

Title: *Buchanan v. Warley* 245 U.S. 60 (1917)

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BUCHANAN v. WARLEY 245 U.S. 60 (1917)

Buchanan was the most important race relations case between *PLESSY V. FERGUSON* (1896) and *SHELLEY V. KRAEMER* (1948). A number of southern border cities had adopted residential SEGREGATION ordinances. NAACP attorneys constructed a TEST CASE challenging the constitutionality of Louisville's ordinance, which forbade a "colored" person to move into a house on a block in which a majority of residences were occupied by whites, and vice versa. A black agreed to buy from a white a house on a majority-white block, provided that the buyer had the legal right to occupy the house. The seller sued to compel performance of the contract; the buyer defended on the basis of the ordinance. The Kentucky courts upheld the ordinance. In the Supreme Court, both sides focused the argument on the constitutionality of neighborhood segregation. An unusual number of AMICUS CURIAE briefs attested to the case's importance.

A unanimous Supreme Court reversed, holding the ordinance invalid. Justice WILLIAM R. DAY'S opinion discussed at length the rights to racial equality and the "dignity of citizenship" established in the THIRTEENTH and FOURTEENTH AMENDMENTS, as well as the rights to purchase and hold property, established by the CIVIL RIGHTS ACT OF 1866. He lamely distinguished *Plessy* as a case in which no one had been denied the use of his property. Ultimately, however, he rested decision on a theory of SUBSTANTIVE DUE PROCESS : the ordinance unconstitutionally interfered with property rights.

Day's curious opinion may have aimed at persuading two of his brethren. Justice JAMES C. MCREYNOLDS generally attached greater weight to claims of constitutional property rights than to claims to racial equality. And Justice OLIVER WENDELL HOLMES had prepared a draft DISSENTING OPINION that was not delivered, arguing that the white seller lacked STANDING to assert the constitutional right of blacks.

Despite the ground for decision, *Buchanan* was seen by the press as a major CIVIL RIGHTS victory for blacks. And when the Supreme Court faced ZONING in a nonracial context, it upheld an ordinance in *VILLAGE OF EUCLID V. AMBLER REALTY CO.* (1926). *Buchanan* plainly was more than a property rights decision.

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(1986)

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