While Congress debated and procrastinated on civil-rights legislation, the executive and judicial branches took steps of their own to serve the cause of justice and equality. Three of the key issues were patronage, housing, and equality before the courts.

Patronage was of particular importance to black Americans. Of the racial minorities, only they had developed enough interest and political power to gain serious consideration on appointments. Consequently, the pressure on President Truman to name Negroes to federal office mounted after the civil-rights battles of 1948. Louis Lautier pointed out in January 1949 that the report of the President's Committee on Civil Rights was "comprehensive," except for its silence on the subject of the virtual exclusion of blacks from important federal jobs. Indeed at the beginning of 1949 only six black men held presidential appointments that required Senate confirmation.¹

Although Truman was apparently not eager to nominate Negroes for important federal positions, neither was he necessarily opposed to doing so. Moreover, he was often willing to appoint some whites who were considered sympathetic to Negroes. These included the designations of Tom Clark to the Supreme Court; Charles Fahy to the Circuit Court of Appeals for the District of Columbia; James P. McGranery—a former Pennsylvania congressman who had represented a largely black area—to a district judgeship; and Howard McGrath—the sponsor of the administration's civil-rights program in the Senate—to replace Clark as attorney general. Yet appointments of sympathetic whites would not allay Negro interest in black appointments.

The testing ground for Truman's sincerity in 1949 came in the area of a judicial appointment. Pressure here grew strong in 1949 be-
cause of the creation of twenty-seven new federal judgeships and the increasing demonstration of the talents of Negro lawyers in civil-rights cases. As early as May 1949, NAACP President Arthur B. Spingarn urged the appointment of the association's chief counsel, Thurgood Marshall, to a district judgeship, a recommendation strongly endorsed by Spingarn's nephew, White House aide Stephen J. Spingarn. Marshall would have to wait a dozen years for a seat on the federal bench, but the rumor grew, as the summer passed, that President Truman was willing to consider a black for the regular federal judiciary.  

Negroes in Philadelphia were particularly active in pressing for a federal court appointment. An important element in the politics of a pivotal state, Philadelphia's Negroes—who were endowed with a number of able lawyers and represented by one of liberalism's leading apostles, Senator Francis J. Myers—held that such an appointment would be a test of the senator's and the president's sincerity with regard to civil rights. Although several names were mentioned, the strongest support from Philadelphia rallied behind Raymond Pace Alexander—a nationally prominent black attorney—for nomination to the District Court for Eastern Pennsylvania.

The Negro most often thought of for judicial appointment by Truman, however, was not Marshall nor Alexander, but William H. Hastie. Hastie had a record of government service unmatched by any other American Negro. During the Roosevelt years he had been assistant solicitor of the Interior Department, district judge for the Virgin Islands, and civilian aide in the War Department. He had also been dean of Howard University's Law School, and had served the president ably as governor of the Virgin Islands and as a campaigner in the 1948 election. Truman, in fact, had been so pleased with Hastie's role in the campaign that he spontaneously wrote him, "We won a great victory because we defined the issues and carried them to the people. Your part in that victory was no small one and I really do appreciate it." Truman would soon have occasion to express his appreciation tangibly.

Hastie had been mentioned for a judicial appointment in 1945, and the question had been raised again in 1949, when a number of people recommended him for the Supreme Court. The White House had also received endorsements of him for other judicial posts. Hastie had considerable support for appointment to the Third Circuit Court of Appeals, including endorsements from the presidents of the Trenton, New Jersey, and Wilmington, Delaware, branches of the NAACP and from a Philadelphia luminary, former Attorney General Francis
Biddle. This plainly put Hastie on a collision course with Philadelphia's Negroes, who were disturbed by the rumors that Hastie might receive an appointment in their vicinity, partly because he had no connection by birth, training, or residence with the area. The Philadelphia Negroes were also displeased because they believed that a Negro district judge could do more for race relations than an appellate judge. And there were other problems. The New Jersey Bar Association thought that an appointment from its state was in order, and Delaware made a campaign for the appointment of Daniel F. Wolcott. Apparently the White House did not seriously consider these bids.

Pennsylvania's Democratic leaders were under fire. They wanted a Negro appointment to satisfy the state's black voters and to lend credibility to the liberalism of the nation's Democrats. Senator Myers requested and received an appointment with Truman for himself and National Committeeman David L. Lawrence for September 28 to discuss the circuit and district court nominations. He also asked that the president "postpone any action he may contemplate until after our visit." What they discussed was not revealed, but about this time Myers hinted to Philadelphia's Negro attorneys that Hastie would receive one of the two judgeships. Moreover, on October 5 the president wrote Francis Biddle of his high opinion of Hastie, who was "under serious consideration" for the third circuit bench.

Also interesting are the nomination papers for Hastie that were prepared for Truman by Attorney General McGrath. An unsigned note dated October 13 and attached to the summary of Hastie's qualifications shows the words "McGranery" and "Alexander for Dist Ct" crossed out and, below them, left standing, "Clear Sen Meyers [sic] before sending up." This suggests that Myers had proposed McGranery's promotion and Alexander's nomination, since that move would have been politically helpful to the senator in Philadelphia. If so, it is probable that the White House convinced Myers that it was important to appoint Hastie—that a national figure in a post more prestigious than district judge would in the long run mean more to Negroes, the party, and the nation. Whatever happened, local interests had lost out to national concerns.

On October 15 Hastie was appointed to the Third Circuit Court of Appeals on an ad interim basis and was nominated for Senate confirmation for permanent appointment. Negroes were generally pleased with Hastie's appointment to the highest judicial position ever held by a black American. As the Chicago Defender wrote, "The long cherished dream of Negro representation on the United States Supreme Court
came nearer realization [with Hastie's designation] than at any time in our history... The new appointment bears out the fact that President Truman is mindful of his pledges to the American people."

The Hastie matter was not yet finished. He had to win Senate confirmation, and there he encountered trouble. A number of senators were opposed to any Negro appointment, but additionally, Chairman Pat McCarran of the Senate Judiciary Committee held up approval until July 1950 because of charges that the judge had been a member of several Communist-front groups. The White House fully backed Hastie. Neither in terms of prestige nor politics could it afford to lose this struggle. President Truman asked Vice-President Barkley to deal with one of the objectors—a fellow Kentuckian, Senator Garrett L. Withers. Barkley reported that Withers had satisfied himself that Hastie was acceptable. The White House also sent to the vice-president eight pages of material received from the Americans for Democratic Action, emphasizing Hastie's anti-Communist views and his loyalty to the Democratic party. The judge was finally confirmed, and Negroes received their most prestigious appointment to that date from a president.

Hastie's was only one of a number of significant Negro appointments made or considered during Truman's second term. One appointment soon after the second term commenced was that of Mrs. Anna Hedgeman to be a general assistant to Federal Security Administrator Oscar Ewing. In the spring of 1949 Dr. Ralph Bunche, the head of the UN's Trusteeship Division, was offered a position as assistant secretary of state, but refused it because of financial considerations and the racial discrimination prevalent in the nation's capital. As Bunche put it, "There's too much jim crow in Washington for me—I wouldn't take my kids back there." Toward the end of the year Interior Secretary Oscar Chapman offered to recommend his old friend Walter White for nomination as governor of the Virgin Islands, which the NAACP secretary declined because he wanted to work in broader areas of responsibility.

During 1950 pressure developed to fill some of the new District of Columbia judgeships with Negroes. National Bar Association President Thurman L. Dodson pointed out that only one of the thirty-eight judges in Washington was black. Now that three more judgeships had been authorized for the city, he hoped that "at least two of the proposed appointments will be colored." Dodson specifically suggested consideration of Assistant United States Attorney Andrew J. Howard, Jr. In March 1950 the White House received John Sengstacke's protest
about "what appeared to be a by-passing of the Negro in the administration's program." The letter arrived while Truman was in Key West, but David K. Niles wrote to the prominent Negro publisher "that the passage of time will make clear that there is no intentional or unintentional by-passing of Negroes in the administration's program." Niles also pointed to the appointment of Congressman William L. Dawson as vice-chairman of the Democratic National Committee and Sengstacke's own membership on the President's Committee on Equality of Treatment and Opportunity in the Armed Services.\(^{11}\)

By summer Truman decided to add another Negro to the District of Columbia bench. In August he nominated Emory B. Smith to be a judge of the Municipal Court. Judge Smith died, however, after thirteen days in office, so Truman named Andrew J. Howard, Jr., to fill his place. Similar appointments were made periodically, so that they were becoming less of a curiosity. Dr. Ambrose Caliver was named assistant commissioner of the Office of Education, and Mrs. Edith Sampson as an alternate delegate to the UN General Assembly during the summer of 1950. In September came the appointment of Daniel W. Ambrose, Jr., as government secretary for the Virgin Islands, and in November Professor Robert P. Barnes of Howard University was named to the board of the National Science Foundation. Indeed, even before these 1950 appointments, the White House could point to seventy Negroes in policy-making, executive, or racial-relations positions in federal agencies and to five foreign-service officers, including three in Europe. In addition, there were eleven holding presidential appointments, including five judges, one ambassador, a collector of internal revenue, and four members of boards or committees.\(^{12}\)

By the end of the Truman administration the Democrats claimed to have placed Negroes in ninety-four key positions. There was substance to Louis Lautier's statement in 1950 that "President Truman had the courage to go beyond the traditional political plums which went to colored persons during the Harding, Coolidge, Hoover and Roosevelt administrations." It is true that Truman did not go far beyond, but it required gumption and political astuteness to take a couple of steps beyond his predecessors—gumption to get out of the mold and to run athwart racism in Congress, astuteness in terms of Negro votes and America's world image. Moreover, it marked an up-turn in the types of appointments given to Negroes that was to continue over the years, with the Eisenhower administration setting additional precedents in the appointments of J. Ernest Wilkins as assistant secretary of labor in 1954, E. Frederic Morrow as special assistant to
the president in 1955, and Archibald J. Carey as chairman of the Committee on Government Employment in 1956. By 1967 there would be Negroes in the cabinet and on the Supreme Court. If these were gestures, they were substantial ones, not only in themselves, but also in giving the lie to old ideas about Negro capabilities and in increasing legitimate demands for more blacks in government and for their acceptance by whites. The door was opening slowly, but it was opening.

Another door opened during the Truman administration, and that concerned legal restrictions on the ownership and use of property by minority people. Minorities keenly felt the effects of segregated housing, not only because it was a blow to their pride, but also because it stifled opportunities for decent housing, schooling, and employment. Local laws had enforced housing segregation before 1917, but in that year, in Buchanan v. Warley, the Supreme Court declared such laws to be in violation of the Fourteenth Amendment. Segregationists circumvented that decision by inserting covenants into property deeds that bound the owners not to rent or sell their property to members of minority groups. The courts usually sustained these covenants as valid limits on property use. The employment of restrictive covenants became so widespread by the 1940s that racial minorities and many Jews found themselves restricted not only to living in ghettos but to living in ghettos that had little chance of expanding. The restrictive covenant was complemented by the general practice among realtors of refusing to show property in white, so-called Christian neighborhoods to members of minority groups. This in turn was reinforced by the Underwriting Manual of the Federal Housing Administration, which thoroughly discouraged integrated housing.

By 1945 the foundations of a massive legal challenge to restrictive covenants were laid. Not only had the tensions of ghetto living become aggravated during the war, but the intention of minorities to escape the prison of the ghetto and their ability to finance their intention had grown. Four cases—two in the District of Columbia and one each from Wayne County, Michigan, and St. Louis, Missouri—were instituted in the courts. The NAACP, along with interested lawyers in the localities involved, decided to carry the cases to the Supreme Court. The association was also interested in using the cases as a testing ground for sociological as well as legal evidence on racial questions. Other groups soon joined in the effort. In 1947 the American Jewish Congress filed a brief that struck out at the covenants, and Indians began testing the restrictions in California. By the end of 1947 a dozen organizations representing blacks, labor, Jews, Japanese-Americans,
Indians, and various churches had filed briefs in the restrictive-covenant cases, and other groups planned to do so.\textsuperscript{15}

Developments within the federal government encouraged and assisted this activity. In September, Interior Under Secretary Oscar Chapman wrote to Attorney General Tom Clark, strongly urging that a federal amicus curiae brief be filed in the cases. The report of the President's Committee on Civil Rights (PCCR) called for a "renewed court attack, with intervention by the Department of Justice, upon restrictive covenants." Many racial, religious, and civil-rights organizations also asked the department for action. The day after the PCCR's report was made public, the Justice Department decided to file an amicus curiae brief in the cases. A motion for intervention was filed in November by Attorney General Clark and Solicitor General Philip B. Perlman.\textsuperscript{16}

By the time the cases came before the Supreme Court in oral argument in January 1948, eighteen amicus curiae briefs had been filed. They contained a wide range of arguments against restrictive covenants: the denial of adequate living space; the indignity of segregation; the artificially high prices; the breeding of delinquency, disease, and vice; incompatibility with the Bill of Rights and the doctrines of Christianity, democracy, and brotherhood; and the adverse impact on foreign affairs.\textsuperscript{17}

Most striking was the government brief entered by Clark and Perlman. Their basic legal argument was that "judicial enforcement of racial restrictive covenants constitutes governmental action in violation of rights protected by the Constitution and laws of the United States from discrimination on the basis of race or color." It was further contended that enforcement contravened the common-law principles "governing the validity of restraints in alienation." The legal points were supported by statements of the attorney general, the solicitor general, and other government officials that restrictive covenants were prejudicial to the implementation of government policy as expressed in legislation, executive pronouncements, and international agreements, and to the operation of government programs. This in turn was buttressed by a strong sociological argument as to the social, economic, health, and psychological effects of the covenants, based on government reports and on such works as Gunnar Myrdal's \textit{An American Dilemma}, Charles S. Johnson's \textit{Patterns of Negro Segregation}, and St. Clair Drake and H. R. Cayton's \textit{Black Metropolis}. The government's sociological view bears repeating not only for itself, but because the
argument would often be repeated in future cases in one form or another.

Poverty is, of course, a major cause for the dilapidated, overcrowded, unsanitary, and inadequate homes in which the mass of colored people now live, but it is residential segregation in severely limited areas which accentuates these conditions and bars their alleviation. . . .

It is perhaps almost superfluous to add that . . . the combination of inadequate housing with racial segregation has most unfortunate economic, social, and psychological effects. Colored people are forced to pay higher rents and housing costs by the semi-monopoly which segregation fosters. The incidence of crime and juvenile delinquency is much greater and the occurrence of death and disease among Negroes is substantially increased. And to the corrosion which such congestion and inadequate living conditions work upon any poorly housed individual's mental health, as a citizen and human being, there must be added the peculiarly disintegrating acid which enforced segregation distills to harm not only the victim alone, but the whole fabric of American life.18

The Supreme Court's opinions were rendered May 3, 1948, when all four of the cases were decided in favor of the appellants. Chief Justice Fred Vinson, speaking for a unanimous court, said that no court may use its power to enforce racially restrictive covenants designed to achieve housing segregation. Restrictive covenants in themselves were not illegal if voluntarily entered into and enforced. The rub in these cases was that "but for the active intervention of the state courts, supported by the full panoply of state power, the petitioners would have been free to occupy the properties in question without restraint." This was a clear violation of the Fourteenth Amendment.19

The victory seemed sweet to America's minorities. The Afro-American gave the Shelley v. Kraemer decision, as it was commonly known, the newspaper's boldest headlines in years and gloried in the fact that the Supreme Court had affirmed "the right of each man to live anywhere in this country he wishes." The Defender wrote that the court "has made, perhaps, the greatest contribution to American democracy that is within its power to make." In recounting the many people supporting the test cases, the black press gave high praise to Truman, Clark, and Perlman. As the Afro-American put it, "It's mighty comforting to know that we have friends."20
Yet the Shelley v. Kraemer decision was only the beginning of the fight. Many state officials still enforced restrictive covenants, and the courts had to reiterate the new rule on covenants and expand it to cover all minorities. Segregationists sought other ways to restrict the use of property by minorities. Violence and intimidation, against both buyers and sellers, to prevent property transfers were not uncommon. Bittersweet reasoning was also used, as the question was often asked, “Why do Negroes object to living together in one area, when Italians, Irish, Japanese, do not mind?” One attorney retorted, “It’s the difference between romance and rape. What you choose willingly is romance—forced on you it’s rape!” Other legal avenues to support segregation were sought, most frequently the collection of damages from property owners who broke restrictive covenants. In the District of Columbia and the five states where this approach was used between 1949 and 1952, only Missouri and Oklahoma upheld awards for damages. The question came before the Supreme Court in 1953 in Barrows v. Jackson. Speaking for the court in a six-to-one decision, Justice Sherman Minton said that damage awards by courts constituted state action in support of restrictive covenants and therefore was in violation of constitutional rights.

Federal policy itself was an important obstacle to the expansion of minority housing. The maze of discouraging federal regulations and practices was a blatant exercise in discrimination, the end result of which was perpetuation of segregation despite court decisions against restrictive covenants. To combat discrimination in housing, civil-rights groups placed much pressure on the Federal Housing Administration. In 1947 the FHA gingerly relaxed its practices by establishing a Racial Relations Service to assist minorities and by eliminating racial terms and recommendations of restrictive covenants from its Underwriting Manual. Nevertheless the manual still referred to “incompatible groups” and social factors in discussing neighborhoods and property values. In February 1949 the agency announced that it was altering its rules “to eliminate type of occupancy based on race, creed or color as a determining factor in the approval of mortgages for FHA insurance.” The NAACP, however, declared it was “not an effective policy change.”

Meanwhile the spotlight shifted to Congress, where public-housing legislation was under consideration. As previously noted, Republican Senators John Bricker and Harry Cain offered an amendment forbidding racial and ethnic discrimination in public housing constructed under the measure. The amendment was lost, largely because liberals
feared that the bill with the amendment would be defeated—an argument that sounded the death knell for much antidiscrimination legislation during Truman's second term. Congress passed the bill in June. The Housing Act of 1949 was a victory for the administration in that it authorized additional low-rent housing, but the law was seriously compromised in the eyes of blacks, because it did not forbid discrimination or give the poor people dispossessed by slum clearance priority in moving into new public housing.  

Federal Housing and Home Finance Administrator Raymond M. Foley was pressed to implement nonsegregated public housing administratively. He believed, however, that to do so would hurt the program's effectiveness in the South and would create additional opposition to future housing legislation, which already had an abundance of opponents. Foley therefore followed the policy of permitting local housing officials to decide the nature of their programs, which was a slight improvement over earlier policies that encouraged segregation. In response to this policy, and to civil-rights pressures, nine states and a number of cities by 1950 prohibited discrimination in public housing. The total impact, however, was limited by the coming of the Korean War. In response to the need for economy in the use of materials and funds and to pressures from foes of public housing, new construction was considerably restricted.  

During the fall of 1949, at the behest of civil-rights groups and apparently the Justice Department, the White House urged housing finance officials to liberalize their rules. Housing and Home Finance Administrator Foley worked out rules to stop his agency from supporting restrictive covenants with federal lending authorizations, but withheld implementation until the Veterans Administration decided to follow the same policy. David Niles suggested to President Truman that he bring Foley and Veterans Administrator Carl Gray, Jr., together on lending policies. Truman acted immediately by telling Gray to try to work out a consistent policy with Foley, and the two officials soon devised mutually acceptable policies. Foley's policy, announced on December 2, was that "no property will be eligible for FHA mortgage insurance if, after a date to be specified [later] and before the FHA insured mortgage is recorded, there has been recorded a covenant racially restricting the use or occupancy of the property." It was announced that the Veterans Administration was taking like action on veterans' mortgages. The agencies also specified that a restrictive covenant could not be inserted as long as the federal insurance con-
continued in force. The effective date was set for February 15, 1950; and in 1951 the policy was extended to repossessed FHA-insured housing.25

The new mortgage-insurance policy was a step in the right direction; but, like the elimination of judicial enforcement of restrictive covenants, it did not solve the problems of minority housing. Minority peoples still were not free to settle where they could afford to, because of zoning laws, intimidation, a variety of self-enforcing or extra-legal contractual devices, and the discouraging tactics and chicanery of many administrators and most realtors. Nevertheless the pressure for open housing and better housing continued, as did the Truman administration's responses. The Racial Relations Service reached out to soften the attitudes and strengthen the programs of several federal agencies and even of some builders. The Housing and Home Finance Administration (HHFA) staffed its Division of Slum Clearance and Urban Redevelopment with several specialists on race relations, and the Public Housing Administration and the Federal Housing Administration also added a large number of minority advisers in Washington and in the field. Another development was the appointment, in 1950, of Col. Campbell C. Johnson to the National Capital Housing Authority, the only Negro on the one-hundred-man body. Johnson set as his prime goal the desegregation of public housing in the District of Columbia. In 1952 his resolution to that effect was passed, and by 1954, 87 percent of Washington's public housing had been desegregated.26

Black pressure against segregation in housing was unrelenting. In 1951 the NAACP called upon the government "to cease and desist from aiding the development of housing on a racially discriminatory basis." The Chicago Defender's "National Grapevine" column asked pointedly a year later why the government insured the borrowed monies of private builders who excluded blacks from their projects and why segregation was not abolished in public housing that received federal assistance. When FHA Commissioner Franklin D. Richards resigned in 1952, Robert C. Weaver of the National Committee Against Discrimination in Housing and Walter White asked President Truman to take the occasion as an opportunity to change the racial policies of that agency. Philleo Nash, who had succeeded David K. Niles as Truman's adviser on minorities, pointed out that less than 2 percent of FHA projects was available to Negroes, compared with up to 35 percent of public housing projects. He urged his boss to charge the new commissioner with increasing the amount of FHA housing open to Negroes, to have the FHA's position on restrictive covenants reviewed
by the Justice Department, and to establish better communication with the HHFA on integration of FHA operations with programs of defense housing and slum clearance. Truman's response was "This looks all right." Of course, the question was, could much be accomplished by the various agencies concerned with housing in the seven months left of Truman's administration?

Some things did happen. The FHA stepped up its interest in redressing the racial imbalance in housing after Commissioner Richards's resignation. It added more racial advisers, prepared detailed surveys of demand for minority housing in larger cities, and directed field offices to set goals for minority housing and financing. In October the VA announced that it would demand fair treatment for all veterans in regard to home insurance and that its local offices would stop using the term "Negro" on home-loan appraisals. Furthermore, Housing Administrator Foley apparently agreed to two other policies recommended by the National Committee against Discrimination in Housing. The first was that all public housing owned and operated by the federal government would be open on a nondiscriminatory basis, although by January 1953 this policy had been ordered only for defense housing. The second was to guard against displacement of the poor by slum-clearance projects. In that area Foley, in January, issued a statement of procedures designed to assure that urban redevelopment and slum-clearance projects "will not result in decreasing the total living space available in any community to Negro or other racial minority families." The statement was golden; but implementation, depending as it did upon a new, opposition administration, was tinny.

It was clear that federal housing programs and actions during the Truman administration brought little satisfaction to minorities. What then was achieved? The percentage of Negroes who owned their own homes increased from 23 to 34 from the 1940s to the 1950s. In 1940 Negroes occupied 44,754 of 134,056 units of federal public housing, but in 1951 they occupied 181,431 of 656,693 units. In other words, more space was available to blacks, but proportionally less than eleven years earlier. The Supreme Court decisions in Shelley v. Kraemer and Barrows v. Jackson allowed, however limited the occurrence, for the development of integrated private housing. The decisions also permitted the expansion of ghettos, which resulted in alleviation of crowding for some minority peoples. It was a pathetic improvement, however; a step from misery to slightly less misery.

The HHFA and the VA reversed their position from one of encouraging segregation in private housing to one of barely tolerating
open occupancy. On public housing, President Truman proudly noted that by 1950, 177 projects were unsegregated, an eight-fold increase in eight years. This was part of an upward trend, with 210 open by 1952, 297 by 1954, and 341 by 1955. Moreover, the number of states that had some racially open public housing grew from nineteen in 1952 to twenty-seven by 1955, and the number of communities rose from 70 to 131. Another set of figures indicates that of the 136,043 federal housing units lived in by blacks in June 1953, 102,988 were completely segregated, 26,984 were wholly integrated, and the rest partly integrated—a contrast with total segregation in 1945.30

Despite the Truman administration's growing concern, by 1953 the housing problems of minorities were still severe. There was insufficient decent housing available to racial minorities. So little public housing was replacing the units demolished in slum clearance that blacks could justifiably charge that urban renewal was really Negro removal. Resistance from realtors and from potential sellers and neighbors, coupled with vigilante violence, continued to frustrate residential integration. Ghettos remained ghettos, however much they expanded, and the contiguous areas that slum dwellers spilled into were usually slums too. Prices were high as sellers took advantage of an artificially tight market. Federal housing policies, even if turned in a more favorable direction, would take a long time to become even somewhat effective.31 In short, the Truman administration, except for accomplishing a modicum of desegregation, only arrested the spread of the cancer of inadequate minority housing instead of shrinking it.

More substantial were the results of court action during the Truman years. Many cases in behalf of minority rights had already been won before the president's 1948 civil-rights message to Congress. Most of these, however, were part of the prologue to what was to come. Increasingly, minorities took to the courts to seek their rights, and with growing success. In 1948 the Supreme Court reiterated that systematic exclusion of blacks from juries was unconstitutional. The court also sustained a Michigan law providing for equal accommodations in transportation, held that Oklahoma could not deny access to state-supported institutions for legal education on racial grounds, and undermined the foundations of California's Alien Land Law. In the lower federal courts, it was ordered that the swimming pool in Montgomery, West Virginia, and the public golf courses of Baltimore, Maryland, be opened to Negroes. The California Supreme Court invalidated the state's law against interracial marriages as a violation of the federal Constitution's equal-protection clause.32
The year 1949 saw many victories in state and lower federal courts in a broad range of civil-rights cases, but 1950 was a year of resounding legal achievements. That year the Supreme Court decided three of the twentieth century’s most important civil-rights cases—Henderson, Sweatt, and McLaurin. The Henderson case was of longest standing. In 1942 Elmer W. Henderson had been denied service in a railway dining car, and his complaint had, over the years, wended its way up to the high bench. The Interstate Commerce Commission in 1949 prepared a motion to affirm the position that segregation of Negroes in diners was not discriminatory. The document was sent to Solicitor General Philip Perlman for his signature, but he rejected the motion as being based on unsound law.  

Indeed Perlman went a step further and in October 1949 filed an amicus curiae brief in support of Henderson. The solicitor general sought invalidation of an ICC order approving segregated arrangements in dining cars, not only because he thought it was contrary to law but because it worked against the social and personality development of Negroes and weakened the moral values of whites. Perlman also called for reversal of the separate-but-equal doctrine of Plessy v. Ferguson (1896) in order to dismantle the legal structure that worked “a denial of rights and privileges and immunities antagonistic to the freedoms and liberties on which our institutions and our form of government are founded.” He based his brief not only in law but also in the works of leading social scientists, which further buttressed the use of sociological materials in civil-rights cases. In April 1950 Attorney General McGrath joined Perlman in arguing the case before the Supreme Court, thereby making it clear that the Truman administration was in dead earnest in striving to narrow the gap between America’s preachings and its practices.  

Meanwhile, the Supreme Court had accepted the Sweatt and McLaurin cases for argument. In Sweatt’s case a Texas court had ordered the state to provide racially equal facilities for legal education. The black law school that was subsequently established was rejected by Sweatt as not affording equal training. McLaurin had compelled the University of Oklahoma to admit him to graduate study, but the university’s officials had segregated him within classes, the library, and the cafeteria.  

These two cases were of great importance, because they represented the redoubled postwar assault of Negroes on segregated education and their refusal to accept devious ways of meeting court orders. The work of minorities had already led to the opening of a number of
institutions. In 1948 the University of Arkansas Medical School was opened to Negroes, and the University of Delaware admitted black graduate students to courses not offered at the state’s Negro college. That same year, New York became the first state to enact a law barring discrimination on grounds of race, religion, or national origins in the admission of students to nondenominational educational institutions.

Minority groups hoped that the *Sweatt* and *McLaurin* cases might lead to overturning the separate-but-equal rule, thereby giving a more solid basis to future legal challenges. The issue was sharpened early in 1950 when Solicitor General Perlman filed an amicus curiae brief in behalf of Sweatt and McLaurin, contending that equality could not be reached under the separateness of the Plessy doctrine. The massive 1950 legal challenge to segregation by Negroes and the government indicated that, as Louis Lautier wrote in his syndicated column, “not since the Dred Scott decision in 1857, has the United States Supreme Court been faced with a more far-reaching question.”

In the quiet of its cavernous chamber the court rendered decisions in the *Henderson, Sweatt,* and *McLaurin* cases on June 5, 1950. Justice Harold Burton, speaking for the high bench in an eight-to-zero decision, held that segregation in dining cars ran contrary to the Interstate Commerce Act and was therefore illegal. Chief Justice Fred Vinson also spoke for a unanimous court in his opinions on the other two cases. Regarding Sweatt, he ruled that the law school established by Texas for Negroes did not afford equality of legal instruction. “We hold that the equal protection clause of the Fourteenth Amendment requires that petitioner be admitted to the University of Texas Law School.” That clause was also applied to the *McLaurin* case, where the court judged that physical separation of a Negro within the University of Oklahoma impaired and inhibited the student’s ability “to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession.” The cases had been won, but without the court’s having grappled with the challenge to the Plessy doctrine. The available law was so clear, as Justice Burton indicated in his *Henderson* opinion, that “we do not reach the constitutional or other issues suggested.” Yet it was obvious to many observers that the court could not stall forever on the separate-but-equal issue. As the NAACP’s chief counsel, Thurgood Marshall, asserted, “The complete destruction of all enforced segregation is now in sight.”

Minorities had taken great strides forward during the postwar period in their resort to the courts. Yet, with or without government support and despite favorable court decisions, the results were less
tangible than they seemed to be. For example, some railroads still sought to segregate patrons in dining cars, although with less success; and segregation continued unimpaired in aspects of interstate transportation such as station facilities. The ICC did not show itself to be interested in rooting out passenger segregation until 1955, and even then compliance was not thoroughgoing and its rules did not apply to intra-state modes of transportation. Nevertheless Elmer Henderson’s crusade helped to reduce racial separation in interstate transportation and laid the foundation for the assault waves that by the middle 1960s eradicated segregation from almost all aspects of public transportation in America.

As for black optimism in 1950 on the elimination of segregation in schools, it seemed realistic at the time, considering the trend of judicial decisions. Court orders had jarred the foundations of school segregation and cut holes in its roof. Further jarring and cutting followed the Sweatt and McLaurin decisions, as in 1950 nine southern and border states loosened some of their restrictions on the enrollment of Negroes in publicly supported colleges and universities. Hope for additional gains was high, especially for the biggest triumph of all—the reversal of the separate-but-equal doctrine and achievement of integrated schooling on all educational levels. And progress was made suit by suit, court order by court order, until finally, in 1954, the Supreme Court reversed Plessy v. Ferguson. It was to be after that, however, that the hard-core problem—implementation of integration in the face of massive resistance and de facto segregation—was to become obvious.