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in the Humanities & Social Sciences

James T. Patterson. *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy.* New York: Oxford University Press, 2001. xxix + 285 pp.

James T. Patterson. *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy.* New York and Oxford: Oxford University Press, 2001. xxix + 285 pp. $27.50 (cloth), ISBN 978-0-19-512716-4; $19.95 (paper), ISBN 978-0-19-515632-4.

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Published on H-Education (January, 2004)

Reconsidering <cite>Brown v. Board of Education</cite>

Reconsidering *Brown v. Board of Education*

This volume is the first in a series edited by David Hackett Fischer and James M. McPherson in which "each book will examine a large historical problem through the lens of a particular event and the choices of individual actors" (p. xi). Judging by James T. Patterson's book *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy*, the series is off to an impressive start.

The impending half-century anniversary of the decision rendered by the U.S. Supreme Court in the matter of *Brown v. Board of Education of Topeka* invites a reconsideration of the themes of school integration, affirmative action, and the anticipated–but unrealized–ability of education to effect social change. Readers in search of a thick description of the *Brown* case should be directed to Richard Kluger's definitive *Simple Justice.*[1] Rather than an explication of the actions of the Court in a singular decision, Patterson's book is a political history of strategic decisions, court directions, and manipulation of the Court by opponents of the decision. Patterson examines broadly the primary events, actors, and social changes that coalesced around the decision itself including the end of Jim Crow, southern resistance, and black disillusionment.

Legal challenges to segregated schooling were originally directed toward graduate and professional education. That circumstance perhaps takes on added meaning in the wake of the recent decision in *Grutter v. Bollinger* (2003), in which the Supreme Court upheld the University of Michigan's use of affirmative action in its law school admissions program. In *Missouri ex. rel. Gaines v. Canada* (1938), the first case to directly challenge school segregation, Lloyd Gaines petitioned the court for admission to the University of Missouri Law School. Ruling on the case, the Supreme Court upheld the precedent of "separate but equal" established by *Plessy v. Ferguson* (1896). Although not specifically addressed in this book, the decision in the Gaines case focused on the practice of southern states to meet the provision of "equality" by awarding out-of-state tuition scholarships to black students. In lieu of providing equal facilities, blacks were expected to use the scholarships to defray costs associated with attending northern institutions. Southern states universally ignored the Court's ruling that the scholarships did not equalize the conditions.

During the 1940s, the legal arm of the National Association for the Advancement of Colored People (NAACP) argued successfully for the admittance of blacks to white graduate schools in *McLaurin v. Oklahoma State Regents for Higher Education* (1950) and *Sweatt v. Painter* (1950). The NAACP subsequently turned its attention to public

schooling at the elementary and secondary level due to, first, resignation on the part of blacks that whites would never grant equality, and second, the intransigence of white southerners. As Patterson points out, this decision did not have universal black support. A significant number of African Americans were less troubled by separate schools than by unequal schools. Black community schools would have been acceptable so long as they received an equal share of the school funds.

Consistent with its title, Patterson devotes much of the book to the legacy of *Brown*. An outgrowth of the case was a policy shift for the Court itself, whereby "the Court under [Chief Justice Earl] Warren would henceforth interpret the Constitution in light of changing circumstances, not as a fixed document whose meaning had always to be found in the intent of the Founding Fathers or of politicians in the 1860s" (p. 69; a reference to "equal protection" under the Fourteenth Amendment). Another result was an orchestrated pattern of white resistance to the ruling through the intimidation of black students who attempted to enroll in all-white schools and the wholesale closing down of white school systems by southern governors. The most pervasive of these strategies was the use of "pupil placement" laws–a ruse to perpetuate segregated schools–that assigned students to schools on the basis of psychological and "academic" criteria such as morals, behavior, and health (p. 100).

Patterson's book is a reminder that social change waxes and wanes in response to political winds. During the 1960s, the presence of a coherent federal policy and the social ferment of the Civil Rights Movement influenced the Court to side with the black plaintiffs in *Green v. County School Board of New Kent County, Va.* In a sense, this decision placed a coda on the *Brown* decision by finally defining the meaning of "all deliberate speed" and thus significantly ending *de jure* racial segregation in southern and border states. As the Court membership shifted in the 1970s and 1980s, so did its ideological base. Populated by more conservative members, the Court began a systematic rollback of earlier court-ordered busing plans. In addition, reports by Daniel Patrick Moynihan and others began to lay the blame for black failure at the door of black families and communities rather than segregated schooling. As blacks continued to seek redress through the courts, whites fled to the suburbs, setting into motion a process of school resegregation bolstered by the persistent traditions of local control and a concomitant school funding formula based on local property taxes. Interestingly, one of the legacies of the *Brown* decision is the use by both blacks and whites of school choice as a means of educational self-determination.

Although Patterson does not present a social-class analysis, resegregation is an economic as well as racial response to *Brown*. The plaintiffs in the major cases were members of the black bourgeoisie. Oliver Brown, for example, was a welder for a railroad company and a part-time assistant pastor. The graduate students, parents, and primary caregivers who pressed for school desegregation represented an emerging black middle class whose belief in education as a means of social mobility was unwavering. Likewise, social scientists will want to expand Patterson's discussion of the use of social-scientific techniques (Kenneth and Mamie Clark's doll study). Deflecting the argument away from school segregation as apartheid, the argued link between integration and black self-esteem continues to be controversial. In the words of Zora Neale Hurston, "The whole matter revolves around the self-respect of my people. How much satisfaction can I get from a court order for somebody to associate with me who does not wish me near them?" (p. xxvii). And last, although education is at the heart of this case, it is not at the center of Patterson's book. Educational historians may well wish for a more fulsome inclusion of black educational history, case studies of black schools, and narratives of black teachers and administrators who often lost their positions as the result of integration.

Thurgood Marshall, Earl Warren, and other architects of the decision believed that desegregation was an academic, social, and economic good (p. 201). Over the last fifty years, petitioners have lost faith in litigation as the means of ensuring educational equality. A half-century later, the question remains whether or not social change can be litigated. Patterson's eminently readable book not only reminds us of the enduring tension between equality and meritocracy in the American democracy, but also questions the role and efficacy of education as an engine of social change.

Patterson's book joins an expanding canon of works related to the *Brown* case. Both Patterson and Peter Irons, author of the book *Jim Crow's Children*, include suggested readings on the subject.[2] Although scholars may be frustrated by Irons's lack of citations to page numbers in his references, his narrative approach complements Patterson. Also recommended is *Dismantling Desegregation*, edited by Gary Orfield and Susan E. Eaton of the Harvard Project on School Desegregation.[3] Orfield and Eaton join Patterson and Irons in their assessment of *Brown* as an unfulfilled promise.

Notes

[1]. Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Freedom* (New York: Vintage Books, 1975).

[2]. Peter Irons, *Jim Crow's Children: The Broken Promise of the Brown Decision* (New York: Viking, 2002).

[3]. Gary Orfield and Susan E. Eaton, eds., *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education* (New York: The New Press, 1996).

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Citation: Jayne R. Beilke. Review of James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* and Patterson, James T., *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy*. H-Education, H-Net Reviews. January, 2004.

URL: http://www.h-net.org/reviews/showrev.php?id=8689

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