



## Sacco and Vanzetti: Were Two Innocent Men Executed?

In 1921, two Italian immigrants were tried and convicted of robbery and murder. Six years later, they were executed. The case of Sacco and Vanzetti drew international attention and is still debated today.

On April 15, 1920, two employees of a shoe factory were shot and killed in South Braintree, Massachusetts. Three weeks later, two poor Italian immigrants were arrested and charged with robbery and murder. One, Bartolomeo Vanzetti, worked part-time doing construction and the rest of the time peddling eels and clams. The other, Nicola Sacco, worked full-time as a shoe edger. He lived in Milford, Massachusetts, with his wife and son. Sacco and Vanzetti were tried and found guilty in July 1921. During the six years before they were executed, their names became known throughout the world. Protests were held in London, Paris, Milan, Berlin, and parts of South America and Asia. Millions of people felt passionately that Sacco and Vanzetti were innocent, and millions more believed that they had not received a fair trial. Today, 80 years later, historians and commentators continue to debate the Sacco and Vanzetti case.

### A Time of Panic and Prejudice

World War I created tremendous political turmoil. Many leftist groups in Europe and in America opposed the war. They saw it as an imperialist struggle for power and profit, fought at the expense of the working class. But after America entered the war in April 1917, opposition to the war was not tolerated. President Woodrow Wilson made this clear in his Flag Day address on June 14, 1917: “Woe to the man or group of men that seeks to



*Bartolomeo Vanzetti (with the moustache) and Nicola Sacco were convicted of robbing a shoe factory’s payroll money and killing the two employees carrying the money. Their case garnered international attention in the 1920s. (Wikimedia Commons)*

stand in our way in this day of high resolution.” The next day, the president signed the Espionage Act, which set a

*(Continued on next page)*

## Rights Reconsidered

Throughout history, individual rights have been considered and reconsidered. This edition of *Bill of Rights in Action* looks at three such cases. The first article examines the historic case of Sacco and Vanzetti, two immigrants tried, convicted, and executed for robbery and murder. The second article looks at Edmund Burke, who disdained the “rights of man,” but championed the “rights of Englishmen.” The last article explores the case of *Mendez v. Westminster*, an important forerunner to *Brown v. Board of Education*.

**U.S. History: Sacco and Vanzetti**

**World History: Edmund Burke**

**Government: *Mendez v. Westminster***

Special-guest writer Lucy Eisenberg, Esq., contributed the article on Sacco and Vanzetti. The other articles were written by our longtime contributor Carlton Martz.

fine of \$10,000 and a prison term of up to 20 years for anyone who aided the enemy or encouraged disloyalty in the armed forces. A year later, Congress passed the Sedition Act. It imposed the same penalties on anyone who uttered, printed, wrote, or published “disloyal, profane, scurrilous or abusive language” against the government or the Constitution.

Most Americans supported the war. Private groups, such as the American Protective League, were formed to promote patriotism and seek out radicals who held anti-war beliefs. Their prime targets were members of the socialist and communist parties, members of the International Workers of the World (IWW), and anarchists. As the federal authorities began enforcing the Espionage and Sedition Acts, hundreds of anti-war and radical immigrants were arrested simply for criticizing the government and its war policies.

Immigrants from southern and eastern Europe, including Italian immigrants, were considered to be a suspect group. Italian immigrants had flooded into the country beginning in 1880. Between 1900 and 1920, 3 million Italians migrated to the United States. Most were unskilled and semi-skilled laborers, and some joined groups devoted to social revolution and overthrowing the capitalist system.

Events after the war caused the Red Scare, a period of panic over the threat of communists and anarchists. The country saw a huge wave of strikes. Four million workers went on strike in 1919, the year after the war ended. A communist revolution had occurred in Russia in 1917, and many Americans feared that a similar revolution would take place in the United States. Anarchist groups in the United States that had strongly opposed the war began a series of terrorist acts after the war. In April 1919, mail bombs were sent to prominent politicians and to wealthy and powerful businessmen. Among the targets were Attorney General A. Mitchell Palmer, J.P. Morgan, and John D. Rockefeller. None of the intended recipients was injured, but the mail bombings aroused a surge of anger and hatred against communists, radicals, and foreigners. The fear intensified in June when bombs exploded in seven cities. Delivered by hand to the doors of the intended victims, these bombs were much more powerful than the package bombs. Again, none of the intended victims was injured, but several bystanders were killed. Copies of a leaflet were found at every site, printed on pink paper and signed “The Anarchist Fighters.” The bombings were clearly the work of an organized conspiracy.

The evidence pointed to a group of anarchists headed by Luigi Galleani, an Italian immigrant. He advocated the violent overthrow of the capitalist system. Before immigrating to the United States, Galleani’s anarchist activities had gotten him in trouble with the law in several European countries. In the United States, he started publishing a small newspaper for anarchists called *Conaca Souversiva* (Subversive Chronicle). The newspaper often carried an advertisement for one of his publications that it said it was essential reading. Its deliberately misleading title was *Health Is You!* The manual explained how to make bombs.

In 1918, the government had begun an investigation to identify Galleanists and other radicals suspected of terrorism. Arrest warrants were issued for about 100 Galleanists in the Boston area alone. The next year, Galleani was arrested and deported to Italy. The Bureau of Immigration and the Department of Justice then planned a huge series of arrests of anarchists and radicals. The so-called “Palmer Raids,” named after the attorney general, took place in January 1920. About 10,000 people were arrested nationwide, suspected of anti-American beliefs. Many were arrested without warrants and marched to jails in chains. Thousands were scheduled for deportation without trial.

The press helped fuel the Red Scare. A newspaper in Quincy, Massachusetts, wrote in April 1919: “Organized efforts are being started to fight the Bolshevik poison. It is none too soon.” In Braintree, Massachusetts, in May 1919, an editorial in the local paper asked: “Since when has America countenanced an invasion—an incursion of foreigners hostile to Americans and American ideals.” It was a time of tremendous hostility to foreigners, and especially to those identified as anarchists and supporters of Galleani.

### **Sacco and Vanzetti, Anarchists**

Sacco and Vanzetti were members of this feared and despised anarchist group. They had both come to the United States from Italy in 1908 and settled in Massachusetts. Both subscribed to Galleani’s radical newspaper. Both were followers of Galleani and passionately believed in the principles of the anarchist movement. In Sacco’s words, anarchism meant “no government, no police, no judges, no bosses, no authority . . . the people own everything—work in cooperation—distribute by needs—equality, justice, comradeship . . .”

As anarchists, Sacco and Vanzetti had opposed the war. They had gone to Mexico in 1917 to avoid registering



*This cartoon from the Communist Party newspaper The Daily Worker appeared the day before Sacco and Vanzetti's execution. (Teaching Politics)*

for the draft. When they came back to Massachusetts, they were caught up in the Red Scare. Many of their friends and fellow anarchists had already been arrested and were being deported. When federal investigators found a list of subscribers to Galleani's newspaper, Sacco and Vanzetti came to their attention.

### **The Crime and Arrest**

On the afternoon of April 15, 1920, in the town of South Braintree, Massachusetts, Frederick Parmenter and Alessandro Berardelli were carrying two metal boxes filled with almost \$16,000 in payroll money. The money was for the employees of the Slater and Morrill shoe factory. On the way to the factory, they were shot by two men, who took the money, jumped into a getaway car (a Buick, driven by two other men), and rode away.

Three weeks later, an arrest was made. A local sheriff, Michael Stewart, had been tracking anarchists in the area. He was investigating two men, Boda and Coacci, who he thought were involved in the South Braintree robbery. Stewart found that Boda had taken his car to a mechanic. He told the mechanic to call him when anyone came for the car. When Boda and three Galleanist

friends, including Sacco and Vanzetti, went to pick up the car, the mechanic called the police. The mechanic tried to stall the men, but they all left without the car. Sacco and Vanzetti walked to a nearby trolley stop to return home. The police arrested Sacco and Vanzetti on a trolley car. When they were caught, both were carrying guns. Questioned the next day by the police and the local district attorney, they answered dishonestly. The prosecutor later charged that their lies constituted "consciousness of guilt" in the robbery and murder in South Braintree.

### **The South Braintree Trial—May 21 to July 14**

The trial began in May 1921 and lasted nearly seven weeks. Fifty-nine witnesses testified for the prosecution, and 99 testified for the defendants. As in all criminal cases, the prosecution had the burden of proving guilt beyond a reasonable doubt.

The issue was simple: Were Sacco and Vanzetti the men who had robbed and killed Parmenter and Berardelli or weren't they? But a mass of conflicting evidence was presented.

The prosecution put on the stand 45 eyewitnesses to the crime. Their versions of the events were inconsistent, even contradictory. Five identified Sacco, but not conclusively. One witness named Louis Pelser provided the license plate number of the car and gave a detailed description of Sacco, but two of his co-workers testified that Pelser had crouched under a bench when the shooting started and had not seen anything. Another witness, Mary Splaine, also gave a detailed description of a man in the getaway car, including the length of his hair line and the size of his hand. Her description matched Sacco, but the man she saw was 60 to 80 feet away in a moving car and was in her line of sight for less than 3 seconds. Only one witness said he had seen Vanzetti at the crime scene during the robbery. He told the prosecutors that Vanzetti had been driving the getaway car.

The defense offered numerous witnesses to establish alibis. Vanzetti claimed to have been in Plymouth, Massachusetts, peddling fish on the afternoon of the murders. A man corroborated this by testifying that he had bought fish from Vanzetti. A fisherman and a boat builder also remembered having spoken with him in Plymouth. Sacco claimed that he had gone to Boston on the day of the murder to get a passport. The clerk at the Italian Consulate testified that Sacco had come to his desk that day. Three other witnesses testified to having had lunch with Sacco in Boston on the same day.

The main physical evidence connecting Sacco and Vanzetti to the crime was the guns in their possession when they were arrested. The prosecutors claimed that Vanzetti's gun belonged to one of the victims and that Vanzetti had stolen it from him. The prosecutors also offered a ballistics test showing that one of the bullets found in Berardelli's body was fired from Sacco's gun.

Other evidence linked them to the anarchist movement. Testimony showed that both Sacco and Vanzetti supported the anarchist movement and had gone to Mexico to avoid the draft. The district attorney asked Sacco many questions about his decision to go to Mexico and stated that this decision proved that he did not "love America." Nor did it help their case that the defendants explained that on the night they were arrested, they had gone with Boda to get a car to pick up and hide the kind of anarchist publications that were causing people to be arrested.

On July 14, 1921, the case went to the jury. It returned with a guilty verdict after a few hours of deliberation.

### **Post-Trial Motions and Execution**

Sacco and Vanzetti were held in prison for six years while their attorneys filed motions seeking a new trial. Some of the motions involved witnesses who had recanted their testimony. Another involved a challenge to the ballistics test. One challenged the judge's improper behavior including his appeals to patriotism and his contempt for the defendants and their lawyers. (Early in the trial, the judge, Webster Thayer, had remarked to a group of friends: "Did you see what I did to those anarchistic [expletive deleted] the other day?") Under Massachusetts law, all post-trial motions had to be decided by the same judge who had presided at the trial. Judge Thayer denied the defendants' first six motions, which were filed in 1921–1923. Appeals courts upheld his decisions.

Two years later, an unexpected event occurred. Another inmate in the prison where Sacco was held wrote a note confessing his involvement in the South Braintree crime. The note, signed by Celestino Madeiros, read: "I hear by [sic] confess to being in the shoe company crime of South Braintree on April 15, 1920 and that Sacco and Vanzetti was not there." If what Madeiros said was true, Sacco and Vanzetti were not guilty. But his description of the crime contradicted well-established facts, and the police did not investigate the confession.

An attorney representing the defendants, named Herbert Ehrmann, started an investigation on his own.

Using information supplied by Madeiros, he tracked down a group of professional thieves—the Morelli gang—operating out of Providence, Rhode Island. Ehrmann discovered that the Morelli gang had already been charged with stealing shoes from Slater and Morrill, the same factory in South Braintree where the payroll robbery and murder had occurred. The police in New Bedford, where the gang also operated, had originally suspected the Morelli gang of committing the South Braintree crime, but dropped their investigation after Sacco and Vanzetti were arrested.

Ehrmann became convinced that the Morelli gang had committed the crime, but he was never able to get Morelli—who was in prison on another charge—to confess to anything. When Ehrmann filed a motion for a new trial based on the Morelli gang information, Judge Thayer denied it because he found Madeiros' confession untrustworthy. On April 9, 1927, Judge Thayer sentenced Sacco and Vanzetti to death.

The announcement of the death sentence triggered worldwide protests. The extent of the protests prompted the governor to get involved and to take the unusual step of appointing an independent commission to review the case. A. Lawrence Lowell, the president of Harvard College, headed the commission. The Lowell commission took 10 days to investigate the case and issued a report on July 21, 1927. It concluded that Sacco was guilty and that Vanzetti was "on the whole" guilty. One month later, on August 23, 1927, Sacco and Vanzetti walked into the death chamber a few minutes after midnight and sat in the electric chair. By 12:30 a.m. they were dead.

### **Innocent or Guilty?**

Many, many books have been written about the Sacco and Vanzetti trial. One written in 1927 by a law professor named Felix Frankfurter (later a Supreme Court justice) examined the case, found little evidence to support the verdict, and argued that the prosecutor and judge had played to the prejudices of the jury. Others have presented evidence that the Morelli gang, and not Sacco and Vanzetti, were guilty of the crime. Other authors have written books to confirm that Sacco and Vanzetti were guilty.

The ballistic evidence has been re-examined. Police files made public in 1977 showed that the gun in Vanzetti's possession could not have been taken from the victim because it was a different caliber and had a different serial number. A ballistic test in 1961 matched the bullet found in Berardelli's body to

Sacco’s gun. Critics claim that the bullet was planted by the police because it did not match the other bullets found in the body.

Testimony has been questioned. The one eyewitness who identified Vanzetti said he was the driver. Yet Vanzetti had no driver’s license and had never learned to drive. One of Sacco’s alibi witnesses much later confessed that he had lied because an anarchist group had asked him to do so.

The debate over the case continues. Most agree that it will never be known with certainty whether the two men were innocent or guilty.

**For Writing and Discussion**

1. The prosecution stated that the defendants’ behavior following their arrest showed a “consciousness of guilt.” What other explanation might there be for their behavior?
2. What physical evidence did the prosecution present? What was the eyewitness testimony? What was the relevance of the testimony about their being anarchists? Which of this evidence do you find most compelling? Explain.
3. Why do you think the jury did not give greater weight to the defendants’ alibi witnesses?
4. Do you think Sacco was guilty beyond a reasonable doubt? Vanzetti? Explain.
5. Do you think they received a fair trial? Explain. If not, what, if anything, might have been done to ensure a fairer trial?

**For Further Reading**

Russell, Francis. *Tragedy in Dedham: The Story of the Sacco and Vanzetti Case*. New York: McGraw-Hill, 1971.

Topp, Michael. *Sacco and Vanzetti Case: A Brief History With Documents*. New York: Palgrave MacMillan, 2005.

**The Proclamation**

Fifty years after they were executed, the governor of Massachusetts proclaimed August 23, 1977, to be Nicola Sacco and Bartolomeo Vanzetti Memorial Day. The proclamation stated that the atmosphere of their trial “was permeated by prejudice against foreigners and hostility toward unorthodox political views.” It expressed doubt that the officials who conducted the case had been fair and impartial. Accordingly, the governor proclaimed, “that any stigma and disgrace should be forever removed from the names of Nicola Sacco and Bartolomeo Vanzetti.” He urged the people of Massachusetts to prevent the forces of “intolerance, fear and hatred” from ever again undermining the fairness of the legal system.

The governor’s proclamation reignited the controversy over the case. Many objected to the proclamation, protesting that Sacco and Vanzetti had been found guilty and were, in fact, guilty. The mayor of New York cancelled plans to issue a similar proclamation.

Write an editorial expressing an opinion on whether the governor’s proclamation was appropriate. It should be at least one page and use evidence from the article to support your opinion.

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## Edmund Burke: The Father of Conservatism

**Burke was a statesman and political thinker who dominated debates in the British Parliament during the late 1700s. His principled stands on such controversies as the American and French revolutions inspired modern political conservatism.**

Edmund Burke was born in Dublin, Ireland, in 1729. His Protestant father was a lawyer for the Irish government that England largely controlled. His mother was a Roman Catholic. Although Burke himself was a Protestant, he battled discrimination against Irish Catholics throughout his life.

Burke attended a Quaker boarding school and then Trinity College in Dublin. He excelled in history and loved poetry, but in 1750 his father sent him to London to become a lawyer.

**W**ORLD HISTORY  
In London, Burke studied law briefly, but abandoned it in favor of pursuing a career as a writer. He also worked as a secretary for several politicians, writing pamphlets and speeches for them. In 1757, Burke married the daughter of a Catholic doctor who had treated him.

Through his political connections, Burke got a job as the private secretary of Charles Rockingham. A wealthy aristocrat, Rockingham led the Whig Party in the House of Commons in Parliament. The two men became lifelong friends and political allies.

In 1765, when the prime minister lost majority support in Parliament, King George III appointed Rockingham prime minister. Rockingham saw to it that Burke secured a seat in the House of Commons.

### **Burke and the Whig Party**

Burke immediately plunged into the hot debate in Parliament over repeal of the Stamp Act. This was a tax on newspapers and legal documents in the American colonies. Its purpose was to help



*Edmund Burke (1729–97) was a writer, member of Parliament, and a major political thinker. (Perry-Castañeda Library, University of Texas at Austin)*

pay off the British debt from the French and Indian War in North America, which had ended in 1763.

The Americans resisted the Stamp Act by boycotting English goods. Since they lost business, English merchants and manufacturers demanded that Parliament repeal this tax. Rockingham Whigs sympathized with their economic troubles. Burke also favored repealing the tax, but for a different reason. As a matter of principle, he argued that Americans should not be taxed without their consent. He quickly impressed many with his excellent debating skills and speeches.

The Rockingham government repealed the Stamp Act. But Rockingham lost support in the House of Commons within a year, and King George appointed William Pitt the Elder as the new prime minister. In 1767, Pitt's treasury minister, Charles Townshend, pushed through Parliament another series of taxes on Americans that further angered them.

Soon, Burke became embroiled in a different political controversy. He and other Whigs charged the advisors of King George with funding the election of “placemen” to seats in the House of Commons. The king had appointed these individuals to government-paid jobs that had few or no real duties. Burke claimed that these “friends of the king” were conspiring to control the House of Commons and Pitt's government.

Although historians tend to doubt this “conspiracy” amounted to much, Burke wrote a pamphlet on what he believed was royal tampering with the traditional roles of king and Parliament. “When bad men combine,” he wrote, “the good must associate, else they will fall, one by one.”

Most people in England considered a political party to be, at best, a group that followed a powerful leader, or, at worst, a faction of political schemers. Burke, however, had a different view of political parties. He defined a party as “a body of men united for promoting by their joint endeavors the national interest upon some particular principle in which they are all agreed.” He described the politician as “the philosopher in action” who attempted to implement a principle by enacting party programs.

Both the Whigs and their main political rivals, the Tories, consisted mainly of wealthy property owners. The electorate also owned property, as ownership was a requirement for the right to vote. Burke tried to mold the Whigs into a party of principle to respect more rigorously the British Constitution.

Unlike the U.S. Constitution, the British Constitution is not written in one document. It consists of charters like the Magna Charta, laws, declarations by Parliament, court precedents, and customs. All these elements of the British Constitution, Burke believed, represented the inherited wisdom of past generations. In the dispute over the king's "placemen," Burke sought to restore what he believed was the traditional balance of power between the monarchy and Parliament.

In 1774, the voters of the seaport of Bristol elected Burke along with one other man as their representatives in the House of Commons. Upon their election, Burke's fellow representative promised he would always vote according to the will of the Bristol voters. Burke, however, took a principled position on how he would cast his votes. In a famous speech to the Bristol voters, Burke agreed that their wishes "ought to have great weight." But he said that he owed them even more his "judgment and conscience." To vote "blindly" according to the instructions of his Bristol constituents, he said, would violate the British Constitution. Burke insisted that Parliament was a deliberating "assembly of one nation, with one interest, that of the whole—where not local purposes, not local prejudices, ought to guide, but the general good."

### **Burke and the American Revolution**

The American colonists continued their cry of "no taxation without representation" in opposing the Townshend duties. The duties were taxes on glass, paper, tea and other imports from Britain.

In 1770, the unpopular taxes resulted in a violent clash, known as the Boston Massacre, between Bostonians and British troops. To calm things down, Parliament repealed the Townshend duties, except for the one on tea.

When the famous Boston Tea Party took place in 1773, the Tory government then in power decided to punish the Americans. Urged on by King George, Tory Prime Minister Lord North ordered the port of Boston closed until the colonists accepted the tea tax.

The following year, Burke, now also a lobbyist for New York's colonial legislature, made the first of two major speeches in Parliament in defense of the American

colonists. Burke objected to Lord North's policy of imposing taxes on them without their consent.

Burke advised the British government to leave the Americans alone to tax themselves. He predicted that they would voluntarily contribute their share for the defense of the empire. Otherwise, he concluded, the policy of forced taxation would only lead to disobedience, and, "after wading up to your eyes in blood," would result in no revenue from the Americans at all.

In March 1775, Burke delivered a speech on the escalating crisis in America. As descendants of Englishmen, Burke declared, the Americans were right to object to forced taxes. Throughout English history, he reminded his colleagues in Parliament, taxation had always been at the center of the English fight for freedom. English liberty, he said, was founded on the principle that the people must "possess the power of granting their own money" to the government.

Burke declared that America was too distant from the mother country for members of Parliament elected in England to represent the colonists adequately. Let them tax themselves, he again urged, and they would willingly aid the king's government and remain forever loyal to England.

Burke and the other Whigs introduced resolutions to repeal the tea tax and end the policy of Parliament taxing the Americans without their agreement. But the Tories soundly defeated these proposals. A month after Burke's speech, American minutemen and British redcoats battled at Lexington and Concord. King George declared the colonies "in open rebellion," and the American Revolution began.

Following the Declaration of Independence in 1776, Burke still pleaded with the Americans not to separate from England where the "very liberty, which you justly prize" originated. As the American Revolution unfolded, Burke increasingly sided with the colonists.

Burke pressed Lord North to negotiate an end to the "mercenary and savage war." When North finally agreed to negotiate following the British defeat at the Battle of Saratoga, it was too late. The Americans would settle for nothing less than full independence.

King George rejected the idea of American independence and wanted to continue the war. He held out for victory even after the British disaster at Yorktown.

By 1782, Lord North had lost support in Parliament, and his Tory government resigned. Charles Rockingham was prepared to become prime minister again and form a new

Whig government. But first he demanded that King George abandon his opposition to American independence. The king finally agreed. This series of political maneuvers, largely engineered by Burke, signaled the further decline of royal power in the English government.

The new Rockingham government negotiated peace and independence with the Americans. But Charles Rockingham died after only three months in office, and a coalition of parties replaced the Whig government.

### Ireland, India, and the French Revolution

Following the American Revolution, Burke took unpopular positions on other controversial issues. The Protestant English government barred the Catholic majority in Ireland from voting, holding public office, establishing schools, and even working in certain jobs. Burke proposed legislation, easing this harsh discrimination. This reflected his lifelong support for toleration of all religions (but not atheism). Parliament ignored him.

In 1783, Burke launched a campaign against corruption, greed, and needless wars in British India, virtually ruled by the East India Company. He focused his attack on Governor General Warren Hastings, whom he called “the greatest delinquent that India ever saw.” When Parliament impeached Hastings, Burke led the prosecution at his impeachment trial. It lasted, on and off, for seven years before Parliament finally acquitted him.

In July 1789, the French Revolution exploded in Paris. Some in Britain applauded the extraordinary events in France for expanding the “rights of man.” But Burke did not. “As much injustice and tyranny has been practiced in a few months by a French democracy,” Burke wrote to a friend, “as in all the arbitrary monarchies in Europe.”

Burke saw the revolutionary ideas let loose in France as a threat to the British system of government. In 1790, he published his most famous written work, *Reflections on the Revolution in France*.

In his *Reflections*, Burke compared France to a noble castle in need of repair. Instead of repairing the castle, he said, a “swinish multitude” had torn it apart to build an entirely new one while despising everything about the old. He condemned the newly elected French National Assembly for abolishing ancient laws, confiscating the property of nobles and the Catholic Church, and driving aristocrats into exile.

Burke assaulted the Declaration of the Rights of Man and Citizen that the National Assembly had enacted. He refused to accept the declaration’s theories about vague

### Tom Paine Answered Burke

Shortly after Edmund Burke published his *Reflections on the Revolution in France*, Thomas Paine answered him. Addressed to George Washington, Paine’s *The Rights of Man* defended the French Revolution and attacked Burke’s view that the wisdom of past generations should rule the present. Governing from dead generations, Paine wrote, “is the most ridiculous and insolent of all tyrannies.”

Paine traced the “rights of man” back to God at the Creation. Echoing Thomas Jefferson in the Declaration of Independence, Paine stated that “all men are born equal, and with equal natural rights.” These, he reasoned, included freedom of the mind and religion. Paine condemned the “hereditary crown,” which Burke had praised, and called monarchy “the enemy of mankind.” Due to their endless wars, Paine wrote, monarchies were the cause of poverty and wretchedness in the civilized world. Therefore, revolutions were necessary to destroy this “barbarous system” in order to create the conditions for peace, commerce, lower taxes, and the “enjoyment of abundance.”

The American and French revolutions, Paine concluded, opened the way to end tyranny and begin a new “Age of Reason.”

rights of liberty and equality for all. “By having a right to everything,” he wrote, “they want everything.”

### Burke and the British Constitution

Burke also wrote in his *Reflections* about the superiority of the British Constitution. In this part of his book, Burke summarized the essence of his political conservatism.

He explained that throughout a nation’s history, trial and error resulted in some laws and government arrangements surviving while others died out. Those that survived represented the wisdom of past generations and made up a nation’s sacred constitution. A nation, he wrote, is a partnership among “those who are living, those who are dead, and those who will be born.”

Burke acknowledged that changes and reforms might be necessary, but not the complete destruction of the inheritance from a nation’s forefathers. He cited the English Glorious Revolution of 1688. It preserved England’s ancient laws and liberties by making the will of Parliament superior to that of the monarchy.

Burke celebrated the British Constitution, which contained the inherited “rights of Englishmen,” not some theoretical notion about the “rights of man.” He therefore criticized many Enlightenment writers such as Rousseau who believed in “natural rights” and creating the perfect society.

In Burke’s view, rule by king and Parliament in England, each limited in its role, was superior to rule by the people in France. He also described the English aristocracy, the landowning nobles, as “the great Oaks that shade a Country and perpetuate your benefits from Generation to Generation.”

Burke was not enthusiastic about democracy. He defended the English monarchy based on inherited succession. He consistently opposed expanding the right to vote beyond property owners, who made up only a minority of the English population. Moreover, Burke warned, “democracy has many striking points of resemblance to tyranny,” including the “cruel oppression” of the minority.

Burke summarized the British Constitution by saying, “We have an inheritable crown, an inheritable peerage [House of Lords], and a House of Commons and a people inheriting privileges, franchises [voting rights], and liberties from a long line of ancestors.” Underlying all this, he concluded, was the will of God and an established Anglican Church supported by public taxes.

Burke’s *Reflections on the Revolution in France* received a mixed reaction. King George loved it. Others, like the American patriot, Thomas Paine, condemned it. Burke himself warned of the “French disease” of revolution, spreading throughout Europe and even to Britain.

### Retirement, Death, and Legacy

Burke split with the leadership of the Whig Party when he spoke in favor of war against revolutionary France. Britain declared war in 1793 when it joined other European monarchies already fighting the French army. But no longer supported by the Whig Party, Burke decided to retire from Parliament the following year.

He continued writing about the French threat. He also wrote in favor of the free market setting wages and opposed government support for the poor. This was the job of private charity not government, he said. He argued that burdensome taxes would lead only to the poverty of all. Taxes, he declared, should mainly be limited to funding the nation’s established religion, courts, and military.

Edmund Burke died of cancer at his estate in 1797. Despite his superb debating skills, Burke was on the losing side of most major issues during his long career in

Parliament. This was mostly because his Whig Party was usually in the minority. But Burke’s consistent principles inspired modern political conservatism, especially in Britain and North America.

### For Discussion and Writing

1. Edmund Burke believed that he should use his independent judgment and vote for the national interest even if this went against the views of those who elected him. Do you agree or disagree with him? Why?
2. Burke defended the revolution in America but condemned the one in France. Was he consistent or inconsistent in applying his conservative principles? Why?
3. How did Edmund Burke and Thomas Paine differ in their vision of government?

### For Further Reading

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Kramnick, Isaac, ed. *The Portable Edmund Burke* [speeches and writings]. New York: Penguin Books, 1999.

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## A C T I V I T Y

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### Would Burke Favor These?

- A. Students should first independently investigate and answer this question:

Based on his conservative principles, would Edmund Burke be likely to favor or oppose the following developments in the United States? Use evidence from the article to back up your answer on each development.

1. The increase in the number of people allowed to vote, which has taken place over the past 150 years (minorities, women, young people over 17).
  2. The First Amendment to the U.S. Constitution, which reads in part: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble . . . .”
  3. The Social Security system.
  4. The war in Iraq.
- B. Form small groups for students to compare and discuss whether they think Burke would favor or oppose each development. The group members should then discuss whether they agree or disagree with Burke’s view.
- C. Finally, each group should report the results of its conclusions to the rest of the class.

## Mendez v. Westminster: Paving the Way to School Desegregation

In 1947, parents won a federal lawsuit against several California school districts that had segregated Mexican-American schoolchildren. For the first time, this case introduced evidence in a court that school segregation harmed minority children.

In 1854, black students in San Francisco became the first children segregated in California's public schools. Soon, however, state law prohibited "Negroes, Mongolians and Indians" from attending public schools with white children anywhere in California.

Andrew Moulder, an early state superintendent of schools, stated: "The great mass of our citizens will not associate in terms of equality with these inferior races, nor will they consent that their children do so."

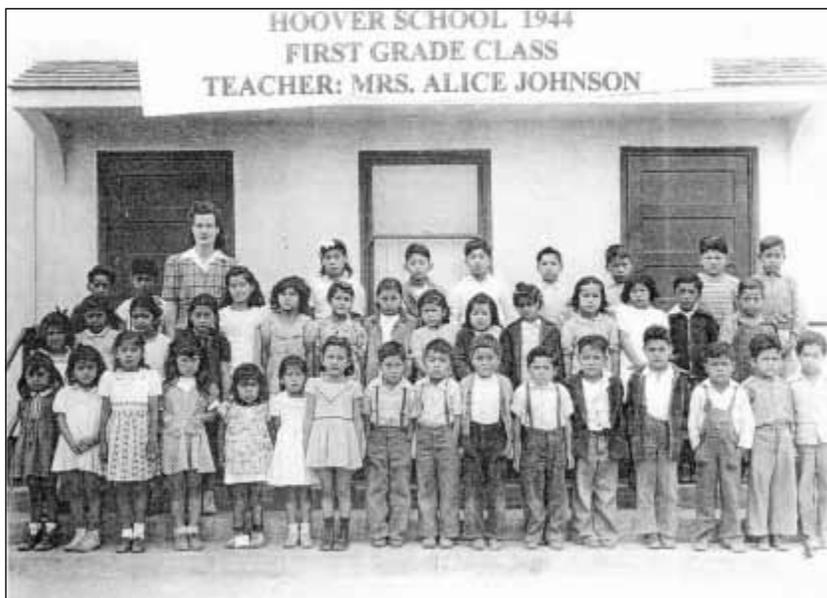
In the early 1860s, California state laws authorized school districts to provide separate schools for black, Indian, and "Mongolian" (apparently Asian) children. But a segregated school would only be established if the parents of at least 10 racial minority students petitioned a district to build one. If the parents failed to do this, their children could be denied a public education altogether.

In districts with fewer than 10 racial minority schoolchildren, students could attend the regular schools unless the parents of white children objected. White parents tended to demand a segregated school for non-white students when their numbers increased in the community.

California never included children of Mexican ancestry with blacks, Indians, and Asians in its state school segregation laws. Mexican-American children only became a target of local segregation efforts after 1900 when their numbers grew rapidly in the schools.

### Racial School Segregation in California

After the Civil War, members of the small but well-organized black population in California demanded equal access to the public schools. They sued the San Francisco school board for refusing to enroll a black girl in a white school.



*The Westminster School District in Orange County, California, maintained separate schools for white students and those of Mexican ancestry. (Courtesy of Sylvia Mendez)*

The California State Supreme Court ruled in 1874 that "separate but equal" schools for black students were legal. This was 22 years before the U.S. Supreme Court reached a similar conclusion for the entire nation in *Plessy v. Ferguson* (1896).

The expense of a separate education system for a relatively small number of black children, however, caused the state legislature finally to abolish "colored schools" in 1880.

By the 1880s, Chinese immigration made that group the largest non-white minority in California. Violent riots erupted against the Chinese by white workers fearful of job competition.

At first, the state barred Chinese children from any public education. Chinese parents sued, and in 1885, the California Supreme Court ruled this ban was unconstitutional. But the court reaffirmed that these children could be educated in Chinese "separate but equal" schools.

After the United States banned further immigration from China, separate schools for fewer Chinese children became a burden on taxpayers. School districts increasingly admitted Chinese students into the regular public schools. By the 1930s, segregated Chinese schools had mostly disappeared in California.

After the U.S. government barred more Chinese from entering the country, the need for cheap labor in California spurred Japanese immigration into the state. When San Francisco segregated Japanese schoolchildren, their parents protested, causing the government of Japan also to object.

President Theodore Roosevelt intervened and ordered the U.S. attorney general to file a lawsuit against the San Francisco school board. In 1907, he negotiated a settlement that ended Japanese school segregation. In exchange, Roosevelt promised to work for restrictions on further Japanese immigration into the United States.

California Indian children suffered school exclusion and segregation longer than any other minority. The state largely ignored schooling Indian children for many years. Finally, the federal government began to organize Indian day and boarding schools in the 1870s.

In 1921, the state legislature enacted a law that prohibited admitting Indian children to any public school if a federal school for them was nearby. A few years later, the California State Supreme Court ruled that although California Indian children had the right to a public education, they could be required to attend separate schools.

In the 1930s, the federal government started to phase out its Indian school system. Due mainly to the small number of Indian students scattered throughout the state, California finally ended all legal authority to segregate them in 1935.

### **Segregation of Mexican Americans**

Mexican Americans were mostly unaffected by the turmoil over the racial segregation of “Negroes, Mongolians, and Indians” in California’s public schools. The courts classed people of Mexican ancestry as racially “white.”

After 1900, however, revolution in Mexico and the need for farm workers and unskilled laborers caused large numbers of Mexicans to immigrate to California. By 1930, these immigrants along with Mexican Americans who had lived in California for generations made up California’s largest minority. As more children of this ethnic group entered the public school system, Anglo parents in some communities called for separate “Mexican schools.”

Unlike California’s other racial minorities, state law never authorized school districts to segregate children of Mexican ancestry. Even so, some districts began doing this after 1910, especially in Southern California. By the 1920s, many Southern California communities had established “Mexican schools” along with segregated public swimming pools, movie theaters, and restaurants.

A statewide survey in 1931 revealed that 85 percent of California schools segregated children of Mexican

descent in either separate classrooms or schools. Rarely did these children receive an education equal to that provided to the other students in the community.

School boards offered many reasons for segregating students of Mexican descent. Most of these students were American-born citizens. Supposedly, these children needed a special curriculum to learn English and become “Americanized.” But underlying these educational reasons lurked a common prejudice that Mexican-American children were mentally inferior, lacked personal hygiene, and posed a health threat to white Anglo children.

In addition, local school board members often believed that Mexican-American students would soon drop out to work in the fields and citrus groves. Thus, they thought that an equal education for them was a waste of taxpayer money.

Like California’s other racial minorities, Mexican Americans began to challenge school segregation. In Lemon Grove near San Diego, they boycotted a segregated school that their children called “The Stable.”

In 1931, a state court judge ruled that the Lemon Grove segregated school was not educationally justified or supported by state law. The judge ordered the Mexican-American children to attend school on an equal basis with the others in the community. This was the first successful school desegregation court decision in the nation. It only applied, however, to Lemon Grove.

During the 1930s, the California legislature failed to pass a law specifically permitting school districts to segregate Mexican-American students. But in 1935, the legislature passed a strangely worded law that considered Mexicans as Indians. The law authorized separate schools for Indians, but then exempted “descendants of the original American Indians of the United States.” This seemed to leave those of Mexican ancestry as the only “Indians” subject to school segregation.

### **Mendez v. Westminster**

During World War II, Gonzalo Mendez leased a farm from a Japanese-American family ordered to a relocation camp. The farm was located in Westminster, a small town in Southern California’s Orange County. Mendez moved his family to the farm, which was near an elementary school designated for white children by the Westminster school board.

In September 1944, Westminster school officials told Mendez that his three children would have to attend the “Mexican school,” Hoover Elementary. Ironically, the

*(Continued on next page)*

white school enrolled their cousins who had a French name and lighter skin. Years later, one of the Mendez children remembered the Hoover school as “a terrible little shack” that had no playground and was next to a cow pasture with an electrified fence.

Gonzalo Mendez turned over managing the farm to his wife, Felicitá. This allowed him time to organize Mexican-American parents to challenge the segregation of their children in Westminster and three other Orange County school districts. In 1945, Mendez and the other parents sued the school districts in federal court. Mendez hired Los Angeles civil rights attorney David Marcus to argue their case.

For the first time in a federal court, Marcus put forth the argument that segregating K–12 students based on their nationality or ethnic background violated the 14th Amendment of the U.S. Constitution. This part of the Constitution prohibits states from denying “any person within its jurisdiction the equal protection of the laws.”

Also for first time, Marcus introduced evidence that segregating students because of their ethnic background harmed them. Marcus called upon a sociologist and an education expert to testify that segregating Mexican-American students hindered their learning of English as well as “American customs and ways.” Educator Marie H. Hughes testified that “segregation, by its very nature, is a reminder constantly of inferiority, or not being wanted, of not being a part of the community.”

Perhaps the most effective testimony occurred when Marcus put the Mendez and other Mexican-American schoolchildren on the stand. They testified, in English, about how they felt when they were required to attend a run-down segregated school with old schoolbooks discarded from the white school.

Joel Ogle, the attorney for Orange County, defended the school districts. His primary argument was that the federal courts had no authority to decide cases involving K–12 education since that was entirely a state matter.

Ogle further justified the “Mexican schools” as necessary for “providing special instruction to students not fluent in English and not familiar with American values and customs.” He insisted that these separate schools were equal to the white schools. Thus, he concluded, they were constitutional under California and U.S. Supreme Court rulings that upheld “separate but equal” schools.

In February 1946, Judge Paul J. McCormick decided the *Mendez* case in favor of the Mexican-American parents. He first dismissed Ogle’s contention that the

federal courts had no jurisdiction in state education cases. Any violation of U.S. constitutional rights by state or local government bodies, he wrote in his decision, warranted federal court intervention.

Judge McCormick carefully analyzed the school districts’ claim that separate schools for Mexican-American children were necessary because they were not proficient in English. He concluded that segregating these children for as long as eight grades actually made it more difficult for them to learn English. Furthermore, he noted that the school districts typically assigned children with Spanish surnames to segregated schools regardless of their ability to speak English.

Judge McCormick did not directly address the constitutionality of “separate but equal.” Instead, he pointed out that state law did not explicitly provide for the segregation of the Mexican ethnic minority in the public schools. Thus, he ruled that the Orange County school districts, acting on their own, violated the “equal protection” rights of Mexican-American citizens.

Judge McCormick also stated in his ruling that segregating children of Mexican ancestry “suggests inferiority among them where none exists.” He ordered the school boards of Westminster and the other three districts to stop “further discriminatory practices” against the pupils of Mexican descent.

### Appeal and Aftermath

The Orange County school districts appealed Judge McCormick’s decision to the U.S. Ninth Circuit Court of Appeals in San Francisco. Joel Ogle repeated his arguments and asserted, “Segregation by itself is not a denial of equal protection of the laws.”

David Marcus had a lot more help this time. Thurgood Marshall was a civil rights attorney for the National Association for the Advancement of Colored People (NAACP). He helped write an *amicus curiae* (“friend of the court”) legal brief, presenting evidence that separate schools based on ethnicity or race were far from equal.

The American Jewish Congress, American Civil Liberties Union, National Lawyers Guild, Japanese American Citizens League, and even the Attorney General of California also filed *amicus curiae* briefs. They all supported the Mexican-American parents.

On April 14, 1947, the federal appeals court judges ruled 7–0 to uphold Judge McCormick’s decision. This court also avoided the “separate but equal” issue.

The judges decided the *Mendez* case on grounds that California law, while still permitting the segregation of certain racial groups, “does not include the segregation of school children because of their Mexican blood.” By overstepping their authority, the appeals court concluded, the Orange County school boards violated both California law and the “equal protection” clause of the federal 14th Amendment.

The school boards decided against appealing to the U.S. Supreme Court. Thus, the *Mendez* case ended as the first successful federal school desegregation decision in the nation.

This decision shielded only children of Mexican ancestry from public school segregation in California *under its current laws*. Any state, including California, was still free to enact laws that segregated children based on their race or ethnicity in “separate but equal” schools.

Even before the *Mendez* appeals court decision, the California state legislature acted to repeal all provisions in the education code that permitted school segregation. Governor Earl Warren signed this law in June 1947, thus ending nearly 100 years of public school segregation in the state.

Although the impact of the *Mendez* case was limited, its real importance was to test new legal arguments and evidence against segregation in the public schools. This paved the way for the historic *Brown v. Board of Education* case decided by the U.S. Supreme Court in 1954.

Thurgood Marshall, who helped write the NAACP’s *amicus curiae* brief on behalf of the Mendez and other Mexican-American children, argued against black school segregation in the *Brown* case. As in the *Mendez* case, he made extensive use of social science evidence demonstrating how segregated schooling harmed minority children.

Earl Warren, who signed the law ending school segregation in California seven years earlier, was chief justice of the U.S. Supreme Court. He wrote the unanimous decision that finally overturned the “separate but equal” doctrine. “Separate educational facilities are inherently unequal,” he declared.

Gonzalo and Felicitia Mendez quietly resumed their modest lives. Their youngest daughter, who never attended the segregated Hoover school, did not know about their key role in ending segregated schooling in California until she read about it in college.

In 1998, an Orange County school district honored Gonzalo and Felicitia Mendez by naming a new school after them. In 2007, the U.S. Postal Service issued a stamp commemorating the 60th anniversary of the *Mendez* appeals court decision.

### For Discussion and Writing

1. Why did racial and ethnic minorities object to “separate but equal” schools? Why do you think the federal courts did not address the “separate but equal doctrine”?
2. What did *Mendez v. Westminster* accomplish? What did it fail to do?
3. Why is *Mendez v. Westminster* considered today a key case, leading up to the *Brown v. Board of Education* decision of 1954?

### For Further Study

*Mendez v. Westminster: For All the Children/Para Todos Los Ninos*. DVD. KOCE-TV, 2002. This documentary recounts the role of the Mendez family in ending school segregation in California. The DVD may be purchased by calling KOCE-TV at 888-246-4585.

Valencia, Richard R. “The Mexican American Struggle for Equal Educational Opportunity in *Mendez v. Westminster*: Helping to Pave the Way for *Brown v. Board of Education*.” *Teachers College Record*. March 2005.

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## A C T I V I T Y

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### Diversity in American Schools

Imagine that you are a student today at Central High. The school draws students from all over the city and is quite diverse racially and ethnically. You notice, however, that students tend to hang out with other students of the same race or ethnicity. You see this in the halls, at lunch, and at pick-up sports games.

Form small groups. Each group should discuss and prepare to report its answers to these questions:

1. Why do you think students gather in racial or ethnic groups?
2. Do you think it presents a problem? Why or why not?
3. What methods or activities, if any, might bring students together in diverse groups? (If your answer is none, explain why.)

## Standards Addressed

### Sacco and Vanzetti

**National High School U.S. History Standard 22: Understands how the United States changed between the post-World War I years and the eve of the Great Depression.** (1) Understands the major social issues of 1920s America (e.g., . . . the Sacco and Vanzetti trial).

**California History-Social Science Content Standard 11.5: Students analyze the major political, social, economic, technological, and cultural developments of the 1920s.** (2) Analyze the international and domestic events, interests, and philosophies that prompted attacks on civil liberties . . . and the responses of organizations such as the American Civil Liberties Union . . . to those attacks.

### Burke

**National High School World History Standard 32: Understands the causes and consequences of political revolutions in the late 18th and 19th centuries.** (4) Understands the political beliefs and writings that emerged during the French Revolution (e.g., characteristics and actions of radical, liberal, moderate, conservative, and reactionary thinking; the ideas in the “Declaration of the Rights of Man and the Citizen” . . .)

**National High School Civics Standard 4: Understands the concept of a constitution, the various purposes that constitutions serve, and the conditions that contribute to the establishment and maintenance of constitutional government.**

**National High School Civics Standard 7: Understands alternative forms of representation and how they serve the purposes of constitutional government.** (4) Understands differing theories of representation (e. g., obligation of a representative to promote the interests of a particular constituency vs. obligation to promote the interests of the society as a whole).

**California History-Social Science Content Standard 10.2: Students compare and contrast the Glorious Revolution of England, the American Revolution, and the French Revolution and their enduring effects worldwide on the political expectations for self-government and individual liberty.** (1) Compare the major ideas of philosophers and their effects on the democratic revolutions in England, the United States, France, and Latin America . . . (2) List the principles of the Magna Carta, the English Bill of Rights (1689), the American Declaration of Independence (1776), the French Declaration of the Rights of Man and Citizen (1789), and the U.S. Bill of Rights (1791).

### Mendez

**National High School U.S. History Standard 20: Understands how Progressives and others addressed problems of industrial capitalism, urbanization, and political corruption.** (4) Understands how racial and ethnic events influenced American society during the Progressive era (e. g., the movement to restrict immigration; how racial and ethnic conflicts contributed to delayed statehood for New Mexico and Arizona; the impact of new nativism; influences on African, Native, Asian, and Hispanic Americans)

**National High School U.S. History Standard 29: Understands the struggle for racial and gender equality and for extension of civil liberties.** (4) Understands significant influences on the civil rights movement (e. g., the social and constitutional issues involved in Plessy v. Ferguson (1896) and Brown v. Board of Education (1954) court cases; the connection between legislative acts, Supreme Court decisions, and the civil rights movement; the role of women in the civil rights movement and in shaping the struggle for civil rights).

**California History-Social Science Content Standard 11.8:** Students analyze the economic boom and social transformation of post-World War II America. (2) Describe the significance of Mexican immigration and its relationship to the agricultural economy, especially in California.

**California History-Social Science Content Standard 11.10: Students analyze the development of federal civil rights and voting rights.** (2) Examine and analyze the key events, policies, and court cases in the evolution of civil rights, including Dred Scott v. Sandford, Plessy v. Ferguson, Brown v. Board of Education, Regents of the University of California v. Bakke, and California Proposition 209.

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CRF's program areas include the California State Mock Trial, History Day in California, youth internship programs, youth leadership and civic participation programs, youth conferences, teacher professional development, and publications and curriculum materials.

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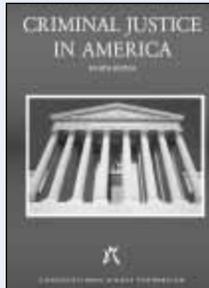
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