

Before *Brown v. Board of Education*: Paul J. McCormick, the *Mendez v. Westminster* Decision, and its Religious-Social Context

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Paul J. McCormick (1879–1960), judge of the United States District Court of Los Angeles, rendered in 1945 the most impactful decision of his career. His decision in Mendez v. Westminster was the prelude to the civil rights movement in the United States. McCormick's Catholic faith and his relationship with the immigrant community in Los Angeles influenced his opinion. Nearly a decade before Brown v. Board of Education, McCormick delivered a verdict favoring Mexican families seeking equality in education. His decision favoring the desegregation of schools in southern California marked the beginning of the end of school segregation throughout the United States. This study of the decision's religious and social contexts shows how Mendez v. Westminster complicates the historical narrative of racial desegregation.

Keywords: segregation; social justice; civil rights movement; Los Angeles, California; Brownson Settlement House; Knights of Columbus; *Mendez v. Westminster*; McCormick, Paul J.; Workman, Mary J.

In 1954, the United States Supreme Court's ruling in the *Brown v. Board of Education* case legally ended decades of racial segregation in America's public schools. The court ruled that school segregation (derived from the U.S. Supreme Court *Plessy v. Ferguson* decision of 1896) was unconstitutional. Nearly a decade before *Brown*, Judge Paul J. McCormick's ruling against racial segregation in *Mendez v. Westminster* in the U.S. District Court in Los Angeles, California, was a significant step in enshrining civil rights. This article examines the decision's social and reli-

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gious context to argue that McCormick's Catholic faith and his relationship with the Los Angeles immigrant community influenced his opinion in *Mendez v. Westminster*.

Mendez v. Westminster

In Orange County, California, on March 2, 1945, the Mendez family led Mexican-descended parents in filing a lawsuit against the Board of Education, arguing that their segregated schools were inferior. On March 21, 1946, in Los Angeles's U.S. District Court, Judge McCormick decided in favor of the Mendez, Estrada, Guzman, Palomino, and Ramirez families and against school segregation. He ruled that schools, even with similar facilities, if they were segregated, they were not equal. In short, "separate but equal" was not equal at all.¹ The Orange County Board of Education unsuccessfully appealed the decision to the Ninth Circuit U.S. Court of Appeals. On April 14, 1947, the *Mendez* ruling was upheld, backed by several groups, including the American Jewish Congress, American Civil Liberties Union, National Lawyers Guild, Japanese American Citizens League, and National Association for the Advancement of Colored People (NAACP).²

Historians have frequently overlooked *Mendez v. Westminster*, limiting its significance to California and failing to see it as a major civil rights case with national implications. The only monograph on the topic is Philippa Strum's *Mendez v. Westminster: School Desegregation and Mexican American Rights* (2010). Strum notes one possibility for the historical neglect: "The orthodox narrative of civil rights in the United States portrayed the African American movement for legal equality as seminal." Other groups, such as Mexican Americans, were "supposedly piggybacking on the successes of that movement."³ Joy C. Shaw noted in the article, "Foreshadowing Brown V. Board: The 1946 Case of Mendez v. Westminster," that "unlike *Brown*, the most celebrated court decision of the civil rights movement, *Mendez v. Westminster* faded into obscurity, left out of children's history books and rarely mentioned by lawyers and judges."⁴ Civil rights

1. Philippa Strum, "Our Children Are Americans: Mendez v. Westminster and Mexican American Rights," in *The Pursuit of Racial and Ethnic Equality in American Public Schools*, ed. by Kristi L. Bowman (East Lansing: Michigan State University Press, 2014), 9.

2. "Case History," *Mendez, et al. v. Westminster, et al.*, <https://mendezetalvwestminster.com>.

3. Strum, "Our Children Are Americans," 9.

4. Joy C. Shaw, "Foreshadowing Brown v. Board: The 1946 Case of Mendez v. Westminster," *The California Supreme Court Historical Society Newsletter* (Autumn/Winter 2004), <https://www.cschs.org/wp-content/uploads/2017/04/2004-Newsletter-Fall-Foreshadowing-Brown.pdf>.

activists focused on African Americans in the South and lost sight of Hispanics and other minorities.

Mendez's connection to *Brown* is clear: In delivering the *Brown* decision, Chief Justice Earl Warren did not cite *Mendez* but acknowledged reading McCormick's decision and mirrored it in his own.⁵ Writing on *Mendez*, Carlos Moreno concluded that it was "more than just a legal opinion; it pre-saged the dismantling of de jure segregation in public schools across the country."⁶ Sandra Robbie, who directed and produced a thirty-minute documentary on *Mendez*, noted its significance to the wider civil rights movement: "I think that today, we still very much segregate the way we study American civil rights history." Enlarging the narrative to include Japanese, Latinos, Jews, and Irish-Catholics "blows the walls off what we think the American civil rights struggle is all about."⁷

In *Mendez v. Westminster*, Judge McCormick ruled that "a paramount requisite in the American system of public education is social equality."⁸ This decision was a watershed in the fight for civil rights in the United States. His challenge to segregation was influenced by his Catholic faith, his membership in and volunteer work with the Knights of Columbus, and his experience of racial and ethnic injustices. While most articles about *Mendez* focus on historical and legislative perspectives, to provide new insights into both the *Mendez* ruling and the civil rights movement's beginning, this article brings attention to McCormick's social and religious perspective and the historical context of southern California.

McCormick's Background

Paul J. McCormick was born in New York City on April 23, 1879. At that time, Europe's economic collapse contrasted with the U.S.'s rapid industrialization, drawing immigrants across the Atlantic for employment opportunities as the oil, steel, and railroad industries followed westward expansion. This included non-Protestant European immigrants like the Catholic McCormick family, who immigrated by 1884 from Ireland to Col-

5. Shaw, "Foreshadowing Brown v. Board," 1.

6. Selma Moidel Smith, ed., "The Unpublished Speeches by Justice Carlos R. Moreno," *California Legal History* 14 (2019), 94, <https://www.cschs.org/wp-content/uploads/2019/11/Legal-Hist-v.-14-Special-Section-Justice-Moreno-Speeches.pdf>.

7. Sandra Robbie, "Mendez v. Westminster: A Living History," *Michigan State Law Review* 3 (2014), 7.

8. Paul J. McCormick, *Mendez v. Westminster*, Conclusion of the Court, United State District Court, Southern District of California, Central Division, February 18, 1946, 11, <https://mendezetalvwestminster.com/family-home-pages/>.

orado, where Paul's father, Daniel Joseph McCormick, sought employment in the mines.

The McCormick family provided their children with an early religious education. When they arrived in California, Paul attended a public high school in San Diego (1887–1890), then a year at Hallows College in Salt Lake City, Utah, with the Marist Fathers. From 1891 to 1892, he enrolled in the Jesuit-run St. Ignatius College in San Francisco. By 1900, he joined the California state bar, having worked as an assistant librarian at the Los Angeles County Law Library, and as an associate of his brother, Aloysius, in private practice. In 1905, Paul began his public service as deputy district attorney in Los Angeles, and five years later Governor James Gillette appointed him to the bench of the California Superior Court.⁹

McCormick's private life reflected a religious devotion and humanity toward the most vulnerable in Los Angeles. In 1902, at age twenty-three, McCormick helped establish Los Angeles's first council of the Knights of Columbus, a Catholic fraternal group that promoted social justice and the defense of religious freedom. Active as a Fourth Degree Knight, he helped Catholics in the city's poorest neighborhoods and, with the Knights of Columbus, fought nativist and nationalist ideologies that intensified in U.S. cities during the Progressive Era.¹⁰ As the Los Angeles Catholic newspaper, *The Tidings*, noted, "(McCormick) called attention to the vast amount of slippery literature being circulated throughout the land derogatory to the Catholic Church, and urged that united action be taken to combat this evil."¹¹

American expansion to the West changed both Los Angeles's racial and religious population. By the 1900s, a Protestant majority replaced the city's Catholic population. Although Our Lady Queen of Angels Church in the Plaza remained most representative of the city's ethnic and religious heritage, Protestant Anglos began to arrive and build their own churches, changing

9. George Cosgrove, *Early California Justice: The History of the U.S. District Court for the Southern District of California* (San Francisco: Grabhorn Press, 1948), 79–80; "Governor Names Two New Judges," *Los Angeles Herald*, July 27, 1910; "Judge Paul J. McCormick," (Los Angeles) *The Tidings*, August 5, 1910, 12. St. Ignatius (now the University of San Francisco) was a private Jesuit-run college.

10. Peter T. Conmy, *Seventy Years of Service, 1902–1972: History of Knights of Columbus in California* (Los Angeles: Knights of Columbus, 1972), 232–233. The Fourth Degree, whose purpose is to encourage active Catholic citizenship, is the order's highest degree. The Knights were founded in 1882, at the height of nativism in America. Foreign immigrants, especially Catholics, were seen as undesirable individuals by many native-born Americans.

11. "Judge McCormick Addresses Federated Catholic Societies," *The Tidings*, February 16, 1912, 16.



Judge Paul J. McCormick (Courtesy of Frank Mt. Pleasant Library of Special Collections and Archives, Chapman University).

the city's landscape.¹² By the 1890s, xenophobia and anti-Catholicism increased due to malicious propaganda against immigrants.

McCormick and his lifelong friend, attorney Joseph Scott (1867–1958), founded Los Angeles's Knights of Columbus Council 621, as a social, religious, and civic organization for Catholic men to defend religious freedom and repel bigotry. As McCormick began his professional career, his social and religious work were embedded within the Catholic fraternity. When Freemasons questioned the presence of the Knights of Columbus in 1914, McCormick defended them with a complete copy of the Knights' ceremonies and pledges to demonstrate their aim to teach patriotism, love of country, and reverence for law and order.¹³ Through his leadership of and advocacy with the Knights, he earned respect for his religious and public work.

McCormick's reputation as a just and upright man garnered notoriety within the community, both among like-minded religious persons and in the

12. Boyle Workman, *The City That Grew* (Los Angeles: Southland Publishing, 1936), 53; Michael E. Engh, S.J., *Frontier Faiths: Church, Temple, and Synagogue in Los Angeles, 1846–1888* (Albuquerque: University of New Mexico Press, 1992), 32; William D. Estrada, *The Los Angeles Plaza: Sacred and Contested Space* (Austin: University of Texas Press, 2008), 83.

13. McCormick's intervention was carried by newspapers nationwide. See, for instance, "Congressional and Masonic Committees Condemn Spurious Knight of Columbus 'Oath,'" (St. Petersburg, Florida) *The Independent*, October, 15, 1928, 3.

professional sphere. His career advanced when, at the age of thirty-one, he was appointed to the Superior Court of Los Angeles County by a fellow Republican, California's governor, James Norris Gillett. *The Tidings* wrote approvingly of the appointment: "There shall be no discrimination in political matters by reason of a man's religious affiliation," and noted, "We recognize that no man should expect political recognition simply because he is Catholic, but we believe it is equally true that no man should be discriminated against because he is Catholic."¹⁴ McCormick stressed how he obtained the position as an openly religious man, but beyond that, he had earned a reputation as a just and honorable judge.

When a Los Angeles attorney, McCormick engaged in charitable and social work with the Knights of Columbus and the Brownson Settlement House, efforts influenced by both the Progressive Movement and the Catholic Church's social teaching as advanced by Pope Leo XIII's encyclical *Rerum Novarum*. To support the common good and establish a more just society, Catholics pursued various social initiatives, including the creation of settlement houses that helped immigrants transition to a new country.¹⁵ At the Brownson House, the first Catholic settlement house in California, McCormick assisted Mary J. Workman (1871–1964) and a group of progressive Catholic women who provided social work, public health, education, and job training for recent arrivals to Los Angeles.¹⁶

The Brownson Settlement House had a library, sponsored reading groups, and offered activities that encouraged English and Spanish literacy. Workman and volunteers fluent in Spanish offered history and civic classes to immigrants in their own language. Her experience taught her that the claim of a lack of intelligence, interest, and ability among Mexican immigrant children was incorrect and was racially influenced by the ruling Anglo-American class.¹⁷ As a lawyer and judge, McCormick's involvement at Brownson

14. *The Tidings*, August 5, 1910, 11.

15. Pope Leo XIII, *Rerum Novarum* [On Capital and Labor], May 15, 1891, https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html. In addition to discussion of private property and labor rights, the encyclical called for mutual aid associations.

16. Jose Castro, "Mary Julia Workman: Catholic Progressivism, 1900–1920" (M.A. thesis, California State University, San Bernardino, 2022); Michael Engh, "Female, Catholic and Progressive: The Women of Brownson Settlement House of Los Angeles, 1901–1920," *Records of the American Catholic Historical Society of Philadelphia* 109 (1999): 113–126.

17. Mary Workman, "Brownson House: A Centre of Americanization," *The Tidings*, November 22, 1919, Series 1: Mary Julia Workman, box 2, folder 2, Workman Family Papers, CSLA-9, Department of Archives and Special Collections, William H. Hannon Library, Loyola Marymount University, Los Angeles, California (hereafter LMU).



Mary Julia Workman, circa 1918 (Courtesy of Department of Archives and Special Collections, William H. Hannon Library, Loyola Marymount University).

House focused on education to prevent delinquency, as he noted, “I believe two of the greatest causes of crime are environment and mal education.”¹⁸ He promoted the importance of education to newly-arrived immigrants and others served by Brownson House, contending, “There is less frequency of crime among those who have had early religious instruction than those whose religious welfare has been neglected.”¹⁹

Because Mexicans were often seen as unsuited for “traditional education” and were expected to perform physical labor, public schools in Southern California separated Mexican students from other students and tried to address their presumed inferiority by emphasizing manual and domestic training.²⁰ Mexican and Mexican American students could not climb economically in society, resulting in inequalities reinforced in the classroom. When they enrolled, they were segregated due to language, hygiene, and their supposed special needs. Their schools had underqualified teachers and substandard, poorly-equipped facilities. Workman and McCormick, how-

18. Paul J. McCormick, “The Adult Delinquency and the Judiciary System of California,” (San Francisco) *The Recorder*, July 22, 1916, 5.

19. Paul J. McCormick, “The Adult Delinquency and the Judiciary System of California,” 5.

20. David Torres-Rouff, “Becoming Mexican: Segregated Schools and Social Scientists in Southern California, 1913–1946,” *Southern California Quarterly* 94, no. 1 (2012): 91–127.

ever, did not view Mexicans as less capable than Anglos. McCormick suggested to Hispanic adolescents, for instance, “Read of the immortal Abraham Lincoln who through his efforts and against apparently insurmountable obstacles reached the highest pinnacle of success and usefulness that any person could hope to attain.”²¹

By the 1910s, the Mexican Revolution brought more immigrants to Brownson, and their influx prompted a surge of both anti-immigrant sentiment and anti-Catholic ideology. When high unemployment impacted Los Angeles, Mexicans were blamed. By 1917, the First World War and the Russian and Mexican revolutions increased fear of foreigners with many believing immigrants were agents of anarchism and socialism. Even Brownson House’s supporters were wary of ideologies that could impact immigrants, believing that newly-arrived Mexicans could be influenced by the anarchism of the *Partido Liberal Mexicano* (PLM) and the *Magonistas*.

To counteract subversive ideologies, assimilation efforts ensued. McCormick supported the Brownson House’s Americanization work and assisted in fundraising for its programs, including education, health, and job training. He emphasized the work’s importance to immigrants: “Brownson House, in my opinion, has done more to make Mexicans good citizens than any other agency in our community. Its Americanization work alone should appeal to all patriots.”²² Workman echoed McCormick’s views on its importance: “Americanization is a reciprocal process in both gives and takes. It can never be brought about by force, or by spasmodic effort.” She noted, “Americanization is preeminently dependent upon the exemplification of American ideals by native-born Americans, and upon conditions which he creates. After all, it is the native-born citizen who determines conditions of entrance into America, and conditions of life and labor in America.”²³ McCormick witnessed Brownson House’s work firsthand and he endorsed it: “Every true American will support Brownson House because it makes better Americans.”²⁴

In 1917, the new bishop of Los Angeles, John J. Cantwell (1874–1947), received a warm welcome to Brownson House from progressive Catholics like Workman, McCormick, and San Francisco Archbishop Edward J. Hanna

21. *The Tidings*, August 23, 1912, 8.

22. *The Tidings*, March 29, 1918. The *Partido Liberal Mexicano* (Mexican Liberal Party) was founded by Ricardo Flores Magon. The Mexican anarchists (called *Magonistas*) tried to invade northern Mexico to overthrow the revolutionary government of Venustiano Carranza.

23. “Brownson House: A Centre of Americanization,” *The Tidings*, November 22, 1919, 48.

24. *The Tidings*, June 6, 1919.



Mary Julia Workman with children of the Brownson House (Courtesy of Department of Archives and Special Collections, William H. Hannon Library, Loyola Marymount University).

(1860–1944). Hanna, who served in California as a mediator with the workers and immigrants, believed that “immigrants would assimilate more rapidly and completely when attention was given to the needs of individuals.”²⁵ During Cantwell’s reception, McCormick discussed juvenile delinquency in Los Angeles. As he defined it, the social environment and lack of education led young people toward criminality. Brownson House’s supporters understood that the best way to keep young people from crime was through social activities, education, mutual understanding, and respect for their cultures.²⁶

Brownson House staff encouraged cultural retention, though not at the expense of Americanization, hosting a bilingual festival that highlighted

25. Richard, Gribble, C.S.C., “Social Catholicism Engages the American State,” *Journal of Church and State* 42, no. 4 (Autumn 2000): 737; Richard Gribble, C.S.C., “Advocate for Immigrants: The Church and State Career of Archbishop Edward J. Hanna,” *Southern California Quarterly* 83, no. 3 (October 2001): 295. In 1919, Hanna was chosen as the first chairman of the U.S. bishops’ National Catholic Welfare Council (NCWC). Through the council, he challenged immigration laws that separated families, and he helped Catholic priests and religious sisters who sought to escape persecution from Mexico during the Cristero War.

26. “Mary’s Letters CIII,” in *Golden Friendship: Letters of Friendship, Travel and General Interest*, ed. by Sister Mary Leopold (New York: Louis Carrier, 1929), 251, series 2, box 3, folder 1, Workman Research Materials, CSLA-35, LMU.

Mexican indigenous culture and tradition in a new American context. The pinnacle of Brownson House's success was in March 1916 when Workman helped organize a Mexican social association, *La Liga Mutualista Mexicana*, at the request of more than a dozen Mexicans. Working alongside McCormick and the young Mexicans to organize *La Liga*, Workman noted, "(McCormick) understands better than anyone here the larger aims of the work. He is the most prominent citizen as well as Catholic."²⁷

One purpose of *La Liga* was to improve southern California Mexicans' living conditions. According to an article in *The Tidings*, "Mexican representatives showed a keen knowledge of the handicaps which oppressed their people and made a thoughtful analysis of the public sentiment of the community in their regard."²⁸ *La Liga* moved decisively away from Mexican anarchist rhetoric.²⁹ It inoculated immigrants against socialist and anarchist ideologies by helping them find housing, employment, and health care, and assert their rights, particularly in the face of discrimination and social oppression.

After nineteen years, Workman left the Brownson Settlement Association presidency in 1920, when Bishop Cantwell began centralizing Los Angeles's Catholic charities. McCormick praised Workman's "unselfish work to the community" and leadership in Brownson House: "There are hundreds and perhaps thousands of persons who have been made good citizens and practical Christians because of your personal zeal and Christian charity." In 1926, Pope Pius XI honored her for her charitable and social work.³⁰ Workman and McCormick shared both their faith and a progressive mindset that encouraged their pursuit of justice. Their friendship lasted for years. As his career as a federal judge began, McCormick thanked Workman for her support, noting, "You will never know how much your encouragement has meant to me and mine especially through long and sometimes discouraging days. . . ."³¹

27. "Mary's Letters," 274.

28. Clementina De Forrest Griffin, *The Tidings*, March 1917.

29. George J. Sanchez, *Boyle Heights: How a Los Angeles Neighborhood Became the Future of American Democracy* (Oakland: University of California Press, 2021), 82. In July 1907, Flores Magon's brothers moved to downtown Los Angeles. They gave speeches in the Plaza against the semi-feudal conditions in Mexico. Los Angeles became the political party's headquarters.

30. Paul J. McCormick to Mary J. Workman, February 27, 1920, Workman Family Papers, CSLA-9, Series 1: Mary Julia Workman, box 1, folder 1, LMU; "Pope Honors Holy Name Graduate for Welfare Work," *The Tidings*, November 23, 1926, Series 1: Mary Julia Workman, box 1, folder 3, Workman Family Papers, CSLA-9, LMU.

31. Paul J. McCormick to Mary J. Workman, October 17, 1927, Workman Family Papers, CSLA-9, Series 1: Mary Julia Workman, box 1, folder 1, LMU.

The 1920s: The Knights, the Klan, and Corruption

The Roaring Twenties was the decade of prohibition, the Ku Klux Klan's rebirth, renewed anti-Catholicism, and revelations of significant government corruption—and McCormick played an important role in each. President Calvin Coolidge nominated him on February 7, 1924, as a judge of the federal court for the Southern District of California; he was quickly confirmed by the U.S. Senate.³² He was put to the test the following year when he decided a case linked to the so-called Teapot Dome Scandal, a bribery case involving Albert B. Fall, President Warren G. Harding's Secretary of the Interior. McCormick considered the legality of Secretary Fall's leasing of the oil field at Elk Hills, California, to oil tycoon Edward L. Doheny, who agreed to pay Fall a no-interest loan of \$100,000 in exchange for the lease.

Doheny was a close friend of Bishop Cantwell and a significant benefactor of the Catholic Church in Los Angeles. Amid the trial, in April 1925, Cantwell dedicated St. Vincent de Paul Church in Los Angeles, which Doheny had substantially funded. Not swayed by Doheny's philanthropy and close relationship with the Catholic Church, on May 25, 1925, McCormick decided against the lease to Doheny, which cancelled the Elk Hills contract. McCormick determined that the payments to Fall contained "every element of a bribe," and he gained prestige as a federal judge for failing to be influenced by Doheny's facade of religious altruism.³³

The 1920s saw the refounding of the Ku Klux Klan and a rise in anti-Catholicism. In response, McCormick and Joseph Scott worked to increase Knights of Columbus membership to fight the Klan. Aware that the Klan succeeded through propaganda and rallies that included misinformation and nationalist rhetoric, the Knights distributed anti-Klan literature. In 1921, the Klan expanded into southern California, where it gained a significant influence over governments, schools, and businesses by combining anti-Catholicism with anti-immigrant rhetoric.³⁴ Although segregation in schools began before the Klan's arrival, its ideology resulted in segregated schools for Mexicans becoming normative throughout Southern California.³⁵ As local

32. *The Tidings*, February 15, 1924, 19.

33. Margaret Leslie Davis, *Dark Side of Fortune: Triumph and Scandal in the Life of Oil Tycoon Edward L. Doheny* (Berkeley: University of California Press, 1998), 184, 188, 215; Francis J. Weber, *Century of Fulfillment: The Roman Catholic Church in Southern California, 1840–1947* (Los Angeles: Archdiocese of Los Angeles, 1990), 423.

34. KKK Pamphlet, Leo Friis Archives, 1948-04-05-2009-07-28, box 33, folder 1, Archives and Special Collections, California State University, Fullerton.

35. Jesse La Tour, "A Brief History of the Ku Klux Klan in Orange County: Notes on the Banality of Evil," *Fullerton Observer*, January 7, 2019, <https://fullertonobserver.com/>

Knights of Columbus leaders, Scott and McCormick did not hesitate to challenge the Klan's so-called Americanism. Scott provoked the Klansmen, asking them "to get out of their nightshirts [referring to the white robes worn at Klan gatherings] if they were 100 percent American!"³⁶ Through the Knights of Columbus's work, a coalition of citizens sought to weaken the Klan.³⁷ Attacks on the Catholic Church continued as the Klan used its political clout to support certain "pro-Klan" candidates, including a Democratic senator from Georgia, William J. Harris—who became one of McCormick's detractors.³⁸

During this tumultuous period, the prohibition against alcohol sales and consumption divided the nation, often on ethnic, religious, and socio-economic lines. McCormick served on the National Commission on Law Observance and Enforcement (Wickersham Commission) to evaluate prohibition and make recommendations for public policy changes. Perhaps due to his religious and ethnic sensibilities, he criticized the ban on alcohol due to its adverse effects on society: "There has been developed such a widespread spirit of lawlessness and hypocrisy, unprecedented disrespect for authority that in fairness and candor it must be stated that in the final analysis of conditions now, no other national moral improvement can be credited to prohibition."³⁹

Judge McCormick noted increased corruption and violations by law enforcement agencies, declaring, "Entrance of private homes by prohibition officers searching for liquor without search warrants is one of the most serious evils of prohibition and should be abolished."⁴⁰ This assessment led Senator Harris to insist that "(McCormick) was not fit and should be removed from the commission."⁴¹ Endorsed by the Klan, Harris knew McCormick was a fervent Catholic and defender of the Knights of Columbus. He tried to discredit McCormick by highlighting McCormick's approach to prohibi-

2019/01/07/a-brief-history-of-the-ku-klux-klan-in-orange-county-notes-on-the-banality-of-evil/.

36. Anita Weyer, "Joseph Scott: A Life of Service," *Southern California Quarterly* 48, no. 3 (September 1966), 241–264.

37. Richard Melching, "The Activities of the Ku Klux Klan in Anaheim, California 1923–1925," *Southern California Quarterly* 56, no. 2 (1974), 175–196.

38. Clement Charlton Moseley, "The Political Influence of the Ku Klux Klan in Georgia, 1915–1925," *The Georgia Historical Quarterly* 57, no. 2 (1973): 250.

39. National Commission on Law Observance and Enforcement, "Report on the Enforcement of the Prohibition Laws of the United States," January 7, 1931, 273, <https://www.ojp.gov/pdffiles1/Digitization/44540NCJRS.pdf>.

40. "Homes Is One of Greatest Evils," *San Pedro News Pilot*, December 23, 1929.

41. Frase Edwards, "Hoover's Law Group Face Attacks," *Rochester (NY) Evening Journal and the Post Express*, December 24, 1929, 4.



David Marcus (Courtesy of Frank Mt. Pleasant Library of Special Collections and Archives, Chapman University).

tion. McCormick ignored these attacks, refrained from speaking against Senator Harris, and continued his work on the commission.⁴²

Background to *Mendez v. Westminster*: David Marcus and Civil Rights in California

California remained deeply segregated following the Second World War when Gonzalo Mendez and his wife Felicitas attempted to enroll their children in a school closer to their new home in Orange County. They were denied admittance to Westminster School District's Main Street School and sent instead to Hoover Elementary School, established for Mexican children. The Mendezes recognized that throughout Orange County school districts Mexicans were sent to schools in poorer condition and further from their homes. After meeting with several citizens affected by the school policies, the Mendezes hired civil attorney David C. Marcus to file a lawsuit in the federal court over which McCormick presided.⁴³

A son of Jewish immigrants, Marcus had studied at University of Southern California (USC) law school. While other schools rejected applications

42. "Catholic is Named on U.S. Board For Law Enforcement," (Cincinnati, OH) *Catholic Telegraph*, May 23, 1929; (Hartford, CT) *Catholic Transcript*, May 30, 1929.

43. Strum, "Our Children Are Americans," 9. Gonzalo Mendez's sister Sally Vidaaurri also attempted to enroll her children, but the Westminster School District would only accept those of her children with light skin and hair.

from Jewish students, USC offered limited admissions. He experienced anti-Semitism on campus and in Los Angeles, where Jews were excluded from elite clubs, government positions, and housing. Due to the lack of Mexican American lawyers, the Mexican Consulate hired Marcus. While working for the consulate, Marcus met his wife, Yrma Maria Davila, a Mexican immigrant. As a couple, they suffered discrimination, including housing restrictions due to race-based restrictive covenants.

As a young lawyer, Marcus took on a civil rights case challenging a housing covenant in Fullerton, California, a Klan stronghold in the 1920s, but in the 1940s a growing suburb with a white Protestant majority. During the war, Alex and Esther Bernal, a Mexican family, moved into the neighborhood. After suffering threats and harassment, they hired Marcus to prevent removal from their home. Marcus argued that because Mexicans are Caucasian, they could not be segregated by race, and thus the restrictions were invalid. His first civil rights victory came on September 18, 1943, when, in the case of *Doss v. Bernal*, Superior Court Judge Albert F. Ross ruled in the Bernals's favor and against Fullerton's discriminatory covenants.⁴⁴

Marcus took up another civil rights case in 1943. When Mexican Americans were prevented from swimming at San Bernardino's Perris Hill Plunge, a community meeting was called at Our Lady of Guadalupe Church. The crowded church listened attentively to how Mike Valles was turned away from the pool. The pastor, Father Jose Nuñez, declared that discrimination against Mexicans could not be tolerated, especially during wartime when so many Mexican Americans were dying for their country.⁴⁵

Father Nuñez's efforts, along with *La Liga Mutualista* and civic groups such as *Confederación de Sociedades Mexicanas*, were crucial in filing a formal complaint against the city of San Bernardino. On September 17, 1943, the

44. Genevieve Carpio, "Unexpected Allies: David C. Marcus and His Impact on the Advancement of Civil Rights in the Mexican-American Legal Landscape of Southern California," in *Beyond Alliances: The Jewish Role in Reshaping the Racial Landscape of Southern California*, ed. by Bruce Zuckerman, George J. Sánchez, and Lisa Ansell (West Lafayette, IN: Purdue University Press, 2012), 1–32; Robert Chao Romero and Luis Fernando Fernandez, "Doss v. Bernal: Ending Mexican Apartheid in Orange County," *UCLA Chicano Studies Research Center Report* 14 (2012), <http://www.chicano.ucla.edu/files/RR14.pdf>.

45. Mark Ocegueda, "Sol y Sombra: San Bernardino's Mexican Community, 1880–1960" (Ph.D. dissertation, University of California, Irvine, 2017), 111. Father Nuñez came to California seeking asylum during the Cristero War. Prior to the pool segregation lawsuit, Father Nuñez condemned Mountain View Cemetery's decision not to allow the burial of war veteran, Juvenal Valles, because he was of Mexican heritage. With pressure from the Spanish-language newspaper *El Espectador*, the Catholic Church, and U.S. Congressman Harry R. Sheppard, the cemetery's decision was reversed.

complainants and their attorney, David C. Marcus, appeared before federal court Judge Léon R. Yankwich, demanding the end of public pool segregation. The city argued that it restrained Mexicans' admission due to their insufficient hygiene, but Father Nuñez took three children, clean and well-dressed, to the pool and demonstrated how authorities denied their access based solely on ethnicity.⁴⁶ Marcus won his second civil rights victory when Judge Yankwich found in favor of the plaintiffs in *Lopez v. Seccombe*.

***Mendez v. Westminster*: The Beginning of School Segregation's End**

Mendez v. Westminster was Marcus's most important civil rights case. The Mendezes and the other Mexican American families sought Marcus's representation to challenge the racial segregation of Orange County public schools. His strategy was to find a way around *Plessy v. Ferguson*'s "separate but equal." He noted that California allowed segregation of Native Americans and Asian students in education, but not Mexicans because this minority group was considered white. As Philippa Strum wrote, Marcus claimed that the Mendez case "was not about race at all."⁴⁷

On March 2, 1945, before Judge McCormick, the trial against four school districts began, and on March 21, 1946, almost a year after the case's filing, McCormick declared the segregation of Mexican and Latino students unconstitutional. On December 10, 1946, Joel Ogle, the attorney for Orange County, appealed the decision to the Ninth Circuit U.S. Court of Appeals in San Francisco. Although it did not overturn *Plessy v. Ferguson*, the Ninth Circuit on April 14, 1947, confirmed the McCormick decision. Soon thereafter, on June 14, 1947, California Governor Earl Warren signed a law repealing California's school segregation statutes.⁴⁸ At the end of the *Mendez* trial, Marcus declared to the Los Angeles Spanish newspaper *La Opinion*: "This has been one of the biggest judicial decisions in favor of democratic practices granted since the emancipation of the slaves."⁴⁹

McCormick's decision prompted civil rights lawsuits in other states, including Texas and Arizona. In 1947, *Delgado v. Bastrop Independent School*

46. Strum, "Our Children Are Americans," 13; Mark Ocegueda, "Lopez v. Seccombe: The City of San Bernardino's Mexican American Defense Committee and Its Role in Regional and National Desegregation," *History in the Making* 3, article 4 (2010), <https://scholarworks.lib.csusb.edu/history-in-the-making/vol3/iss1/4>.

47. Strum, "Our Children Are Americans," 13.

48. Frederick P. Aguirre, "Mendez v. Westminster School District: How It Affected Brown v. Board of Education," *Journal of Hispanic Higher Education* 4, no. 4 (2005): 321–332.

49. "Termina la Segregacion," (Los Angeles) *La Opinion*, March 22, 1947.

District ended state-mandated segregation of Mexican American students in Texas, and in 1951, a federal judge in Arizona, through *Gonzales v. Sheely*, also ended school segregation. These lawsuits used McCormick's rationale, which emphasized, "If these children were retarded in English, it was because of the conditions under which they were taught."⁵⁰ Educational opportunities for Mexicans were inferior because of prejudice. In a letter written by activist Carl Murphy to NAACP lawyer Thurgood Marshall, Murphy recalled the argument of the *Mendez* case:

Whenever a group, considered as "inferior" by the prevailing standards of a community, is segregated by the official action from the socially dominant group, the very fact of official segregation, whether or not 'equal' physical facilities are being furnished to both groups, is a humiliating and discriminatory denial of equality to the group considered "inferior" and a violation of the Constitution of the United States of treaties duly entered into under its authority.⁵¹

On September 30, 1953, amid one of the civil rights movement's most important cases, *Brown v. Board of Education*, President Dwight D. Eisenhower appointed Earl Warren as chief justice of the U.S. Supreme Court. Warren's ruling on May 17, 1954, in the *Brown* case, echoed McCormick's argument in *Mendez*: "[Education] is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values."⁵² Historian Vicky Ruiz noted, "Warren's roots and knowledge of Mexican children's school segregation influenced his and his fellow Justices' opinion of the legality of 'separate but equal.'"⁵³

The Arguments in *Mendez v. Westminster*

McCormick's judicial philosophy was based on his prior experiences as a judge, including previous civil rights cases. During the *Mendez v. West-*

50. Carey McWilliams, "Is Your Name Gonzalez?" *The Nation*, April 8, 1947, 302. *Mendez, et al., v. Westminster, et al.*, Robbie Records, 2009.067.r, box 3, F.5, Frank Mt. Pleasant Library of Special Collections and Archives, Chapman University, Orange, California.

51. Carl Murphy to Thurgood Marshall, December 5, 1946, *Mendez, et al., v. Westminster, et al.*, Robbie Records, 2009.067.r, box 3, F.5, Frank Mt. Pleasant Library of Special Collections and Archives, Chapman University.

52. Aguirre, "Mendez v. Westminster School District," 321–332.

53. Lisa Y. Ramos, "Dismantling Segregation Together: Interconnections between the *Méndez v. Westminster* (1946) and *Brown v. Board of Education* (1954) School Segregation Cases," *Equity and Excellence in Education* 37, no. 3 (2004): 250. Although Earl Warren was from the Republican Party's moderate faction, Judge McCormick was a progressive Republican.

minster pre-trial, he inquired about Marcus's argument. McCormick explained the legal position, "If children are segregated solely and exclusively because of their ancestry or lineage, that it is an unlawful discriminatory act on the part of the school authorities."⁵⁴ Marcus argued, "We are prepared to show that they speak English and spoke Spanish prior to attending school and that the only discrimination practiced is for the fact that, not because of any linguistic qualifications, but because they are of Spanish descent."⁵⁵ McCormick emphasized in the pre-trial that since it was not a case about racial segregation, Marcus had to prove segregation because of Mexican Americans' language, culture, and social status. McCormick noted, "We have here a problem, and the ultimate question would be what is meant by the same or equal facilities. That doesn't simply mean the curriculum. It means social, in the sense that children are in a democratic environment, commingling with one another on an equal basis as far as nature has constituted individuals to be equal."⁵⁶ The pre-trial record indicates McCormick understood his verdict could assist in overturning *Plessy v. Ferguson* (1896). Marcus declared, "This case is of transcendental importance since, coming from a federal court, it sets a precedent; it could be applied in any region of the country where these acts of segregation are discussed."⁵⁷

Marcus asked parents and students who were victims of discrimination to testify. Each gave their testimony in English, not Spanish, evidencing that they were bilingual and were not linguistically disabled as the school district suggested. As further proof, on July 11, 1945, Marcus called to the stand Ralph L. Beals, an anthropology professor from the University of California, Los Angeles (UCLA). His studies on indigenous communities in Mexico and the U.S. provided scientific and social arguments.⁵⁸ Beals declared, "A feeling of antagonism is built up in children when they are segregated in this fashion. They become hostile to the whole culture of the surrounding majority group, as a result of the segregation, which appears to be, to them at least, discrimination." Another important witness was a specialist in minority education, Marie H. Hughes, who stated, "Children learn a language through

54. *Gonzalo Mendez, et al., v. Westminster School District of Orange County, et al.*, Pre-Trial Transcripts, Los Angeles, June 26, 1945, 26, Record Group 21: District Courts of the United States, Civil Case Files Series, at <https://catalog.archives.gov/id/6277732>.

55. Pre-Trial Transcripts, 33.

56. Pre-Trial Transcripts, 108.

57. "La Segregacion de los Ninos Mexicanos Declarada Ilegal," *La Opinion*, February 21, 1946.

58. *Mendez v. Westminster* Trial Transcripts, Los Angeles, July 11, 1945, 686; July 11, 1945, 676, Record Group 21: District Courts of the United States, Civil Case Files Series, at <https://catalog.archives.gov/id/6277735>.

hearing it and through having a motive, a reason, for using it.” For this reason, Mexican children would more easily learn in integrated schools.⁵⁹

Since the days McCormick volunteered with Brownson House, he knew social environment was a determining factor in children’s educational development, and segregation impeded children’s growth. Beals stated that segregation “definitely retard[ed] the assimilation of the child to American customs and ways.”⁶⁰ Hughes concluded, “Segregation, by its very nature, is a reminder constantly of inferiority, of not being wanted, of not being a part of the community. Such an experience cannot possibly build the best personality or the sort of person who is most at home in the world, and able to contribute and live well.”⁶¹

According to the testimony, aside from language, segregation was due to mistaken ideas about Mexicans from rhetoric promoted by the Klan and from nativist ideas that defined Mexicans as unhygienic and diseased. This prompted school staff to ask Mexicans to submit to special medical tests without cause. Acknowledging the discrimination exercised against Mexicans, Garden Grove School District superintendent, James L. Kent boldly stated, “Mexican students were inferior to the white students.”⁶² McCormick questioned, “Wouldn’t (Mexican) assimilation efficiency be improved by putting (Mexicans) with children who speak English rather than with those who had the bilingual disqualification?”⁶³ Kent was unconvinced, believing that Mexicans were academically inferior and should be segregated due to their inability to assimilate.⁶⁴

In the *Mendez* trial, Marcus demonstrated how intolerance of Mexicans prevented assimilation. McCormick noted the prejudice of school district officials and suggested that children must have access to equal education and recreation to provide a secure environment. He wrote in his opinion that segregation prevented children of Mexican descent from “deriving a common

59. Trial Transcripts, July 11, 1945, 690.

60. Trial Transcripts, July 11, 1945, 679.

61. Trial Transcripts, July 11, 1945, 691.

62. Trial Transcripts, July 5, 1945, 122.

63. Trial Transcripts, July 10, 1945, 521.

64. James Kent, “Segregation of Mexican School Children in Southern California” (Thesis, University of Oregon, 1941), Frank Mt. Pleasant Library of Special Collections and Archives, Chapman University. Kent’s alma mater was the University of Oregon, where the Ku Klux Klan was influential. The Klan was successful, for instance, in promoting the anti-Catholic Oregon School Law. See Kristin Dimick, “The Ku Klux Klan and the Anti-Catholic School Bills of Washington and Oregon,” Seattle Civil Rights & Labor History Project, 2006, https://depts.washington.edu/civilr/kluk_i49.htm.

cultural attitude” and issued an injunction to the school districts in Orange County to halt the discriminatory practices. His experience with children of Brownson House, where the aim was the cultural integration of American ideals and social justice, helped him understand the need for public school integration. McCormick wrote in his verdict’s conclusion, “A paramount requisite in the American system of public education is social equality. It must be open to all children by unified school association regardless of lineage.”⁶⁵

McCormick’s Legacy

After the verdict in the *Mendez* case, McCormick continued to maintain a close connection to the Catholic Church, whose chief enemy was no longer the Ku Klux Klan but international communism. He argued, “We must show to those outside the Church that the surest way to preserve our American Government is to preserve our Church.” McCormick believed the best way to stand up to communism was through education: “We must develop in the laity arguments and weapons to combat this philosophy. It can be done only through education and then dissemination of the Truth through every walk of life.”⁶⁶

McCormick retired in 1951 after twenty-seven years as chief U.S. District Judge for the Southern District of California. He was “recognized as a capable, efficient, fair, high-minded judge.”⁶⁷ Two years later, on April 11, 1953, Pope Pius XII conferred the pontifical decoration of Knight Commander of St. Gregory upon him.⁶⁸ McCormick spent his last days with his wife Mary (with whom he had no children) and his nephews. On December 3, 1960, at the age of eighty-one, he died in Los Angeles, and his funeral was held at St. Vibiana’s Cathedral.

In considering the significance of *Mendez v. Westminster* and McCormick’s role, historians should consider his decision’s religious and

65. Paul J. McCormick, *Mendez v. Westminster*, Conclusion of the Court, United States District Court, Southern District of California, Central Division, February 18, 1946, 11, <https://mendezetalvwestminster.com/family-home-pages/>

66. “Judge Says the Church is a Bulwark Against Marxism,” (Philadelphia) *Catholic Standard and Times*, December 13, 1946.

67. Memorandum for the Directors, Federal Bureau of Investigation, Los Angeles, August 16, 1945; Memorandum to Director, Research Matter, April 4, 1939, Federal Judicial History Office, Federal Judicial Center. The FBI compiled a report when McCormick was a candidate for the Supreme Court. The author is grateful to Michael Engh, S.J., for this source.

68. “Pontiff Pays Honor to Five Southlanders,” *Los Angeles Times*, April 11, 1953. Membership in the Pontifical Equestrian Order of St. Gregory the Great is an honor bestowed upon Catholic men and women for their service to the Church.

social context. His faith, his knowledge of Catholic social teaching, his work at the Brownson Settlement House, and his membership in the Knights of Columbus had a profound impact on his service as a judge and his subsequent rulings. His authoring of the *Mendez v. Westminster* verdict advanced civil rights and paved the way for *Brown v. Board of Education*. This history widens scholars' understanding of the civil rights movement, placing Hispanic Americans and Judge McCormick at a very early point in a significant and long-contested struggle.



About This Issue

Legal matters have frequently intertwined with the Catholic Church in the United States. This issue offers focused case studies involving civil rights, religious freedom, and the natural law, and a summary of civil and canon law-related archival sources at The Catholic University of America. We are grateful to our contributors. Michael S. Carter is an associate professor of history at the University of Dayton in Dayton, Ohio. He is also an associate editor of our journal. Dennis J. Wieboldt III is a J.D./Ph.D. student in history at the University of Notre Dame in Notre Dame, Indiana, where he is a Richard and Peggy Notebaert Premier Fellow at the Graduate School and Edward J. Murphy Fellow at the Law School. Paul T. Murray is an emeritus professor of sociology at Siena College, Loudonville, New York. Jose Luis Castro Padilla recently earned a master's degree from California State University San Bernardino's Department of History. S. Douglas Smith, C.S.C., has served in various ministerial, parochial, and administrative roles. He currently resides with the Holy Cross community at Notre Dame, Indiana. William John Shepherd is University Archivist and Head of Special Collections at the Catholic University of America in Washington, D.C.

—David J. Endres