers psychic injury in the segregated school system.

ARGUMENT

When a state establishes racially segregated public grade schools, it thereby perpetuates inequality between the races and discriminates against the Negro race in violation of the "equal protection" clause of the Fourteenth Amendment.

The segregated public school system of Topeka, Kansas, was found constitutional by the court below under what is known as the "separate but equal" doctrine. That doctrine holds that the "equal protection" clause of the Fourteenth Amendment is not violated when a state agency provides separate facilities for its white and Negro citizens as long as the facilities are equal (R. 240-244). We believe that that doctrine is erroneous on several counts. Here, however, we shall focus attention on only one of its aspects. It is our position that state-imposed racial segregation in public grade schools violates the Fourteenth Amendment because it adopts a classification based on concepts and practices of inequality and, by that adoption, contributes to, extends and deepens the discrimination resulting from the inequality and incorporates that discrimination in the schooling which it provides.

A. The Pre-Existing Inequality of Negroes and Whites

State-imposed segregation stems directly from a vestigial theory of the superiority and inferiority of races inherited as a remnant of the institution of slavery. With the freeing of slaves, attempts were made by the dominant white group to preserve its position of ascendancy by the enactment of discriminatory legislation. Immediately after the Civil War the southern states adopted laws limiting the rights of Negroes to own property, to institute law suits and to testify in judicial proceedings. They imposed different penalties on Negroes and whites for the same offenses and otherwise placed the freedmen under legal restraints. Stephenson, G. T., *Race Distinctions in American Law* (1910), pp. 35-66; Frazier, E. F., *The Negro in the United States* (1949), pp. 126-127. These "Black Codes," as they were called, were a plain reflection of the earlier attitude that Negro slaves, and those descended from them, "had no rights which the white man was bound to respect." *Dred Scott* v. *Sandford,* 60 U. S. (19 How.) 393, 407 (1857). "It required little knowledge of human nature to anticipate that those who had long been regarded as an inferior and subject race would, when suddenly raised to the rank of citizenship, be looked upon with jealousy and positive dislike, and that State laws might be enacted or enforced to perpetuate the distinctions that had before existed." *Strauder* v. *West Virginia,* 100 U. S. 303, 306 (1879).

We shall show in the following sections, first, that the Fourteenth Amendment prohibits state action which incorporates, and thereby strengthens and entrenches, this pre-existing inequality and, second, that state-imposed racial segregation in public grade schools has that effect.

B. The Constitutional Significance of State-Imposed Racial Segregation on the Lines of a Pre-Existing Social Inequality

The Fourteenth Amendment was intended to and did invalidate the gross discrimination of the Black Codes. *Slaughter House Cases,* 83 U. S. 36, 70 (1872). It may be assumed, at least for the purposes of this case, that it did not lay upon the states the affirmative obligation to undo all the results of slavery. Thus, the Amendment did not reach whatever social inequality remained. Private individuals and institutions were free to discriminate as they chose.

Specifically, no question would have arisen under the Amendment in the area of education if the states had simply refrained from providing public schools. But if they did provide public schools, they were required to do so in a manner which did not cause unequal treatment.

We pass over the question whether the Amendment would have been violated if the creation of public, racially-segregated schools had had no effect on the existing racial inequality. It is unnecessary to consider that question because, we submit, *when government gives official sanction to pre-existing social inequality, its action causes a change in both the degree and the nature of the inequality and incorporates it into its own activities.*

This change takes place because once a social classification based on group inferiority is formally adopted by the state, the ensuing official inferiority in turn intensifies and deepens the social inequality from which it stems. As long as law is not called into play to shape conduct, gradual changes in attitude can bring about corresponding changes in conduct patterns. These changes, in turn,

further the attitude changes. Once the law intervenes, however, gradual spontaneous change becomes impossible.*

Suppose, for example, that Kansas did not maintain a public school system and had no laws requiring segregation in education. As already noted, privately operated schools would be free to segregate and even to exclude racial groups entirely. Those private groups, however, who rejected racial inequality would also be free to act according to their principles. Most important, those who opposed segregation would be able to change the situation gradually by persuading one school authority at a time to change its policy. Each success they achieved would demonstrate the feasibility of non-segregated schools and thereby increase their chances of success with other schools.

On the other hand, when the state places the policy of segregation in its laws, it freezes the social inequality in whose mold the laws are cast. More than that, the laws eliminate the free play of individualism and force all, without exception, to conform their conduct to the caste system. It is then no longer possible to urge gradual change or to attempt step-by-step improvement. The statute becomes a bulwark against dissentient opinion, persuasion and even economic pressure.

An additional result of segregation laws is to give the otherwise inarticulate social feeling of racial superiority the sanction of official regulation. The feeling ac-

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* The manner in which the law "maintains one set of values against another" (Pound, Roscoe, *The Task of the Law* (1944), p. 25) has been intensively studied in recent years. For summaries of the findings, see Berger, Morroe, *Equality by Statute* (1952), pp. 170-193; Maslow, Will, *Prejudice, Discrimination, and the Law*, *The Annals*, May 1951, pp. 9-17.

quires a concreteness and assertiveness which it would not otherwise possess. The stricter the regulation, the stronger and more articulate the feeling of social distance becomes. This Court itself took note of that fact when it characterized a law excluding Negroes from juries as a "stimulant to . . . race prejudice." *Strauder* v. *West Virginia,* 100 U. S. 303, 308 (1879).

The distinction between private and public schools just discussed finds a close parallel in *Shelley* v. *Kraemer,* 334 U. S. 1 (1948). This Court there noted that the Constitution is not violated where "the States have merely abstained from action, leaving private individuals free to impose such discriminations as they see fit." 334 U. S., at 19. Where, however, the "imprimatur of the State" is placed on the discrimination, the Fourteenth Amendment becomes applicable and it makes no difference that "the particular pattern of discrimination, which the State has enforced, was defined initially by the terms of a private agreement." 334 U. S., at 20.

So here the "full panoply of state power" (334 U. S., at 19) has been placed behind the inequality inherent in segregation. The state power is brought to bear in two ways. It enforces and extends the pre-existing social inequality (*supra,* pp. 7-9), and, at the same time, provides facilities which, because of that social inequality, are unequal in value (*infra,* pp. 11-12).

The barrier to change set up by segregation laws is the same in nature as that created by the state-enforced restrictive covenants condemned in the *Shelley* case. The Court there found beyond the reach of the Constitution mere "gentlemen's agreements" which derived no strength from the state. The discrimination adopted in those

agreements, like that adopted by privately operated schools, can be whittled away gradually. Institutions may be persuaded, by argument or pressure, to depart from established patterns. The vice of judicial enforcement of restrictive covenants lay in the fact that it froze patterns of discrimination and placed them beyond the reach of erosion; "but for the active intervention of the state courts" (334 U. S., at 19), change would have been possible. In the same way, segregation statutes use the authority of the state to preserve the inequality and discrimination which they incorporate.

This Court recognized in the *Plessy* case that the statute there considered did conform to existing social attitudes. It noted that the statute was enacted "with reference to the established usages, customs and traditions of the people . . ." 163 U. S., at 550. Where the Court erred, we submit, was in holding in effect that the state could ignore the status of inferiority in which those "usages" placed the Negro and could also ignore the reenforcing effect which its legislation had on that status.

In any event, where as here, the state does more and provides facilities to which the state-reenforced inequality attaches, the violation of the Constitution is plain. As we shall now show, segregation in public grade schools, by imposing a badge of inferiority on the Negro race, causes inequality in the facilities made available to it and results in oppression of that race within the public school system. We submit that the Fourteenth Amendment prohibits such use of the state's power to maintain inequality in public facilities.

C. The Effect of Racial Segregation in Public Grade Schools

(1) *Enforced segregation in public grade schools stamps the Negro with a badge of inferiority and thereby renders inferior the facilities allocated to him by the state.*

It can hardly be disputed that an official regulation declaring that a group is inferior and consequently confining it to separate schools would be discriminatory. That much was virtually conceded in the *Plessy* decision when the Court characterized as a "fallacy . . . the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority." 163 U. S., at 551. It thereby implied that a different result would have been reached if the contrary were true.

An official declaration that the Negro race is inferior to the white and must therefore be confined to separate schools would necessarily depreciate the value of the Negro schools in the eyes of the community. This is because the value and desirability of property depends not only upon its intrinsic qualities but also upon its association with persons enjoying a certain reputation. The desirability of a beautiful resort may be lessened by its being visited by people deemed of "low" social standing. Differences in value of this nature are significant under the Fourteenth Amendment as this Court recognized when it condemned segregation in state law schools because of differences in "those qualities which are incapable of objective measurement but which make for greatness in a law school," including "standing in the community, traditions and prestige." *Sweatt* v. *Painter,* 339 U. S. 629, 634 (1950).

We do not have here, of course, an express declaration by the State of Kansas that Negroes are inferior to whites.* Yet the same effect is achieved if a state establishes public school segregation along the lines of a preexisting social inequality. It is plain that that is what public school segregation does.

Examination of the pattern of segregation laws reveals plainly that they are designed not to prevent all contact between the races but to prevent contact on the basis of equality. It is the social definition of the situation that determines its treatment in both law and custom. Merely "shaking a black hand may be very repulsive to a white man if he surmises that a colored man conceives of the situation as implying equality." Johnson, *Patterns of Negro Segregation* (1943), p. 208. Those who insist upon the caste system in our society freely and unstintingly agree to the ritual of equal physical facilities so long as somehow there is also an accompanying communication that the Negro is inferior and is to remain so.

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*Other states having segregation laws have given express recognition to racial inequality in decisions holding that it is libelous *per se* to write that a white man is a Negro (*Upton* v. *Times-Democrat Pub. Co.*, 104 La. 141 (1900); *Collins* v. *Oklahoma State Hospital*, 76 Okla. 229 (1919); *Hargrove* v. *Okla. Press Pub. Co.*, 130 Okla. 76 (1928); *Flood* v. *News and Courier Co.*, 71 S. C. 112 (1905); *Stultz* v. *Cousins*, 242 Fed. 794 (C.C.A. 6, 1917); see also *Jones* v. *Polk & Co.*, 190 Ala. 243 (1913); *Atlanta Journal Co.* v. *Farmer*, 48 Ga. App. 273 (1934); *Wright* v. *F. W. Woolworth Co.*, 281 Ill. App. 495 (1935); *Williams* v. *Riddle*, 145 Ky. 459 (1911); *O'Connor* v. *Dallas Cotton Exchange*, 153 S. W. (2) 266 (Tex., 1941); Mangum, *The Legal Status of the Negro*, 1940, at p. 18) and in cases awarding damages to white passengers who are forced to ride in Jim Crow cars (*M.K.T. Railway Co. of Texas* v. *Ball*, 25 Tex. Civil App. 500 (1901); *Louisville and N.R. Co.* v. *Ritchel*, 148 Ky. 701 (1912); *Chicago R. I. and P. Ry. Co.* v. *Allison*, 120 Ark. 54 (1915)).

Segregation laws provide the ready vocabulary for that communication. In at least one respect, this can be seen in the segregation laws themselves. Ten Southern states expressly exempt nurses or other attendants from the laws requiring segregation on railroads (Mangum, *The Legal Status of the Negro* (1940), pp. 188-189) and three of these disclose the intent of this exception by limiting it to "colored" attendants. *Florida* Statutes (1941), sec. 352.03; *Georgia* Code Ann. (1935), sec. 18-209; *No. Car.* Gen. Stat. (1943), sec. 60-94.

Even where the statutes are not so disingenuous the purpose is clear. By segregation "racial and cultural differences between southern whites and slaves were translated into terms of unquestionable superiority and inferiority." Johnson, *op. cit.*, p. 158. According to Dollard, *Caste and Class in a Southern Town* (1937), p. 98, the sole importance of segregation is to give whites, no matter how low in the social scale, a sense of power and importance. Negroes correspondingly must receive a position and a sense of inferiority. This primary role of segregation statutes is reflected in the candid admission of a Kentucky court:

> "It is also beyond dispute that the sentiment reflected in this legislation and in these opinions does not find the end or the perfection of its purpose in mere race separation alone. It goes much further in that, as is shown in the general feeling everywhere prevailing, the Negro, while respected and protected in his place, is not and cannot be a fit associate for white girls or the social equal of the white race. To conditions like these that are everywhere about them as a part of the social order and domestic economy of the state, courts cannot shut their eyes. They must

> . . . notice . . . the position of the races and the attitude of the white race toward the Negro." *Axton Fisher Tobacco Co.* v. *The Evening Post,* 169 Ky. 64 (1916).

That the vocabulary of segregation is effectively understood by the entire community cannot be disputed at this date. Segregation provides a graphic and literal solution to the demand of the white world that Negroes be kept "in their place." To the whites in the community the enforced separation of races, as we have shown, is clearly understood as a symbolic affirmation of white dominance, dominance which, to keep itself alive, demands as tribute the continuous performance of the racial etiquette. See Doyle, *The Etiquette of Race Relations* (1937); Johnson, *Patterns of Negro Segregation* (1943), p. 158; McWilliams, *Race Discrimination and the Law,* Science and Society, Vol. IX, No. 1 (1945). "In this magical sphere of the white man's mind, the Negro is inferior, totally independent of rational proofs or disproofs. And he is inferior in a deep and mystical sense. The 'reality' of his inferiority is the white man's own indubitable sensing of it and that feeling applies to every single Negro . . . the Negro is believed to be stupid, immoral, diseased, lazy, incompetent, and *dangerous*—dangerous to the white man's virtue and social order." Myrdal, *An American Dilemma* (1944), p. 100. Under these conditions "it is fallacious to say . . . that the intention and effect [of segregation] is not to impose any badge of inferiority . . . When a Negro workingman or woman is seated in the third seat of a street car on St. Charles Avenue in New Orleans and when a white man and woman is seated on the fourth seat, separated only by a bit of wire mesh ten inches high on

the back of the third seat this is a 'separation' that is merely a symbolic assertion of social superiority, a 'ceremonial' celebration." McGovney, *Racial Residential Segregation by State Court Enforcement of Restrictive Agreements, Covenants or Conditions in Deeds is Unconstitutional,* 33 Calif. L. Rev. 5, 27 (1945).

Similarly, Negroes appreciate the implication of segregation (Stouffer, *Studies in Social Psychology in World War II,* Vol. 1, p. 566), resent its slur (Moton, *What the Negro Thinks* (1929), pp. 238-239), and resist it as a none too subtle mechanism for anchoring them in inferiority (Davis and Dollard, *Children of Bondage* (1940), p. 245).

These effects in the field of segregated education are well shown by the record in this case. Dr. Louisa Holt, a social psychologist, testified as follows on the impact of school segregation on the personality of the Negro child (R. 169-170):

> "The fact that it is enforced, that it is legal, I think, has more importance than the mere fact of segregation by itself does because this gives legal and official sanction to a policy which inevitably is interpreted both by white people and by negroes as denoting the inferiority of the negro group. Were it not for the sense that one group is inferior to the other, there would be no basis, and I am not granting that this is a rational basis, for such segregation."

The result of segregation has been the infusion of rigid, caste stratifications into our laws, our institutions, our conduct and our habits of perception until "the Negro is segregated in public thought as well as public carriers." Moton, *What the Negro Thinks* (1929), p. 55. Since both white and Negro view segregation as a method of assert-

ing and reenforcing the inferiority of the latter and since in fact segregation statutes have that effect, this Court should not continue to maintain the erroneous proposition enunciated in *Plessy* v. *Ferguson* that laws requiring separation "do not necessarily imply the inferiority of either race to the other." 163 U. S., at 544. Rather it should find that the schools for Negroes in a segregated system cannot be regarded as the equal of those for whites in respect to their "standing in the community, traditions and prestige." *Sweatt* case, *supra.* The Fourteenth Amendment plainly condemns the allocation to separate races of such unequal facilities.

(2) *Enforced separation does oppress the Negro community.*

Since segregation laws are based on a concept of inequality, place a badge of inferiority on the segregated race, and intensify and extend the existing stratification, it is not surprising that, in addition to depreciating the value of the separate facilities for Negroes, they have harmful results for the segregated group. Contrary to the assumption made in the *Plessy* case, segregation does cause "oppression of a particular class." 163 U. S., at 550. If proof of this were necessary, it has been supplied by the developed techniques of the social scientists, all of whom are agreed that segregation has profoundly adverse effects on the Negro community. This is particularly true of segregation in the public schools. *Segregation in Public Schools—A Violation of "Equal Protection,"* 50 Yale L. J. 1059, 1061; Gallagher, *American Caste and the Negro College* (1938); Davis and Dollard, *Children of Bondage* (1940); Woofter, *The Basis of Racial Adjustment*

(1925); Bond, *The Education of the Negro in the American Social Order* (1934).

A survey of professional sociological, anthropological and psychological opinion on this subject has been conducted by Drs. Max Deutscher and Isidor Chein of the Commission on Community Interrelations of the American Jewish Congress. Eight hundred and forty-nine social scientists were polled, including the entire membership of the American Ethnological Society, the Division of Personality and Social Psychology of the American Psychological Association, and all of the members of the American Sociological Society who listed race relations or social psychology as their major field of interest. Returns were received from 517, or 61% of the number sent. 90% of the respondents indicated their opinion that enforced segregation has detrimental psychological effects on segregated groups even though equal facilities are provided. 4% failed to answer the item and only 2% indicated that segregation is free of such detrimental effects. Deutscher and Chein, *The Psychological Effects of Enforced Segregation: A Survey of Social Science Opinion,* 26 The Journal of Psychology 259 (1948).

On the basis of what they have seen and know, these social scientists united in rejecting the "separate but equal" doctrine as a serviceable formula. In responding, many of them amplified their answers with additional comment. Those who conducted the survey remark that "the gist of these comments was the emphasis on the essential irrelevance of the physical attributes of the facilities furnished." Deutscher and Chein, *op. cit., supra,* at p. 280. The comments are quoted extensively in the article.

The professional opinions expressed in the Deutscher-Chein study are reiterated in the expert testimony given

in the case at bar which formed the basis of the trial court's conclusion that "segregation has a detrimental effect upon the colored children" (R. 245-246). For example, Dr. Hugh W. Speer, Chairman of the Department of Education at the University of Kansas, testified that regardless of the physical facilities apportioned to the Negro and white children, the colored child always received an inferior education in a segregated school since he lacked the opportunity "to learn his personal adjustments, his social adjustments and his citizenship skills in the presence of a cross-section of the population" (R. 126).

Dr. Speer was here taking note of the very point stressed by this Court in *Sweatt* v. *Painter,* 339 U. S. 629, 634 (1949) and *McLaurin* v. *Oklahoma,* 339 U. S. 637, 641 (1949). It was there held that the absence of the opportunity for contact with a group of persons representative of those among whom the student will eventually practice his profession constitutes, in the case of education on the professional level, an inequality in violation of the equal protection clause. Clearly in the case at bar the absence of the opportunity to associate with those with whom the Negro child must live and work in the future constitutes a deprivation of equal or greater magnitude. Many of these students will not go on to professional school and thus receive there the opportunity for such association which this Court has recently assured them.

The testimony in the instant case contains other evidence of the adverse effects of segregation on the Negro child. Both Dr. Louisa Holt (R. 170) and Dr. Horace B. English (R. 156) described the adverse effects of the feeling of inferiority engendered by segregation. Dr.

Wilbur B. Brookover, a professor of sociology at Michigan State College, pointed out the deep resentment induced by the discrepancy between the vaunted American creed that all are created equal and the bitter fact of subordination through segregation (R. 164-165). These conclusions find support in the Deutscher-Chein study, in which one psychologist noted:

> "The effects of this enforced status on the level of self-esteem, on feelings of inferiority and personal insecurity, the gnawing doubts and the compensatory mechanisms, the blind and helpless and hard to handle more or less suppressed retaliatory rage, the displaced aggression and ambivalence toward their own kind with a consequent sense of isolation and of not belonging anywhere—all of these and much more are bad enough, but the ambiguity of status created by a society which insists on the fact that all men are born free and equal, and then turns about and acts as if they were not is even worse. The constant reminder—and even boasting—of this equality acts like salt upon a raw wound and, more basically, places them in a profoundly ambiguous and unstructured situation. Human beings simply cannot function efficiently in such situations if they have strong feelings and are strongly motivated—as many, if not most or all, members of discriminated against minority groups are—with regard to these situations." Deutscher and Chein, *op. cit., supra,* at p. 272.

Psychic injury always accompanies segregation. We think it patent that as between a system which imposes such penalties and one which does not, there can be no talk of equality.

CONCLUSION

Equality is impossible in a racially segregated grade school system. The inferior status in which it freezes the Negroes and the harmful effects which it has on them are the direct results of the fact that the state lends its power, resources and authority to the caste system. Under the principles of the *Shelley* case, *supra,* such use, or abuse, of state power is a violation of the Fourteenth Amendment. Regardless of where the doctrine of "white supremacy" originated, regardless of whether its tenets find explicit expression in state acts, and regardless of the avowed purpose of state-imposed racial segregation, that segregation is unconstitutional because, invoking "the full coercive power of government" (*Shelley* case, 334 U. S., at 19), it acts as no other force can to extend inequality, impede its elimination and incorporate it in the facilities which it provides for its citizens.

Respectfully submitted,

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