

Summer for the Gods

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Today, students are much more likely to watch movies about historical events than read about them. As a result, false perceptions replace facts, distorting how we learn about the past and consequently, how we understand our world today. People who watch the movie Amistad come away with the notion that this event marked a key turning point in the issue of slavery in the U.S when in fact slavery was still flourishing and the Civil War was more than two decades away. The film Thirteen Days depicts Kenneth O'Donnell, a political appointment secretary, as the chief figure during the Cuban Missile Crisis when in fact he had little, if anything, to do with the event. Inherit the Wind, the classic 1960 play and movie that retold the Scopes Trial, had a great influence on how people remembered the trial. Even though Jerome Lawrence and Robert E Lee, authors of Inherit the Wind, claimed that film was not history, "most people who have any notions about the trial get them from the play...or from the movie" (Larsen 244). The play demonizes William Jennings Bryan and fundamentalism while glorifying Darrow and the defense. Although these three movies may be entertaining, they lack historical truth. Thankfully, Edward Larsen in his book Summer for the Gods, offers a complete, compact, yet detailed account of the events surrounding the Scopes Trial, which help clear up any popular misconceptions about the trial. Larsen's work is proof that objective historical knowledge is possible.

The Scopes Trial has always interested me for a number of reasons. Concerning faith and religion,

I have always presented *Brown v Board of Education* to my students as a landmark twentieth century case that overturned *Plessy v. Ferguson*, eliminated segregation in public schools and served as a huge victory for the Civil Rights Movement. After reading Michael Klarman's in depth analysis of the trial, I need to modify how I present this complex case. Klarman views *Brown* as a symbolic victory for the Civil Rights Movement but blatantly states that it was the adverse reaction from the white community in the Deep South in response to *Brown* that helped rally national support for desegregation. His interpretation of the outcome of the case, although thoroughly researched and highly persuasive, seems to minimize the importance of *Brown*'s attorneys and the unanimous decision handed down by the justices. Did this case push the Civil Rights Movement into a new era or did events like World War II and the Cold War create a new era of progressive racial change where a unanimous ruling to desegregate schools was possible?

Klarman does an excellent job examining race relations during the five decades between the *Plessy* and *Brown* decisions and identifies many factors that contributed to a gradual decline in racism throughout the South. "The rising education levels of both whites and blacks, urbanization, industrialization, and demographic shifts...[caused] this liberalization of white racial opinion" (Klarman p. 32). An increase in education among whites led to an increased difficulty in rationalizing Jim Crow while increased educational opportunities for blacks helped "undermine one of Jim Crow's original

justifications: protecting whites from being dragged down by illiterate freedmen” (32).

During World War II, white and black soldiers fought and died together on the battlefield, helping break down racial barriers at home. While science began to erode biological racial theories, a general revulsion of Hitler’s policies contributed to the liberalization of racial attitudes. By the 1950s, “the increasing social, economic, and cultural integration of the nation made it more costly to maintain aberrant regional practices” (33). Traditional racist practices that had existed down south were now broadcast throughout the nation and the world thanks to the expansion of media. Segregation was still a main characteristic particularly in the Deep South, but change was on the horizon in the rest of the country and the Court played an important role.

The Supreme Court Justices of the World War II era were supportive of progressive racial change and “began assuming a special role in protecting rights integral to the democratic process, such as voting and free speech, and the equality rights of ‘discrete and insular’ minorities” (38). This new role for the courts emerged, “rendering landmark decisions that expanded the equality rights of blacks and the First Amendment rights of political dissidents, religious minorities, and labor unions” (38). School segregation was not a top priority for civil rights activists though. After World War II landmark court cases saw the elimination of segregation in voting, transportation, and residency. It is important to point out that the verdicts that brought about desegregation in these areas were tolerable by a majority of the white southern population. This same sentiment was practically non-existent when it came to discussing desegregating public schools. “Preserving school segregation was a top priority of white supremacists” (56). And although progressive racial change began occurring after World War II, “[these]

forces...had yet to produce any dramatic changes in southern racial practices” (56). In 1950, the National Association for the Advancement of Colored People no longer accepted equalization cases. The NAACP no longer supported the Plessy statute of “separate by equal” and they chose to attack segregation directly. The unanimous decision in *Brown v. Board of Education* invalidated racial segregation in public schools, but the Justices inability to offer guidance as to how integration should look rendered *Brown II* as “vague [and] meaningless” (225). Also, the court lacks the power to enforce its decisions, so it requires the support of the other branches of government. If the Executive Branch refuses to enforce a court’s ruling, it can create a quagmire. In the Deep South, many leaders resisted integrating the public schools. In fact, Klarman claims that the verdict in *Brown* actually rallied the white support for maintaining segregation, leading to violent protests. The backlash from the white community in response to *Brown* gave the initial appearance that the Civil Rights Movement had not actually permeated the Deep South. But, as racial attitudes throughout the country were changing, and more than half the nation accepted integration, the Jim Crow South had no choice but to embrace integration as violent protests were now broadcast throughout the nation.

First, when I teach this case, I always point out that the verdict was unanimous which illustrates the likelihood that this was not that difficult a case for the justices. After reading Klarman’s analysis, I learned that the justices were divided and conflicted. Some viewed segregation as a moral evil yet found it difficult to legally overturn. The Plessy verdict provided decades of precedent regarding segregation. I also learned that the many of the justices knew segregation to be morally wrong but the law “was

reasonably clear: Segregation was constitutional. For the justices to reject a result so clearly indicated by the conventional legal sources suggests that they had very strong personal preferences to the contrary” (75). Should judges let personal beliefs influence their decisions? Klarman states that in *Brown*, “when justices’ personal preferences are strong, they may reject even relatively determinate law” (216). Can a judge focus on moral questions or is he bound to the law? Since the Constitution is a living document, interpretations can change. Klarman points out, “[justices] cannot help but be influenced by their personal values and the social and political context of their times” (217). How big a role do society and politics play when the courts have to issue verdicts on controversial cases? When teaching, I have sometime fallen into the trap of describing the court as an institution that protects the minority and offers a voice to those marginalized in society. Klarman believes this notion to be “unrealistic” claiming, “the justices reflect dominant public opinion too much for them to protect truly subordinated groups” (218). Klarman argues that the *Brown* verdict would not have been possible ten years earlier, citing the social climate regarding integration. Here I would make the analogy to my students about the push for gay rights in today’s society. We have seen in the past decade, a number of states legalize gay marriage and/or civil unions. This is something that would be unthinkable in prior decades. An increase in the support for and acknowledgement of gay rights has helped foster a climate where progressive change is possible. Also, the Defense of Marriage Act has created a backlash in certain states rallying increased support for same sex marriages.

How significant is the *Brown* ruling? Because the unanimous verdict to desegregate public schools was issued at a time when there was a growing national

sentiment for bettering race relations and the court was reluctant to offer guidance on how this should be accomplished, we have to be sure not to exaggerate the impact of the verdict itself. The fact that the decision galvanized support within the white community to defy the ruling and uphold segregation helped push the Civil Rights Movement forward. According to Klarman, *Brown* was important for rallying whites against blacks and making the Civil Rights struggle more violent. He claims, “The Court’s ruling plainly raised the salience of school segregation, encouraged blacks to litigate against it, changed the order in which racial practices would otherwise have been contested, mobilized extraordinary resistance to racial change among southern whites, and created concrete occasions for street confrontations and violence” (221). This opinion, although highly convincing, does not take into consideration the work of the attorneys for *Brown* whose arguments must have had an influence on the justices. I recognize that we cannot make exaggerated claims about the importance of *Brown* but it did declare segregation in public schools unconstitutional helping “shift the racial debate from other issues to school segregation” (227). This was important for the Civil Rights struggle to move forward because many white southerners opposed public school integration. *Brown* also served as inspiration for the black community. Although Klarman believes *Brown* to be “symbolically important” his backlash thesis merits meaningful debate. Klarman states, “many landmark Court rulings seem to have generated backlashes rather than support” citing the effect that *Dred Scott v Sandford* had on the Republican Party and the effect that *Roe v. Wade* had on mobilizing antiabortion activists (228-229).

After reading Klarman’s analysis, it has given me some new ideas on how to teach this case. After presenting some background on the case, I would give each students

a miniature biography and fact sheet on each Supreme Court Justice and have the students predict how each justice would decide this case. This lesson would illustrate how judges are definitely influenced by their background and personal beliefs and how legal precedent plays such an important role when rendering decisions. I love teaching through analogy and I believe many comparisons can be made between desegregating schools and gay marriage. Massachusetts declared The Defense of Marriage Act of 1996 unconstitutional and started issuing marriage licenses to gay couples. The court refused to consider establishing civil unions for same sex couples because segregating marriage was irrational and did not preserve or promote stable adult relationships. Over the past two decades, much progress has been made regarding gay rights such as the repeal of Don't Ask Don't Tell and New York becoming the seventh state to legalize same sex marriage. Although the differences between the Civil Rights struggle and Gay Rights Movement are many, they both illustrate the struggle between legal precedent and morality. "Court decisions do matter...but they cannot fundamentally transform a nation" (231). The Massachusetts Supreme Court would not have rendered its decision the way it did if a majority of the population was opposed to same-sex marriage. The Brown decision did not contradict national sentiment and the courts reluctance to enforce the decision until "a civil rights movement had made northern whites as keen to eliminate Jim Crow as southern whites were to preserve it" indicates that "justices are too much products of their time and place to launch social revolutions" (231).

Through Klarman's in depth analysis on *Brown*, he was able to paint a vivid picture of race relations during the first half of the twentieth century while examining

how legal precedent combined with morality, politics, and social mores play a role our court system.

Works Cited

Larsen, Edward J. *Summer for the Gods*. Basic Books, 2006.