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## ***Berea College—Coeducationally and Racially Integrated: An Unlikely Contingency in the 1850s***

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**Gear Up of Kentucky**

*The anti-slavery ministry of Rev. John G. Fee and the unlikely establishment of Berea College in Kentucky in the 1850s, the first college in the southern United States to be coeducationally and racially integrated, are examined to further understand the conditions surrounding these extraordinary historical events. The Berea case illustrates how early twentieth century legal institutions were suffused with racism and justifications for racial discrimination even to the extent that they neutered the laws intended to provide redress to Black citizens, while the court approved of racial prejudice as a natural protection from what it considered to be an unnatural amalgamation.*

**Keywords:** social gospel, abolitionist, emancipationist, Radical Abolitionist Party, the Day Law

### **INTRODUCTION**

In 1841, Reverend John Gregg Fee (1816-1901) received a \$200 commission from the American Missionary Association (AMA). This amount was meant to help sustain Fee, an advocate of free labor, as he went about his work in Bracken County, Kentucky, teaching and preaching in the social gospel tradition. Fee lived in a “little frame house” which served as school, church, and residence. Fee’s congregation soon grew to twenty-one souls and the congregation decided to build a larger church; brick—for security reasons—as Fee had come under regular attack by local pro-slavery forces.

In 1847, Fee severed his ties with the Presbyterian Church and began a nonsectarian, anti-slavery ministry. Fee challenged his congregation; “Shall the seats be free? If when the house shall be erected, a colored man, free or slave, shall come in and seat himself as any other man . . . will that, with you, be all right?” It was agreed to name the church the “Free Church of Christ” where all men would be invited. But some congregants warned that, while they allowed Blacks to sit at their dinner tables, “in a place of public worship . . . you cannot do this. If you attempt it one brick will not be left on another” (Fee, 1891, p. 55).

Fee was a rarity among nineteenth century preachers in the border state of Kentucky. But despite great odds, his ministry has survived in the form of Berea College. Berea College in Berea, Kentucky, founded in 1855 as a one-room schoolhouse, was the first college in the southern United States to be coeducationally and racially integrated. In close conjunction with the AMA, Oberlin College provided an existing northern model for a school built on the principles of Christian perfectionism, interracial coeducation, free speech and manual labor. Otis Waters, George Candee, and William E. Lincoln, three of Berea’s earliest teachers, were Oberlin graduates as was J. A. R. Rogers. But Oberlin, near Cleveland, Ohio, existed in relative peace compared to Berea’s southern experience (Wilson, 2006). By 1866, Berea had 96 Black and 91 White students but it would not award its first college degree until 1873.

Berea College went about its business in relative harmony for most of its existence. Such tolerance was unlikely in a small, largely pro-slavery, rural community in the mid-nineteenth century. Berea stood as a unique pocket of desegregation for a half century until the guilty

populism of Jim Crow derailed it in 1904. It would be the mid-twentieth century before the rest of the country caught up.

## THE BIRTH OF BEREA

The anti-slavery message of Reverend John G. Fee had reached the ears of Cassius M. Clay of Madison County. Clay, cousin (once removed) to Kentucky Senator Henry Clay, was a controversial emancipationist and fiery orator whose speeches drew praise and violent opposition in equal measure. Clay fought many duels and narrowly escaped death at the hands of pro-slavery forces in 1843 and again in 1849. He served as state representative in the 1835 and 1837 terms before publishing an anti-slavery newspaper titled, *The True American*, finding fame in the Mexican-American War, and later being named Ambassador to Russia by President Abraham Lincoln (Ellison, 2005; McQueen, 2001; Richardson, 1976).

Early in the spring of 1853, Clay requested that Fee forward to him a number of his anti-slavery manuals that Clay distributed throughout Madison County. He requested that Fee travel to Madison County to preach to a small congregation there. Fee was reluctant to leave his church on the border of the state “just at the time when they are springing up into a measure of prosperity and efficiency” (Fee, 1891, p. 89). Fee, the son of a middling slave-holder father who disinherited him upon his conversion to abolitionism, lacked a prominent family background (Cheseborough, 1996, p. 44). He considered it a privation to “sell out our small effects, take our little ones and go 140 miles into the interior and into a place comparatively a wilderness, without schools, railroads, or even turnpikes” (Fee, 1891, p. 89). But Clay provided land and offered Fee a farm on which to live if he would become pastor to the little flock. Fee reasoned that his mission was to “preach the gospel of love in Kentucky,” and he accepted (Fee, 1891, p. 89). As his home was nearing completion, Fee began to plan for a school-house up on the ridge which came to be known as the “old District School-house.” He named the new village Berea, after the first century Macedonian city visited by biblical figures such as Paul, Silas, and Timothy on their second missionary journey. It was said that Bereans “received the word with all readiness of mind, and searched the scriptures daily, whether these things were so; therefore they believed” (Acts 17, 10-12 KJV).

Similarly to Clay, Fee’s preaching was frequently met by threats and sometimes mobs of men who drove him away against his will. But unlike Clay, Fee responded without violence, which may well have saved his life. When assaulted in Bracken County, Fee had filed complaints with the county magistrate, which provided some security. He found no such comfort in Madison County. Of the two, it was Fee whose rhetoric was the more inflammatory; an issue Clay brought to his attention. Following one particular speech on July 8, 1855, Clay chastised Fee’s use of the phrase “sum of villainies” as being unnecessarily inflammatory saying, “We should not needlessly offend anyone: as it is neither our duty, nor our interest . . . [T]hose who we influence . . . may be rather chilled than warmed by our overheat” (Carlee, 1979, p. 115)!

Fee’s relationship with Clay would soon become contentious and highlighted the difference between the more radical abolitionists and the more moderate emancipationists. In 1846, Clay said that immediate emancipation would be best for all but because of the selfishness, irreligion, and unyielding habits of White Kentuckians; he accepted gradual abolition as a political goal (Harrold, 1995). As Clay explained in a letter to William Lloyd Garrison, “You fight outside the Union; I within it. So long as we agree in purpose we will agree to disagree in the means” (Ruchames, 1975, pp. 279-280). But Fee’s uncompromising message of abolition was motivated by faith. When he declared, in 1856, that pro-slavery laws must not be obeyed, he precipitated a breach with Clay. When Fee later organized the tiny Radical Abolitionist Party in Kentucky, Clay withdrew his physical protection. Fee lamented that there was no better known man in the history of Berea and that Clay’s “known opposition to us was a power more potent and depressing than all the mobs in the State” (Fee, 1891, p. 129).

But Fee insisted on a free church and a school built on the Golden Rule. He saw Clay's objection to the co-education of the races—the distinguishing feature of the school and church at Berea—as politically expedient. Clay was invited, but declined, to become a Trustee of the school. In Fee's view, Clay thought the Golden Rule was a good rule in general but "it was not expedient to practice upon it in the co-education of the races" (Fee, 1891, p. 138). The by-laws prohibited any "sectarian test" for its professors but required that the teacher "be competent to fill the office, and have a Christian experience with a righteous practice" (Fee, 1891, p. 141). Clay doubted whether such a school could be a "numerical or a financial success" (Fee, 1891, p. 131).

The first term of instruction came in 1858. During the school's closing ceremonies, a former member of the Kentucky General Assembly took the stage without invitation and declared,

I expected to see a little handful in the bresh, (brush) but when I saw this large assembly, orderly, and listening with marked attention and interest, and when I saw the marked progress of these pupils, and the manifest sympathy between teachers and pupils, my heart was touched. I thought of the days when I was a teacher of youth in Virginia.

Turning to parents, he said, "Teach your children to make their bread by the sweat of their brow; give them education, and teach them virtue and morality; and the best of all rules is, 'Whatsoever ye would that men should do unto you, do ye even so to them.'" To such utterances, on such an occasion, we were not averse. The rest of his short address was pertinent and good.

He stepped from the platform, and walking to the outskirts of the crowd, he met an old acquaintance, then a patron of the school, and taking him by the hand said, "Jimmy, I believe in my soul the 'niggers' will be free yet; but, d[am]n it, I mean to hold on to mine as long as I can." He did; but in 1864, Uncle Sam came along and gave them all a blue coat. (Fee, 1891, pp. 134-135)

Despite these querulous racial attitudes, plans for the establishment of a college "under an influence strictly Christian" and opposed to "sectarianism, slave-holding, caste and every other wrong institution" (Fee, 1891, pp. 137-138) went forward and by 1859 a constitution and bylaws for the school had been drafted. Fee saw sectarianism as a hindrance to progress because whenever voices were raised against slavery, "members of the sects would be found shrinking from the proclamation of truth" in favor of uttering their own convictions (Fee, 1891, p. 139).

#### **'JOHN BROWNS' FOR KENTUCKY**

In the fall of 1859, a serious communications misstep in the wake of a fearsome national event damaged the public's opinion of Fee and severely altered the next decade and a half of his life. Fee had accepted an invitation to preach at Plymouth Church (Congregational) in Brooklyn, New York by Pastor Henry Ward Beecher, the brother of both, Harriet Beecher Stowe, author of *Uncle Tom's Cabin*, and noted feminist educator Catharine Beecher. Fee's sermon was delivered on the heels of abolitionist John Brown's armed raid on the U.S. Arsenal in Virginia. His intent was to arm rebellious slaves and spark an uprising striking terror in the hearts of slaveholders. The country was in a state of intense excitement. In a consequential misstep, Fee preached that,

We want more John Browns; not in manner of action, but in spirit of consecration; not to go with carnal weapons, but with spiritual; men who, with Bibles in their hands, and tears in their eyes, will beseech men to be reconciled to God. "Give us such men," I said, "and we may yet save the South." (Fee, 1891, pp. 146-147)

*The Louisville Courier* ran a story that said John G. Fee was in Beecher's church, calling for more John Browns for Kentucky. The story was reprinted by the pro-slavery *Lexington*

*Observer* and *Kentucky Statesman* (Lexington) as well as the *Richmond Mountain Democrat*. Cassius Clay reportedly told an audience in Covington that if his fellow Kentuckians did not “mend their manners” they might cause other outbreaks (“C. M. Clay at Covington,” 1859). The *Statesman* ran anonymous letters warning of eminent insurrections that would make Harper’s Ferry appear as a flea-bite by comparison (“Anonyamous [sic] warning concerning a slave insurrection,” 1859). The *Richmond Democrat* reported a constant stream of northern immigrants passing through Richmond daily, bound for Berea carrying heavy boxes (Fee, 1891, p. 147).

Fee claimed that the *Courier* had misrepresented his real attitude and accused *Courier* publisher George D. Prentiss of fabricating the lie that “at Cogar’s landing (on the Kentucky River) was found a box of Sharp’s rifles directed to John G. Fee” (Fee, 1891, p. 147). Fear of armed insurrection by slaves had long been a concern among slave holders and the claim proved to be inflammatory. The *Courier* suggested that hospitable graves could be made available for Fee, Henry Ward Beecher, John Brown, and other traitors with bloody hands (“John Browns for Kentucky,” 1859).

Local feelings were aroused sufficiently that a large group, reportedly totaling 750, quickly gathered in Richmond to see to the removal of John Fee from Kentucky. Assertions were made that Fee was connected with Black Republicans of the North and that Berea College was the secret headquarters of a revolutionary organization (“Excitement in Madison County,” 1859). Fee had yet to return from New York, and fearing the worst, his wife traveled to Cincinnati to intercept him as three separate groups had promised to waylay him should he attempt to return. A committee of Madison County’s sixty-five “wealthiest” and “most respectable” citizens met and drafted resolutions declaring Fee and his associates to be incendiary characters who were assaulting the constitutional rights of the South. The assembly collected 773 signatures and delivered a demand to John A. R. Rogers, the principal of the Berea school, that the eleven families associated with the school must leave the county within ten days in order to preserve public peace and quiet (“Pro slavery meeting in Madison County,” 1859). The Berea contingent made an appeal to Governor Beriah Magoffin but he replied that “the public mind was deeply moved by the events in Virginia, and that he could not engage to protect them from their fellow citizens” (Fee, 1891, p. 148-149). Berea therefore became a school in exile and instruction would not resume until the fall of 1865.

As an exile, Fee traveled from Cincinnati to Bracken County where a crowd estimated at 800 gathered in Brooksville on County Court Day and demanded that John G. Fee, and those associated with him, “be not allowed to tarry, even for a short time in Bracken County” (Fee, 1891, pp. 150-151). Fee was forced to retreat to Cincinnati and a series of attempts to return failed as the exiled Fee was driven from Augusta.

The Republican victory in the election of 1860 intensified hostile feelings. Near the start of the Civil War, Fee was prevented from reaching Berea by John Hunt Morgan’s army. Repelled by the troops, he traveled back to Bracken County, then to Augusta where, once again, a mob put him on a boat and removed him to Ohio. He went to Cincinnati, Covington, Oberlin in Ohio, back to Bracken County and Washington in Mason County. There, a mob decided to send him to Augusta, but a sympathizer fooled the wagon driver and redirected him to Maysville where he was saved from harm but denied sanctuary. He retreated once again to Cincinnati. Finally, toward the end of the conflict, Fee made his way to Camp Nelson to secure a place for religious service and regular preaching. Situated above the high palisades of the Kentucky River, Camp Nelson was originally a Union supply station. But it soon became an important recruiting station and training camp for Black soldiers, and later, Kentucky’s chief center for issuing emancipation papers to former slaves.

Fee found comfort from his own emotional depression by preaching and teaching freedmen to write in a 30 foot by 100 foot classroom at Camp Nelson. Fee described Camp Nelson as “that beautiful spot . . . the cradle of liberty to central Kentucky” where thousands of men, women and children, “received their passports from government officials, into that freedom which naturally is the heritage of all men” (Fee, 1891, p. 178; Howard, 1983, pp. 3-5). But life

at Camp Nelson could be very difficult. In a letter to Brother Whipple of the United States Christian Commission, Fee described deplorable conditions in the wards where children were housed among “noise, disease, infection and dust” such that there were “four deaths last night—four the night before” (Sears, 2002, pp. 176-177.)

Fee returned permanently to Berea in the spring of 1864 and began to rebuild the school and church. In January, 1866, the school was reopened with White students only and was called the Berea Literary Institute. But Berea admitted any student “of good moral character” and soon more than forty Black families migrated to Berea where they purchased land from Fee’s supporters. Fee also recruited Black students from the Black soldiers he taught at Camp Nelson; among them A. A. Burleigh, Berea’s first Black graduate in 1875. Reverend W. W. Wheeler and his wife Ellen began tutoring a small class of Blacks to prepare them for admission, something that did not go as smoothly as Wheeler had hoped. When four students from the tutorial class enrolled, 18 of the 43 White students walked out raising substantial concern. Most of the students soon returned. As more soldiers were admitted to the school, enrollment of Blacks rose to 70 covering every level of schooling offered from primary to college. When Burleigh, a particularly capable adult student, entered the academic department, a second departure of Whites occurred. But generally, the school entered a period of relative harmony as more Blacks took advantage of Berea’s offerings and even grew to feel secure enough to challenge school decisions regarding the hiring of Black faculty, and social privileges on campus. To aid in recruitment, Berea provided employment for students to offset their expenses, attracted grants and other financial assistance, and created an endowment fund. On the social front, the school accepted inter-racial dating until 1892. While there were some individual instances of racial antagonism, poor judgment, and insensitivity, overall students interacted freely in the classroom, dining hall, and chapel. Academically, the school was being compared to schools in the East and the faculty took pride in requiring Berea’s Latin students (half of whom were Black) to pass the same test required of Harvard students (Lucas, 2003).

In 1870, the trustees voted to take steps to obtain a special charter from the state. Over the prior fifteen years the school served “from three to four hundred pupils” (Fee, 1891, p. 184). Of that number, approximately one hundred and fifty became teachers; this in the days when a teacher *was* the school. Berea College had “ample grounds, good buildings, and an endowment of a hundred and six thousand dollars” but no charter protecting its operation (Fee, 1891, p. 184). In what proved to be “a fateful failing” the college could not muster enough support for its integrationist practices and the school was never able to secure a charter from the legislature. Despite the clear intentions of the school, the college was incorporated by simply filing with a county clerk under a general act that made no mention of the co-education of the races (Bernstein, 2000).

In *Divide and Dissent*, John Ed Pearce (1987) described Kentucky’s political landscape during the post-Civil War years as “strongly Bourbonistic,” a term that refers to any extreme form of political conservatism. Kentucky’s leaders were “generally rich and reactionary gentry who clung to visions of the Old South, resisted industrialization, despised Blacks, and distrusted government in general, preferring local arbitration of local matters by local gentlemen” (Pearce, 1987, p. 14). With John A. R. Rogers and George Candee, Fee continued to establish racially integrated schools, hospitals, and churches while steadfastly confronting the Ku Klux Klan in the early 1870s (Harrold, 1995, p. 164). It is remarkable that Berea was allowed to exist within the larger political culture of the time. This unlikely tolerance in a small, rural community in the mid-nineteenth century stands as a perfect example of a contingency that created a small pocket of desegregation for a half century.

## THE BROADER EDUCATIONAL LANDSCAPE

Kentucky historian laureate Thomas Clark (1965) described decisions made about public education in post-Civil War Kentucky as some of the most momentous and damaging in the

state's history. Social and economic complexities "grew out of racial confusion, the opening of a new agricultural era . . . a crusade for building new railroads and industry . . . and by a general uprooting of the older social system itself" (Clark, 1965, pp. 2-3). Others elaborated on this devastation, noting that:

No state was more torn by the Civil War than Kentucky, and no state was more torn during the years following. The states to the south were united in defeat, and the knowledge that they fought well; those to the north were united in victory and the promise of prosperity. Poor Kentucky had succeeded, at hideous cost, only in tearing itself apart and planting seeds of enduring hatreds, and now it turned and tore itself again. Having stuck to the Union throughout the war, once the fighting was over it embraced the Confederate cause with an addled passion (partly because of the short-sighted and punitive policies of Union military commanders), leading one historian to remark that it was the only government in history to join the loser after the loss. (Pearce, 1987, p. 13)

Following the war, the educational landscape was also depressing. The ravages of war further tore what was already a poor fledgling public school system.

An educated and objective southerner viewing his region in the dreary fall of 1866 might well have given up in despair. Every institution in the South had been injured seriously by the war. Most of all, the embryonic public school system was disrupted at the very moment when it was first gaining momentum. Now the South faced the unsettling blight of post-war confusion which delayed for a half century the maturing of the educational process that should have come to flower no later than 1870. On every hand White and Negro children grew up in gross ignorance, and illiteracy was accepted as a normal state of affairs. (Clark, 1965, p. 1)

The prevalent attitude toward education was that the better class of people would be educated in private schools and there was little need to educate the rest. Berea was a private school of a new and different sort.

In 1866, Kentucky passed its first act dealing with the education of African American children. The law declared that only taxes collected from Blacks could be used to support schools for Black children. Funds from Whites would support the education of White children only. Two years later, the Kentucky General Assembly "further limited the 'Colored School Fund' by ordering that any money from taxes collected from Black residents would go to paupers first, before being spent on education." Since most Blacks came out of slavery without money or property, the yield was not even close to being equitable (Harrison & Klotter, 1997, p. 380).

During slavery, the education of Blacks was seen by most White southerners as a threat to the existing social order and schooling was actively resisted. Perhaps the best thing that could be said for African American education in antebellum Kentucky was that it was not illegal to teach a slave to read. Beyond that, where Black schooling did exist, records are scant and opportunities appear to have been few, potentially dangerous, and confined within the church, or the family. Following the war a strong belief in the desirability of learning to read and write was central to Black self-determination. A combination of individual and official efforts broadened educational opportunity for former slaves who were among the first southerners to push for universal schooling. Much of this impulse was driven by a strong desire for Black self-help. Blacks were teaching themselves to read in "native schools" taught by former slaves, "Sabbath schools" operated on Sundays by Black churches, and private schools (Anderson, 1988).

The official response to the education of African American children was to come, not from the Kentucky General Assembly, but from the Bureau of Refugees, Freedmen and Abandoned Lands, better known as the Freedmen's Bureau. In 1865, the War Department established the Freedmen's Bureau to supervise all relief and educational activities relating to refugees and freedmen. The Bureau assumed custody of confiscated lands in the former Confederate States, Border States, District of Columbia, and Indian Territory. In all, approximately 900 Bureau

officials, scattered from Washington to Texas, directly or indirectly, determined benefits for millions of men.

In an article written for the *Atlantic Monthly*, W. E. B. Du Bois (1901) called the Freedmen's Bureau "one of the most singular and interesting of the attempts made by a great nation to grapple with vast problems of race and social condition (<http://www.theatlantic.com/magazine/archive/1901/03/the-freedmens-bureau/308772/>)."

However, Du Bois (1901) did not believe that the Bureau was without its faults or that it had completely eradicated the struggles facing America at the time.

In truth, the organization became a vast labor bureau; not perfect, indeed,—notably defective here and there,—but on the whole, considering the situation, successful beyond the dreams of thoughtful men. The two great obstacles which confronted the officers at every turn were the tyrant and the idler: the slaveholder, who believed slavery was right, and was determined to perpetuate it under another name; and the freedman, who regarded freedom as perpetual rest. These were the Devil and the Deep Sea. (Du Bois, 1901, pp. 354-355)

The Bureau showed some success developing a system of free labor, establishing Black peasant proprietorships, and securing the recognition of Black freemen before courts of law. But the "greatest success of the Freedmen's Bureau lay in the planting of the free school among Negroes, and the idea of free elementary education among all classes in the South" (Du Bois, 1901, p. 355 ).

In 1869, 267 Freedmen's Bureau schools provided education to 13,000 Blacks, an effort that expanded educational opportunity beyond the parallel efforts of the American Missionary Association and for many Black church-operated schools. Nonetheless, like most Bureau activities, the schools attracted strong (and violent) opposition. School after school was burned and teacher after teacher was whipped or driven away (Harrison & Klotter, 1997). The Freedmen's Bureau was unable to establish good will between ex-masters and freedmen or to refrain from paternalistic methods that discouraged self-reliance.

Meanwhile, the educational climate of Kentucky was suffering. Rather than a maturing system of schools, Kentucky's educational opportunities were sparse and in general disarray. Over the next thirty-nine years the common schools in Kentucky were characterized by public resistance to taxation, control of the local schools by largely unqualified trustees, insufficient teacher training and as a result, too many poor teachers (issues northern states generally dealt with earlier). The overall ignorance of Kentuckians to the fact that education could improve the state's social and economic conditions, combined with post-war governance by ex-confederates who preserved the state's agrarian economy, turned Kentucky into a poor state (Klotter, 1992). In 1860, Kentucky was seen as an important state, among the top ten in per capita income. By 1865, and since, per capita income in Kentucky stood among the bottom ten states (Ellis, 2011).

During this time, Superintendent H. A. M. Henderson campaigned to raise the understanding of Kentuckians to the educational needs of the Commonwealth. He fought the General Assembly to maintain school funds while crusading for better pay for teachers, better textbooks, local taxation, normal schools for teacher preparation, and the implementation of the graded school concept. Voters agreed to increase funding for White schools four-fold, but there was no system of schools for Black children since schools for Blacks, where they existed, lagged far behind those for Whites (Klotter, 1992).

Comments made by Superintendent Henderson provide some insight into the sentiment of White citizens following the Civil War:

The most perplexing question connected with our school interest is that which relates to the education of the children of the colored people. In every social aspect of the case they constitute a non-conformable element. Different in history and color, there seems to be no natural affinity between them and the White race. After a long subjection to servitude, the colored people have suddenly been elevated to the franchises of American citizenship. Whatever view we may entertain of the propriety



of the amendment to the Federal Constitution conferring this dignity upon them, it confronts us as a fact, and necessitates that we should deal with it as a practical problem, pressing upon us for its proper solution. If education is to be the basis for civil order, then to elevate the ignorant Africans, who are invested with the tremendous power of suffrage, becomes at once a necessary duty. It has been truthfully said: "An uneducated ballot is the winding-sheet of liberty."

I presume that candid men of all parties will agree that the mixing of the races in the common schools would dismember the system; yet the colored people ask that something should be done for them to aid in the education of their children and we should not be so imbecile as to dismiss their entreaty without even thinking over the whole field to, at least, ascertain what might be done for them without injury to the Whites. (Hamlette, 1914, p. 182)

In 1874, the federal government offered Kentucky \$60,000 for the establishment of a uniform system of schools for Black children. Henderson, who opposed mixing Whites with "ignorant Africans," accepted the funding, and a separate system for Blacks was formed. However, this only raised the funding level to approximately one-third of that provided to White students (Harrison & Klotter, 1997).

In the 1882 case *Kentucky v. Jesse Ellis*, the U. S. federal court declared Kentucky's per capita funding plan to be unconstitutional. The General Assembly responded with a funding system that provided the same per capita rate for Black and White schools. But that plan covered only state funds and local school districts were still allowed to discriminate by using local funds. In *Claybrook v. Owensboro*, (1883) Judge John W. Barr ruled that such discrimination violated the 14th Amendment of the U. S. Constitution. "The two systems could remain separate, but in regard to calendar, curriculum, and funding, they must—on the surface at least—be equal" (Harrison & Klotter, 1997, pp. 380-381).

The mandate requiring the General Assembly to provide for an efficient system of common schools throughout the state first appeared in the Kentucky Constitution of 1891. Even so, the General Assembly showed no interest in racial coeducation and lacking a direct mandate from the people did not levy a dollar of public taxes in support of public schools until 1904. It was not until 1908 that taxation became mandatory for all local schools (Ligon, 1942).

## A NEW DIRECTION

By the late 1880s, Berea College found its support and contributions waning due to a shift in public sympathies. Berea would soon have to address a financial crisis. At the same time, the difficulties of the region were becoming more apparent as educational opportunities that were advancing in other sections, appeared to be ignored by too many in the eastern mountains. Schools were generally poor and in short supply. In 1892, when William Goodell Frost assumed the presidency of Berea College, he shifted the school's primary mission away from racial coeducation and toward educating poor Whites in the region, which he called "Appalachia." African American enrollment at Berea held steady, but the shift in focus increased White enrollment four-fold. Following a Supreme Court ruling in *Plessy v. Ferguson*, (1896) segregation laws swept the South and changes in the social fabric of the school were also taking hold. The *Louisville Courier-Journal* objected to the free association of students at Berea and by the time of Fee's death in January 1901, Frost had fired the school's only Black teacher, forbade interracial dating, and segregated the school's clubs, dormitories, and dining halls. Still, racial coeducation continued but at a seven to one ratio of Whites to Blacks rather than the historic ratio of one to one (Bernstein, 2000).

At the turn of the century, Kentucky was entering the most unsettled and violent period in its political history. Following the Civil War, returning soldiers from both sides clashed. Nightriders harassed African Americans and their supporters. Feuds sparked in the eastern mountains. Political tricks led to the assassination of Governor William Goebel and the fleeing of Governor William Taylor, when the Court of Appeals declared that office vacant. Dueling was still commonplace. While southern states did not pass laws that supported a system of

segregation until the 1890s, White hostility had been the hallmark of southern race relations for over two centuries. The traditions of racism, White hostility toward Blacks, and the inability of the Black minority to protect itself after reconstruction, all combined to disadvantage the former slaves from the start. White southerners explored ways to retain their mastery over Blacks. Southern legislatures enacted criminal statutes that invariably prescribed harsher penalties for Blacks than for Whites and erected a formal system marginalizing African-Americans that remained in the early twentieth century.

In *Plessy v. Ferguson*, the U. S. Supreme Court interpreted the Fourteenth Amendment in such a way that equality under the law could be met through segregated facilities. In the 1896 case, Justice Billings Brown asserted that distinctions based on race violated neither the Thirteenth nor Fourteenth Amendment, two of the Civil War amendments passed to abolish slavery and secure the legal rights of the former slaves. Although the phrase “separate but equal” cannot be found in the Court’s ruling, it effectively sanctioned legally enforced segregation.

During the 1890s, Jim Crow laws were passed throughout the South that established separate facilities for Blacks and Whites in everything from drinking fountains, restrooms, and schools, to witness stands in courtrooms. In doing so, the Court acquiesced to the South’s solution to race relations. Accordingly attempts to improve the schools were focused on schools for White children.

When State Superintendent Harry McChesney first raised the issue of equity in Kentucky’s schools, his frame of reference was the comparison of White city schools to White rural schools. The issue of educating the African American population had troubled Kentucky since the Civil War. But by 1901, segregation was *de facto* public policy throughout the South.

In the wake of the *Plessy* decision, the Kentucky General Assembly, in 1902, began efforts to galvanize the *de facto* segregation that already existed in education, into *de jure* segregation by outlawing racial coeducation. This effort, clearly aimed at Berea, was initially derailed in the General Assembly following threats from President Frost to move the school out of state if the bill passed (Bernstein, 2000).

Berea survived this initial legislative assault but was not so fortunate two years later when Representative Carl Day, (no relation to the author) a one-term state legislator from Breathitt County derailed Berea’s mission. While visiting the campus in 190, Day witnessed Blacks and Whites freely mingling with one another as equals and accused Berea College of contaminating the White race. His bill, which became known as “the Day Law,” (1904) impacted Berea College, a distant school that few Breathitt County constituents had concerns about. But at heart, the Day Law was anxious about any mixing of the races that might lead to miscegenation in the larger society, a political position that had become popular throughout the South. Frost presented the legislature with a petition, signed by 80% of the registered White voters in Madison County, supporting the school. But it was not enough to generate the necessary moral courage for legislators to overcome the political expediency of yielding to the popular sentiment (Bernstein, 2000).

With the support of the press and many of the state’s highest officials, the General Assembly passed the Day Law and Governor Beckham signed it. Section 1 of the Day Law states:

That it shall be unlawful for any person, corporation, or association of persons to maintain or operate any college, school, or institution where persons of the White and negro races are both received as pupils for instruction; and any person or corporation who shall operate or maintain any such college, school, or institution shall be fined \$1,000, and any person or corporation who may be convicted of violating the provisions of this act shall be fined \$100 for each day they may operate said school, college, or institution after such conviction.

In *Berea College v. Commonwealth of Kentucky* (1908), the college and its supporters fought the law in the state courts. A team of attorneys led by former Speaker of the U. S. House

of Representatives, John G. Carlisle, argued that the law violated Berea's constitutional right to maintain a private college for worthy purposes and that the right of citizens to voluntarily associate should not be abridged. The lower court rejected these arguments citing existing laws requiring segregation in public schools, on public carriers, and bans on interracial marriage.

On appeal, in the Kentucky Court of Appeals, Berea presented a wealth of documentation on how integrated classrooms had benefited students. But the court overwhelmingly upheld the Day Law rejecting any concerns over restricting free association among private individuals as justified by the need to maintain a pure blood line.

The court reasoned that since interracial marriage would "destroy the purity of blood and the identity of each [race]" prohibitions against miscegenation were unquestioned. The court argued that it was a credit to America's civilized society that "the stronger race" did not simply "annihilate the weaker race," stating that the Day Law was valid because it prevented the violence that would surely be the result of integration (Bernstein, 2000, p. 99).

The case was finally resolved in the U. S. Supreme Court which opined that although Berea was a private college, it was incorporated by the state of Kentucky and could be regulated according to state laws. The ruling left the Day Law unaltered and legalized the segregation of Kentucky classrooms throughout the state (Klotter, 1992). The Day Law remained in force—and it was illegal for a school to receive both White and Black students in its classrooms—until that law was nullified, in 1954, by the United States Supreme Court decision in *Brown v. Board of Education of Topeka Kansas* (1954).

## CONCLUSION

The establishment of Berea College, in its time and place, was an unlikely and exceptional occurrence. For a school of its philosophical bent to be established amid contrary popular sentiment is surprising enough. That such a school—designed for racial coeducation in pro-slavery nineteenth century Kentucky—was allowed to survive for more than four decades is nothing short of amazing.

Berea's attempt to use the courts to sustain its mission early in the twentieth century was ultimately unsuccessful. In *Berea v. Commonwealth*, the court fully accepted pseudoscientific notions of racial inferiority that flew in the face of the Fourteenth Amendment, which was intended to guarantee equal protection of the laws. In the wake of the U. S. Supreme Court's justifications of *de jure* racial segregation in *Plessy v. Ferguson*, Jim Crow laws swept the South and separated people by race in public accommodations, on public carriers and in the public schools.

American courts had routinely upheld the right of free association in private organizations. But in the *Berea* case, the court was willing to extend its purview into private associations by upholding the legislature's action to outlaw the voluntary association of Blacks and Whites for purposes of education. The court's justifications ultimately relied on an unquestioned belief in anti-miscegenation laws and the attending prejudices which the court held to be "nature's guard to prevent the amalgamation of the races" (Bernstein, 2000, p. 99).

Following the rationale in *Plessy*, the courts denied the privileges and immunities, due process, and equal protection clauses of the Fourteenth Amendment, under the infamous notion that citizens' rights could be maintained separately and still offer equality. The courts reasoned that the amendment was not violated because it applied equally to all races. Whites could not associate with Blacks, and Blacks could not associate with Whites. When that idea was later overturned by the Supreme Court in *Brown*, the Court cited *Berea v. Commonwealth* and the college's attempt to overturn Kentucky's infamous Day Law as one of a handful of cases where American courts had "labored with" the "separate but equal" doctrine for more than a half century (*Brown v. Board of Education*, 1954, FN 7).

The *Berea* case can be seen as an example of how early twentieth century legal institutions were suffused with racism and justifications for racial discrimination even to the extent that they

neutered the laws intended to provide redress to Black citizens, while the court approved of racial prejudice as a natural protection from what it considered to be an unnatural amalgamation.

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