Swedish socialist, had castigated the region for its ubiquitous racism. Warren continued:

> We conclude that in the field of education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated . . . are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

Warren concluded by requesting the parties to present further arguments in the fall of 1954 on how the Court's decision should be implemented.

The Court postponed arguments until April 11, 1955. Marshall argued strenuously for decisive action to end segregation by setting a fixed date by which segregation would have to end throughout the South. The defendants argued, for the most part, that no fixed timetable should be imposed and that too rapid desegregation might destroy the system of public education in many areas of the South. Speaking as a friend of the Court for the government of the United States, Solicitor General Simon E. Sobeloff urged the justices to instruct the district courts to direct the segregated school districts to make a prompt start on the process of integration and complete it "as speedily as feasible."

Finally, on May 31, 1955, Warren delivered a unanimous seven-paragraph opinion on the implementation of the Brown decision directing the district courts to monitor the "good faith" of local school boards in planning and implementing desegregation plans. The lower courts, Warren said, should be guided by "equitable principles" and "a practical flexibility." In the most famous phrase of the case, Warren said that the district courts should see that the parties to the cases be admitted "to public schools on a racially nondiscriminatory basis with all deliberate speed."

Aftermath

The phrase "all deliberate speed" proved subject to varying interpretations. It would take nearly a quarter century and hundreds of lower-court decisions before the Supreme Court's edict in *Brown* had been fully implemented throughout the South. Even then, in both North and South, patterns of residential segregation and concentration of blacks in urban areas and whites in suburban areas were reflected in school enrollments.

In the immediate aftermath of the second *Brown* decision, the South sought to use tokenism to meet the letter of the law while negating the spirit. District courts frequently granted school boards long delays and accepted the enrollment of handfuls of black school children in formerly white schools as adequate compliance. The first major crisis in the desegregation process came in Little Rock in 1957 when Arkansas governor Orval Faubus used National Guardsmen to prevent the enrollment of a few blacks in the city's Central High School. After talks with Faubus led nowhere, President Eisenhower reluctantly sent U.S. Army paratroopers to enforce court orders. Some 750 school districts were desegregated—at least on a token basis—in the first four years after the *Brown* decision, but only an additional 49 were desegregated during the period 1958 to 1960. The process of desegregation picked up speed in the early 1960s and, after the passage of the 1964 Civil Rights Act, federal authorities had more weapons in the legal battle. In 1969 Chief Justice Warren Burger wrote a short and unanimous opinion in *Alexander v. Holmes County (Mississippi) Board of Education* declaring, "the obligation of every school district is to terminate dual school systems at once." By 1972 over 46 percent of black children in the South were attending schools in which the majority of students were white, a higher percentage than could be found in other sections of the nation.

Significance

Brown v. Board of Education would be ranked by most historians as among the two or three most far-reaching and significant decisions ever handed down by an American court. Over the next decade additional decisions wiped out legally sanctioned segregation in almost every aspect of American life, even outlawing in 1967 state laws barring interracial marriage. The decision also sparked a mass movement among blacks demanding their civil rights. Starting with the bus boycott in Montgomery, Alabama, led by Martin Luther King, Jr., it quickly spread across the nation, transforming the nation's political life. Although still beset by economic problems, American blacks were freed from the system of legally sanctioned discrimination within two decades of the *Brown* decision.

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Decision

Court unanimously reversed
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ed if the freedoms of expres-
e 'breathing space' that they
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g damages for a defamatory
to his official conduct unless
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ally allow recovery for libel "for merely discussing public affairs and criticizing public officials." The power of the federal and state governments to permit recovery against public officials, in Black's words, was "precisely nil." "We would . . . more faithfully interpret the First Amendment by holding that at the very least it leaves the people and the press free to criticize officials and discuss public affairs with impunity."

Justice Goldberg expressed similar views in his concurrence: "I strongly believe that the Constitution accords citizens and press an unconditional freedom to criticize official conduct." Thus, according to both Justice Black and Justice Goldberg, no one who criticizes governmental action should ever be subject to libel suits.

Aftermath

Given the only slight connection of the advertisement to Mr. Sullivan, and the lack of evidence of damage suffered by him, the libel action was dismissed by the state court after the U.S. Supreme Court had made its decision.

Significance

This was the first of a number of Supreme Court cases that, to a large degree, abolished state defamation law. Prior to *New York Times*, defamation law had been determined exclusively by state courts. Now, however, the First Amendment's protections struck down much of the common law of defamation. This has given the news media more freedom to report stories without the fear of lawsuits.

Related Cases

Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., 472 U.S. 749 (1985)

Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974)

Recommended Reading

David Anderson, *Libel and Press Self-Censorship*, 53 Texas Law Review 422 (1975).

Alexander D. Del Russo, *Freedom of the Press and Defamation: Attacking the Bastion of* New York Times Co. v. Sullivan, 25 St. Louis University Law Journal 501 (1981).

W. Page Keeton, *Defamation and Freedom of the Press*, 54 Texas Law Review 1221 (1976).

Case Title: *Pell v. Procunier*

Legal Citation: 417 U.S. 843

Year of Decision: 1974

Key Issues

Does the press have the right to interview inmates?

History of the Case

Various reporters, including Eve Pell, requested permission from the appropriate corrections officials to interview inmates. The editors of a magazine requested to visit another inmate to discuss publishing his writings and to talk to him about the conditions of the prison. These requests were denied pursuant to a California statute that stated that the press will not be permitted to interview specific individual inmates. The reporters and the inmates sued Raymond K. Procunier, the director of the California Department of Corrections, and several other subordinate corrections officers. The district court granted the inmates summary judgment, saying that their First and Fourteenth Amendment rights had been infringed. The district court granted the defendants' motion to dismiss the media plaintiffs' case because the media still had the right to enter prisons and interview at random. Additionally, the district court said the ruling for the prisoners in this case granted the reporters even broader access. The media plaintiffs and the corrections director appealed to the U.S. Supreme Court.

Summary of Arguments

The inmate plaintiffs contended that the California statute violated their First Amendment right of free speech applied to the states through the Fourteenth Amendment. The media plaintiffs contended that the statute infringed their right under the First and Fourteenth Amendments of the freedom of the press.

The defendants argued that before the statute was enacted, the press could interview certain specific inmates, and that resulted in a small group of

inmates becoming virtual public figures, gaining a disproportionate amount of notoriety and influence among other inmates. Because of this, they became severe disciplinary problems, impairing the purposes of the penal system.

Decision

Justice Stewart delivered the opinion of the Court, which held that the statute did not violate the inmates' rights of free speech. The inmates inevitably lost some privileges when they became incarcerated. As long as the limitation was neutral, without regard to the content, and the prisoners still had alternative channels of communication, the statute was held to be constitutional and a restriction to which prisoners are necessarily subjected in order to carry out the objectives of the corrections system.

The Court likewise held that the media plaintiffs' right to the freedom of the press was not violated. The Court stated that the press does not have a constitutional right to information that is not available to the public generally. This, coupled with the fact that the press had greater access than the public to prisons through their ability to enter prisons, speak to prisoners, and interview prisoners at random, was enough to convince the Court that no right had been violated.

Justice Powell dissented by stating that the ban of prisoner-press interviews restrains the press from performing its constitutionally protected duty of informing the people of the government's conduct.

Justices Douglas, Brennan, and Marshall dissented, stating that the prisoners' First Amendment rights are extremely important and are not outweighed by the state's interest in this case. They argued that the prison could still carry out its duties effectively if the inmates were allowed to give interviews. They also dissented as to the media, stating that their job is to inform the public, and this restriction harms the public's access to information.

Aftermath

The Court has continued to hold that the press has no right of prison access greater than that of the general public in cases such as *Houchins v. KQED, Inc.* (1978).

Significance

While the Court held that the First Amendment rights were not violated by this statute, the strong dissent followed by four justices may one day turn out to be the majority with a different Supreme Court. The *Pell* decision indicated that the availability access to prisons was equal among the public and the media.

Related Cases

Gannett Co. v. DePasquale, 443 U.S. 368 (1979)

Houchins v. KQED, Inc., 438 U.S. 1 (1978)

Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980)

Saxbe v. Washington Post Co., 417 U.S. 843 (1974)

Recommended Reading

Margaret A. Blanchard, *The Institutional Press and Its First Amendment Privileges,* Supreme Court Review 225–296 (1978).

Joseph C. Hutchinson, *Analyzing the Religious Free Exercise Rights of the Inmates: The Significance of Pell, Jones* and *Wolfish,* 11 NYU Review of Law and Social Change 413–440 (1982–1983).

Case Title: *Time, Inc. v. Firestone*

Alternate Case Title: The Responsible Press Case

Legal Citation: 424 U.S. 448

Year of Decision: 1976

Key Issues

Is the press subject to a libel action based upon an erroneous report of the contents of a judicial proceeding?

History of the Case

Mary Alice Firestone was the wife of Russell Firestone, scion of the wealthy industrial family. She filed an action seeking support and maintenance, and he counterclaimed for divorce on the grounds of mental cruelty and adultery. In a highly publicized trial in Palm Beach, Florida, the court held in favor of Russell. In the court's judgment, the

Cases that changed American Society

1. Plessy v Ferguson (1896)

A. What was the issue?

B. What was the Court's decision?

C. What was the aftermath and significance of the case?

2. Marbury v Madison (1803)

A. What was at issue?

B. What was the Court's decision?

C. What was the aftermath?

3. Brown v Board of Education of Topeka, Kansas

A. What was the issue?

B. What was the Court's decision?

C. What was the significance?

4. Pell v Procunier

A. What was the issue?

B. What was the Court's decision?

C. What was the aftermath and significance?

Reading Informational Text

Pell v Procunier

	What did the text say?	What this means in my own words.
A.		
B.		
C.		

Reading Informational Text

Brown V Board of Education of Topeka, Kansas

A.

What did the text say?	What this means in my own words.

B.

C.

Reading Informational Text

Marbury V. Madison

	What did the text say?	What this means in my own words.
A.		
B.		
C.		

Reading Informational Text

Plessy V Ferguson

	What did the text say?	What this means in my own words.
A.		
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