

Law Day 2008: Visiting Judge/Attorney Lesson Plan

Parker v. University of Delaware

Lesson Description:

This lesson is a case study in which students will discover how educational programs available to African-Americans in Delaware were unequal in the 1950's. The case allows students to analyze the concept of the "Rule of Law", which is this year's ABA theme for Law Day.

Objectives:

1. Students will analyze portions of the case *Parker v. University of Delaware* and reach a conclusion on the outcome of case.
2. Students will describe how the "Rule of Law" controls what a court may decide in a case.
3. Students will determine how decisions of a court may change our society.

Materials you should take with you to the class (for a class of 30):

- A. 30 copies of Overheads I through IV. You will give these out to students during the lesson. (They may also be put on transparencies and used as an overhead, if the teacher has an overhead projector)
- B. 15 sets of Student Handouts One and Two. Students will use these as pairs.
- C. From the "Comparison of the Schools Handouts," bring either 30 copies of the *Example* Faculty sheet or put it on a transparency. Then bring 6 copies of each of the other five handouts (Physical Facilities, Administration, Accreditation, Library, Curricula) It may be helpful to put each set of 6 on a different color paper. If you are using a transparency of Overhead III, bring 6 additional copies of this sheet to give one to each group.

PROCEDURES FOR THE LESSON:

Opening Activity:

5 min.

1. Read **Overhead I** (as a handout or transparency) to review what happened in *Plessy*.

Ask students to explain how they think *Plessy* affected the schools in Delaware. Explain that this decision created the doctrine of “separate but equal” Ask students to explain what they think the term “separate but equal” means. Explain that in 1950, the year that *Parker v. the University of Delaware* was heard, the “separate but equal” principle was accepted as the law.

2. Read **Overhead II** (as a handout or transparency). Ask the students to tell you why Chancellor Seitz had to follow *Plessy* and how this is an example of the “Rule of Law.”

Think-Pair-Share

10 min.

1. Ask students to work with a partner next to them. Give out the set of Student Handouts One and Two. Using **Student Handout One: Background on Parker v University of Delaware**, have pairs read handout and answer the questions. One should be the recorder and the other will report for the pair. Have pairs answer each of the four questions. Ask different pairs to answer one of the four questions. Ask if there are other answers in other pairs.

2. The same pairs should look at **Student Handout Two: Arguments** which is attached to Handout One. Ask pairs to identify the arguments presented by each side. Ask different pairs to present the arguments of both sides. Use the “**Whole Group Discussion**” questions, if you have an older class or law class that will likely understand. You may also use the questions to give the students more background information. Just be sure to stay in the time frame.

Reach a decision

20 min.

Break class into 5 groups with each group getting one of the topics. Each group should have one part of Chancellor Seitz's comparison of the two schools

1. **Review the *Example* comparison of the Faculty** either as a Hand-out or from the transparency. Ask the students to use this as a model for their comparison.

2. Ask each group to select a recorder and a presenter. Groups should read and discuss their portion of the opinion and create a chart comparing the two schools using the **Overhead III Chart**. Give each group about 10 minutes to do their comparison and create their chart. The presenter for each group should describe their comparison. Based on each groups' analysis, ask the class how Chancellor Seitz should decide the case?

3. Give out copies or use transparency of **Overhead IV : Chancellor's Decision**. Read and briefly discuss.

Conclusion:

5 min.

Ask “ What do we mean the term Rule of Law?” Use the case of Parker to explain.

Ask “How did Chancellor Seitz's opinion affect Delaware”?

Overhead I: Review of *Plessey v. Ferguson*

In 1896, . . . the Supreme Court ruled in *Plessey v. Ferguson* that segregation was permissible in facilities such as schools, restaurants, railroad cars and restrooms, so long as those facilities were equal. This doctrine, known as “Separate but Equal” was in place for nearly 60 years. Because “Separate but Equal” lasted so long, many Americans came to think of segregation as appropriate or even desirable.

Street Law: A course in Practical Law, 6th
Edition, page 483, Lee Arbetman and
Edward O’Brien
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Overhead II

The Principle of the “Rule of Law”

Read and discuss the following section from Chancellor Seitz’s decision. Why could he not decide that a “segregated school cannot be an equal school”?

“Under the present state of the decisions of the United States Supreme Court construing the Equal Protection Clause of the United States Constitution, I do not believe I am entitled to conclude that segregation alone violates that clause. I therefore pass over plaintiffs’ first contention that a segregated school cannot be an equal school.”

Overhead III

UNIVERSITY OF DELAWARE

DELAWARE STATE COLLEGE

Overhead IV: Chancellor Seitz's Decision

“The various matters discussed and compared demonstrate the all-pervading manner in which the College is inferior to the University. Thus whether the two institutions are compared item by item or in their totalities the same conclusion inescapably appears. The College is woefully inferior to the University in physical facilities available to and in the educational opportunities offered its undergraduates in the School of Arts and Sciences. In consequence, the State of Delaware is not providing these plaintiffs and others similarly situated with the educational opportunities at the College which are equal to those provided at the University.

“It follows from my conclusion that the Trustees of the University by refusing to consider plaintiffs’ applications because they are Negroes have violated the guarantee contained in the Equal Protection Clause of the United States Constitution. The Plaintiffs are therefore entitled to a permanent injunction in accordance with the prayers of their complaint.”

STUDENT HANDOUT ONE: **Background on *Parker v University of Delaware***

Terms to Know:

Class Action is a lawsuit brought by one or more persons on behalf of a larger group.

Court of Chancery is a court of equity, which can provide relief when no adequate remedy is available in the law. Delaware is one of the few states with a Court of Chancery.

Injunction is a court order requiring a person to do or not do something.

In 1950, Delaware had two separate institutions of higher learning. The University of Delaware was reserved for white students. African American students who wanted to attend college in Delaware were required to attend Delaware State College. Several African American students, including Brooks M. Parker, requested that the University of Delaware give them application forms so that they could apply for admission to the University of Delaware. The University refused because they were African American and because there was another school, Delaware State College, which they could attend.

The African American students instituted a class action suit against the University saying that the University's policy violated the Equal Protection Clause of the Fourteenth Amendment to the Constitution. They argued that Delaware State College was not equal to the University of Delaware. They asked the Court of Chancery to issue an injunction that would force the University to allow students of any race to apply for admission and to be accepted without regard to the race of the applicant.

(Source: *Simple Justice* by Richard Kluger)

QUESTIONS:

1. What happened in this case?

2. Who are the parties in the case?

3. What facts are important?

4. Why did the people involved act the way they did?

STUDENT HANDOUT TWO:
Parker v. University of Delaware Arguments

The Plaintiffs (Students)

“[P]laintiffs brought this action charging (1) that the Trustees of the University were not authorized by the Constitution of the State of Delaware or by any statute or law in force in Delaware to deny plaintiffs application blanks because of their color, and (2) the action of the Trustees violated . . . the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.”

The Defendants (University of Delaware)

“The Defendants have asserted three defenses to the complaint. They first contend that the complaint does not involve a class action They next contend that the Fourteenth Amendment to the United States Constitution has no application because the University is not a state institution. And finally, they contend that, assuming the Fourteenth Amendment to the Constitution to be applicable, and conceding that separate segregated state facilities must be equal, nevertheless, the evidence fails to show that the College is unequal to the University”

QUESTION

What are the arguments presented by each side?

WHOLE GROUP DISCUSSION

What are the legal and constitutional issues in the case?

What are the public policy issues? How will the Court’s decision affect society?

What values are in conflict?

Parker v. University of Delaware
Comparison of the Schools
Handouts

Example

FACULTY

University of Delaware

Delaware State College

Rank

48 Professors, 33 Associate Professors

Rank

4 Full Professors

Training

77 Doctors, 112 Masters
58 Bachelors

Training

4 Doctors, 21 Masters,
6 Bachelors

Salary Distribution

3,000 to \$6,700

Salary Distribution

\$2,250 to \$4,300

Scholarship of faculty

Research- full time and part
Encouragement of Research by administration
Honors (Presentation of papers to honorary
societies, etc.)
Bibliography and scholarly publications

Scholarship of the faculty

No Encouragement
No distinction
No bibliography, no publication

Teaching Load

12 hours
Faculty stimulated by Graduate School

Teaching Load

15 hours

Tenure

Instructor - 1 year
Assistant Professor - 3 years
New Associate Professor - 3 years
Associate Professor renewing contract -5 years
Full Professor- without term

Tenure

Year to year, for all faculty members – no one
has tenure

Physical Facilities

The campus at the University is a thing of beauty. I say this based on my visit and not unmindful of the necessity for objectivity because of my own undergraduate background. The beauty of the campus arises from the obvious quality of the many substantial buildings and from the striking symmetry created by the landscaping and the overall architectural uniformity. An examination of the various buildings demonstrated to me, with a few exceptions, that the physical plant at the University is of a very high quality. Indeed, the University's acting president, when testifying, took an obvious and commendable pride in the excellence of the University's physical plant and equipment. In contrast, the campus at the College left one with the feeling that there was no particular plan behind the positions of the various buildings. Moreover, an examination of the buildings themselves [***21] led me to conclude that with very [*394] few exceptions the few good buildings at the college were inferior to nearly all of the comparable buildings at the University. Once came away from the College with the feeling that here was an institution which, even without comparison, was a most inadequate institution for higher learning.

Administration and Other Factors

The two institutions may be compared in many other respects. The administration of the University is so far superior to that existing at the College that it almost defies comparison. The scope of the duties of the various administrative officers at the University were well defined, [*399] while the duties of the various officers at the College are vague in many instances.

I merely mention several other important ways in which the College is inferior to the University. Thus, the University provides a fairly elaborate student personnel service to assist the students in securing employment during attendance and after graduation – the College has none.

The University possesses a division of health, a health building, an infirmary and [***29] a medical staff including nurses. All [**234] the College has is a doctor on call and a most inadequate infirmary.

Disparities also appear in the maintenance staffs of the two institutions. It may be noted that maids clean the dormitories at the University, while the students do this work at the College. At the University, athletic facilities exist in abundance, including swimming pools and gymnasias, while at the College neither a swimming pool nor a gymnasium can be found. The State by statute has created certain chairs of learning at the University, while it has created none at the College. The State created scholarships and prizes at the University including some 33 funds, while there is just one scholarship fund at the College.

Accreditation

Plaintiffs contend that the educational opportunities offered at the College are inferior to those offered at the University because the University is accredited and the College is not. The testimony before [***27] me clearly indicates that a graduate of an unaccredited college is often at a [*398] distinct disadvantage. Some of these disadvantages arise in attempting to transfer to another undergraduate institution, in attempting to enter graduate or professional school and in seeking employment. The disadvantages arise because school authorities and employers generally give persons from unaccredited institutions less consideration than those coming from accredited schools. This is understandable because most reputable educational institutions are accredited. This means that the institution is being conducted in accordance with certain standards which have been determined to be acceptable for educational institutions. n4 One expert witness of prominence testified that in this day and age when there are many more applicants for admission to graduate and professional schools than there are available places the school authorities quite often commence their selection process by eliminating applicants from unaccredited schools. The possible adverse effect of this practice on graduates from the College is not difficult to comprehend.

Library

We next consider the libraries. Along with the faculty the library constitutes the “[**223] heart” of any educational institution. All the educators so testified and the soundness of this conclusion is self-evident.

The University has more than 140,000 volumes, housed in a magnificent structure which is well lighted and beautifully [***26] situated. The University’s library contains cubicles for insolated study and it contains a periodical room which makes available to the students a tremendous variety of periodicals. It also provides students with records of great operas, records to study various foreign languages and many other things. On the other hand, the College library contains 16,000 volumes. The experts testified that this number of volumes was, in and of itself, insufficient to meet even minimum requirements for a college of this type. Many of the volumes were piled on the floor because there apparently is inadequate space to house them. Its periodical selection does not even compare with that found at the University. It would be a waste of time to amplify the overwhelming inferiority of the library at the College to the library at the University. Indeed, the College library was originally designed as a chapel. I conclude that in this very important respect the College is inferior to the University.

Curricula

I now look to the curricula offered at the two institutions. It is obvious that at the heart of this problem is the question as to whether the State shall give all of its citizens equal educational opportunities. With this in mind it is important to see what the University offers to its students and what the College offers to its students. Of course, it must be recognized that under the present educational scheme students "major" in certain fields. Apparently this practice is identified as a "field [***22] of concentration." Since this suit involves admission to the School of Arts and Science at the University, it is pertinent to note that the University offers students an opportunity to concentrate in 18 fields and in 5 related subjects in the School of Arts and Science. The University also offers Bachelor of Science degrees in Business Administration, Chemistry, Physics, Medical Technology, Agriculture, Education, Engineering and Home Economics. The catalogue of the College offers fields of concentration in 8 subjects in pursuance of the Bachelor of Arts and Bachelor of Science degrees in the divisions of Language [**232] and Literature, Social Science, Natural Science and Mathematics. It also apparently offers fields of concentration in 5 educational fields. The testimony clearly convinced me that while these fields of concentration [*395] appear in the catalogue of the College, many of the courses and facilities necessary to pursue these fields of concentration are not in fact available at the College. Thus, I conclude that based on the comparative number of fields of concentration offered and in fact available, the education opportunities offered in this important [***23] respect at the College are vastly inferior to those offered at the University.

One is also struck by the gross disparity between the richness and variety of particular courses offered at the University and at the College. An examination of the bulletins of the two schools reveals that the University offers many, many courses which are not offered at the College. Not only are more and different courses offered at the University, but the difference in depth and intensity is markedly great. Thus, it appears that a large number of seminar courses are available at the University while no seminar courses are offered at the College. All the witnesses agreed that seminar courses are valuable because they provide for closer contact between teacher and student and because they involve a more intimate interchange of ideas among the students. Defendants' counsel suggest that this marked deficiency is removed at the College because of the small number of students in the classes. This suggestion by the defendants' counsel loses sight of the real importance of seminar work, since the emphasis in seminar work is on individual effort and the exchange of ideas by the students in a non-classroom [***24] atmosphere. It is rather shocking that at this stage in the progress of higher education in Delaware many of its citizens do not have available to them in their college work anything resembling seminar courses.