

Paper Assignment One

Law played a central, though conflicting, role in the Little Rock Crisis. One of the primary purposes of law is to promote order in society thereby investing law with a certain degree of power and authority. An argument or appeal based on law is much stronger than one based simply on personal opinion or preference. Since law, however, is a creation and a reflection of the society it is meant to govern, it is often open to multiple interpretations and law can become a tool for change or for conservation. The question at the heart of the Little Rock Crisis was whether the law gave the Supreme Court the power and authority to mandate social change through the desegregation of schools in the *Brown v. Board of Education* decision. This decision prompted a strong reaction in society and led to questions over which interpretation of the law is most valid. Actors on either side of the argument called on the law in the defense of their viewpoints. These actors appealed to two main functions of the law: the protection of rights and responsibilities and the maintenance of order. In the case of Little Rock, actors with very different views on the situation were able to appeal to these functions of the law and use law as a tool to support actions to both conserve and change society on the issue of segregation.

The idea of what rights are, who should have them, and which should take precedence over others is poorly defined and therefore open to a variety of interpretations. With rights, however, come certain responsibilities. When engaging law in their arguments many of the actors involved in Little Rock appealed to the rights and responsibilities they felt the law guaranteed. Governor Faubus, for example, opposed

efforts to desegregate on the grounds that doing so would violate the rights of the citizens of Little Rock by placing them in danger. In a statement issued by him after meeting with Eisenhower, he says that "...it is my responsibility to protect the people from violence in any form...in meeting this obligation, it is essential that, in proceeding to implement the orders of the Court, the complexities of integration be patiently understood by all those in Federal Authority."¹ In this simple statement Faubus is justifying his efforts to impede integration through an appeal to his responsibility under the law to protect the citizens of Little Rock.

Many of the arguments that appealed to the ideas of rights looked at the rights of the individuals directly involved with the Little Rock Crisis. As the Supreme Court reiterated in *Cooper v. Aaron*, the *Brown* decision was based on the idea that separate but equal in education is not constitutionally sound, as a separate education is inherently unequal.² Based on the findings of the *Brown* decision, the Court argues that "The constitutional rights of respondents are not to be sacrificed or yielded to the violence and disorder which have followed upon the actions of the Governor and Legislature, and law and order are not here to be preserved by depriving the Negro children of their constitutional rights."³ This argument uses the law to support its conclusion by arguing that the right to equal education is guaranteed by the Constitution which forms the basis of the United States' legal system.

In the roundtable discussion set up by *NBC*, a white student named Sammy Dean Parker argues that her actions and the actions of the mob are justified because, "We fight

¹ Statement by the Governor of Arkansas, circa September 14th, 1957. *Eisenhower Presidential Papers*, p. 52.

² *Brown v. Board of Education*, 358 U.S.1 (1954), p. 42.

³ *Cooper v. Aaron*, 358 U.S.1 (1958) (per curium), p. 2.

for our freedom—that’s one thing. And we don’t have freedom anymore.”⁴ Sammy’s comment is similar to many other arguments which imply that desegregation impinges on the students’ and community’s rights. Senator Russell uses this same appeal to rights in his letter to Eisenhower, arguing that, “The eight dissenters at Little Rock should not be denied their rights merely because the President of the United States sees fit to place the school under military control.”⁵ Senator Stennis who also opposed the actions of the President and the Supreme Court, argued that forced desegregation would “totally destroy the public school system in great areas of the South” and that the objection to desegregation comes from “sincere, patriotic and law-abiding citizens” who are simply trying to protect the children of both races.⁶ Stennis, Russell and Parker, all argue that desegregation impinges on rights. These rights are not very well defined, but the general idea is that desegregation would be harmful to both races and would limit their freedoms.

In other arguments surrounding the crisis, the idea of rights and responsibilities were either connected to, or contrasted with the role that law must play in maintaining order. Despite the fact that he did not agree with the Supreme Court’s decision in *Brown*, for example, Eisenhower recognized the need to abide by the Court’s decision and his duty to enforce it where other officials chose to ignore it. His argument for intervention made ample use of the law for the very reason that he wished to separate his personal views from his responsibilities as President of the United States. In his statement to the nation, he says, “. . . we are a nation in which laws, not men, are supreme. I regret to say

⁴ “A Roundtable Discussion,” in *The Eyes on the Prize Civil Rights Reader*, ed. Clayborne Carson et al. (New York: Penguin, 1991), p. 104.

⁵ Telegram from Senator Richard B. Russell to President Eisenhower. September 26th, 1957. *Eisenhower Presidential Papers*, p. 82.

⁶ Telegram from Senator Stennis to President Eisenhower, October 1st, 1957. *Eisenhower Presidential Papers*, p. 90.

that this truth—this cornerstone of our liberties—was not observed in this instance.”⁷ He then goes on to point out that it is the duty of the Executive branch of the government to support the decisions of the Supreme Court. He, like Faubus, argues that it his duty before the law that justifies his actions.

The Supreme Court bases its argument on the same aspects of the law that the other actors appealed to, but this case also presented a challenge not just to the outcome of the *Brown* case, but also to the Supreme Court’s right to be the ultimate interpreter of the Constitution. By ruling unanimously and presenting a *per curium* opinion the Court responded to the challenge with a resounding affirmation of its previous decision and in support of its right to make such decisions. The ruling of the Court was based in part on the validity of the *Brown* argument and in part on the idea that it was a necessary decision to maintain the order that law provides. The Court appeals to the Constitution in establishing its right to make such a decision, by arguing that, “The interpretation of the Fourteenth Amendment enunciated by this Court in the *Brown* case is the supreme law of the land, and Art. VI of the Constitution makes it of binding effect on the States, ‘any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.’”⁸ Frankfurter supports this in his concurring opinion by drawing on the idea that law must enforce order. He writes, that to allow for re-segregation, “would be to enthrone official lawlessness, and lawlessness if not checked is the precursor of anarchy.”⁹ Though its argument is stronger because of the specific laws upon which its argument is based, the

⁷ Speech by President Eisenhower to “My fellow citizens,” circa September 23rd, 1957. *Eisenhower Presidential Papers*, p. 68.

⁸ *Cooper v. Aaron*, 358 U.S.1 (1958) (per curium), p. 3.

⁹ *Cooper v. Aaron*, 358 U.S.1 (1958) (Frankfurter, J., concurring), p. 3.

Supreme Court, like the other actors in the Little Rock Crisis, appealed to the basic functions of the law to support its argument.

Law is a broad concept, but despite this it carries a great deal of power and authority. The actors involved with the Little Rock Crisis realized the power of law, and tried to use it to their advantage. By looking at two of the main functions of law, defining rights and responsibilities and maintaining order, these actors found ways to justify their actions. The issue at the heart of the Little Rock Crisis was whether social change needed to occur. Each side of the argument was represented by a variety of viewpoints, but each viewpoint appealed to at least one of these functions of the law to justify their belief.

PART II:

In many ways, the Little Rock Crisis exemplifies and highlights some of the most important themes of the 1950s. This was a period of great change in American culture and society. The end of World War II transformed aspects of society from the economy to definitions of race. While the 1950s are primarily known for conformism, events and movements occurred within this decade that would later shape crucial issues relating to culture and society in the height of the Civil Rights movement. What occurred at Little Rock is reflective of many of the themes of the 1950s and although the issue of race immediately springs to mind, issues of race are closely tied to other themes of the era, particularly education.

Education and race clearly played an important role in Little Rock. Both education and race are reflective of society, and are thus influenced by the same pressures as any other social construct. Race in the United States in the 1950s centered on the

differences between Whites and African Americans, but this had not always been the case. In the article, “How did Jews Become White Folks?,” Karen Brodtkin Sacks looks at the role World War II, education and economic advancement played in eliminating the ideas of different races of Europeans. Unfortunately, as Sacks writes, “Educational and occupational GI benefits really constituted affirmative action programs for white males because they were decidedly not extended to African Americans males or to women of any race.”¹⁰ These ideas of race are evident in the Little Rock Crisis where efforts to desegregate schools were tied with the idea of “race-mixing”. Opening up economic and education opportunities for African Americans was a way of eliminating the distinction between the races, just as it had between the European races. Little Rock is just one example of society’s reaction to this possibility.

In Sugrue’s article he discusses the lengths to which white homeowners would go to prevent the integration of Detroit neighborhoods. Again, the fear was race mixing. As in Little Rock, each side appealed to their own idea of rights to defend their view. Segrue writes, “In the battles over public-housing in the 1940s, neighborhood groups fashioned a potent political language of rights, a language that they refined and extended in the 1950s and 1960s.”¹¹ In many ways, what occurred at Little Rock is just an extension from housing to education.

Prior to the launch of Sputnik in 1957, education was viewed with a certain amount of distaste by much of the American population. As Richard Hofstadter points out, the 1950s was a time of anti-intellectualism. He quotes Evangelist Billy Graham who

¹⁰ Sacks, Karen Brodtkin. “How did Jews Become White Folks?” in *Race*, ed. Gregory, Steven and Sanjek, Roger. (New Brunswick, NJ: 1992), pp. 90-91.

¹¹ Segrue, Thomas J. “Crabgrass-Roots Politics: Race, Rights, and the Reaction against Liberalism in the Urban North, 1940-1964.” In *The Journal of American History* (Vo. 82, No. 2, Sept. 1995), p. 564.

argued that, “I sincerely believe that partial education throughout the world is far worse than none at all, if we only educate the mind without the soul... You can stick a public school and a university in the middle of every block of every city in American and you will never keep America from rotting morally by mere intellectual education.”¹²

Intellectualism was distrusted by much of the American public, which is why the reaction against the Supreme Court’s ruling in *Brown*, is not very surprising. The idea that a group of intellectual justices could determine the course of social progress would have been very distasteful to many of the Little Rock citizens and would have helped to justify the actions of Governor Faubus and the Mob.

There are, undoubtedly, many more examples of where the themes of the 1950s intersect with what happened at Little Rock. Issues of education, race, liberalism, conservatism, etc. are all tied together by the society in which they are found. Although race was at the heart of the Little Rock Crisis, so were issues of education and the way intellectualism was viewed by the much of the public. What occurred in Little Rock in terms of race and education can be connected to cultural attitudes in a range of circumstances in the 1950s.

¹² Hofstadter, Richard. *Anti-intellectualism in American Life*. (New York: Vintage Books) p. 15

Works Cited

“A Roundtable Discussion,” in *The Eyes on the Prize Civil Rights Reader*, ed. Clayborne Carson et al. (New York: Penguin, 1991).

Brown v. Board of Education, 358 U.S.1 (1954).

Cooper v. Aaron, 358 U.S.1 (1958) (per curium).

Cooper v. Aaron, 358 U.S.1 (1958) (Frankfurter, J., concurring).

Hofstadter, Richard. *Anti-intellectualism in American Life*. (New York: Vintage Books)

Sacks, Karen Brodtkin. “How did Jews Become White Folks?” in *Race*, ed. Gregory, Steven and Sanjek, Roger. (New Brunswick, NJ: 1992).

Segrue, Thomas J. “Crabgrass-Roots Politics: Race, Rights, and the Reaction against Liberalism in the Urban North, 1940-1964.” In *The Journal of American History* (Vo. 82, No. 2, Sept. 1995).

Speech by President Eisenhower to “My fellow citizens,” circa September 23rd, 1957. *Eisenhower Presidential Papers*.

Statement by the Governor of Arkansas, circa September 14th, 1957. *Eisenhower Presidential Papers*.

Telegram from Senator Richard B. Russell to President Eisenhower. September 26th, 1957. *Eisenhower Presidential Papers*.

Telegram from Senator Stennis to President Eisenhower, October 1st, 1957. *Eisenhower Presidential Papers*.