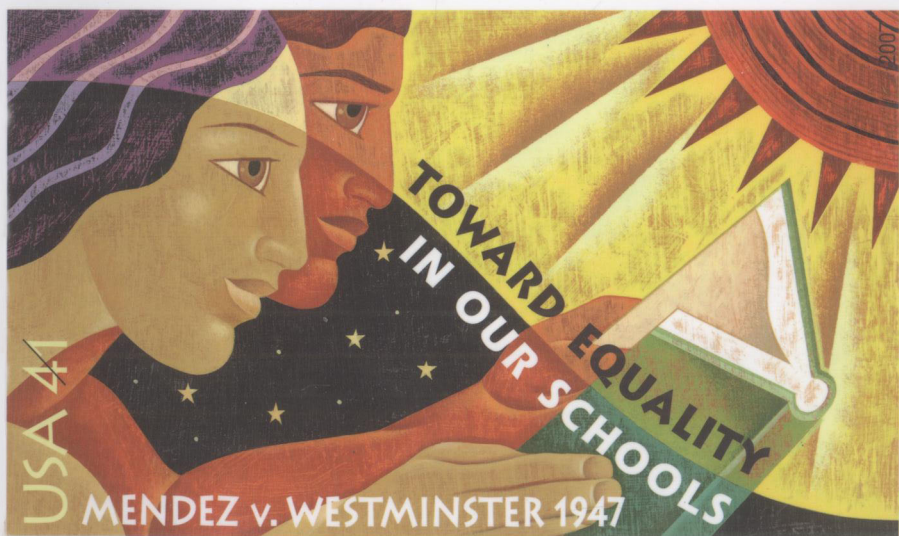


Philippa Strum

# *Mendez v. Westminster*

School Desegregation and  
Mexican-American Rights



PHILIPPA STRUM

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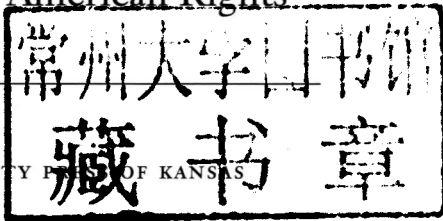
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School Desegregation and

Mexican-American Rights

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*Mendez v. Westminster*

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*For the Red Line Group,  
with a smile*

## EDITORS' PREFACE

Every student of American history and law knows *Brown v. Board of Education*. Love it or not, it is a constitutional landmark. Few of us—even scholars—knew about *Mendez v. Westminster School District*. That is about to change. Philippa Strum's deeply moving, swiftly paced account of this landmark education law and civil rights case will put it on the map of American history as a precursor to *Brown* and more. *Mendez* did more for Mexican-American schoolchildren than *Brown* did for African-Americans, and the case showed that organization, courage, and persistence in the Mexican-American communities of Orange County, California, could displace the almost casual racism of Anglo-dominated school boards.

*Mendez* was not argued as a case about racial discrimination. At the time it was brought, *Plessy v. Ferguson* and its pernicious formula still reigned in public school education. All parties agreed that Mexican ancestry, not race (the Mexicans were deemed "white"), was the crux of the matter. But counsel for the many parents who joined in the suit laid the groundwork for a far broader assault on arbitrary classifications and discrimination against one people because they happened to share a heritage. That heritage was not only Mexican; it was also Spanish-speaking. For the school boards, assumptions about language skills, cleanliness, ability to learn, and Americanness were code words for long-established anti-Latin American prejudices. *Mendez* exposed these to the light of social science and law and found them wanting.

There are heroes in this story: the parents themselves and, more quietly, their children; their counsel; a thoughtful federal district court judge; and those in the community who saw the injustice of discriminatory pupil placement. But Strum is scrupulously fair to the superintendents, school board heads, principals, and their counsel who argued for the segregation of the Mexican-American students—fair in the sense that she allows them to speak for themselves, to make their best case.

Indeed, one of the many strengths of this book is Strum's ability to take readers back to the time and place of the litigation and allow them to listen as the parties speak their piece. Weaving together the court

records, contemporary accounts, later oral histories, and other scholars' work, she enables us to hear all the voices of the protagonists, and we find ourselves eagerly following the story toward its uplifting conclusion. Clearly, this is one case the courts got right.



## ACKNOWLEDGMENTS

Writing is a solitary act, but getting all the information and feedback necessary to complete a work of nonfiction certainly is not. As always, I am indebted to a wide array of friends, colleagues, acquaintances, archivists, and librarians.

Friends first. Jill Norgren has vetted my manuscripts for years and did so again with *Mendez*, working her way meticulously through a very rough draft and making a slew of helpful suggestions. John Feren, Michael Jones-Correa, and Peter Rajsingh each commented from the perspective of their particular areas of expertise. Susan Nugent did her usual painstaking read of the manuscript, catching errors of both style and substance. The members of the Red Line Group—Marie Therese Connolly, Mary Ellen Curtin, Matt Dallek, Deirdre Maloney, Robyn Muncy, Patricia Sullivan, Wendy Williams, and Salim Yaqub—weighed in with both fine critiques and unending support, and I dedicate this volume to them in happy anticipation of many more evenings of scholarly insights and good cheer.

Next, colleagues and acquaintances—and what a delightful corollary benefit it is to make new acquaintances in the course of writing a book. Judge Frederick Aguirre, who has written about *Mendez* himself, shared his thinking, pointed me in the direction of many other helpful people, and became my resident expert on Mexican-Americans in the military. Christopher Arriola, another *Mendez* author, chatted about the case, gave me access to his files, and sent me copies of newspaper articles and school board minutes. Charles Wollenberg generously read and commented on a draft. Vicki L. Ruiz sent me her own articles and helped me find both research assistants in California and people involved in the case. As he so frequently does, Don Wolfensberger, my colleague at the Woodrow Wilson International Center for Scholars, patiently tracked down important material that I could not seem to find for myself.

Sylvia Méndez not only shared her time and memories and documents but also chauffeured me around Fullerton, California. Karen Melissa Marcus, one of David Marcus's grandchildren, answered question after question and sent photographs of her grandparents. She put me in touch with Marcus's daughter Maria Lane and two other grand-

children, Stephen DeLapp and Anne McIntyre. Steven and Daniel W. Holden sent information about their father. I am grateful to all of them. Judge Robert Carter, who wrote the NAACP's brief in *Mendez*, graciously permitted me to put him through a long interview. Alex Maldonado was equally gracious during a lengthy telephone interview.

I corresponded with a number of scholars, each of whom gave me thoughts and bits of data that helped a topic come alive. Thanks, therefore, to Carlos Blanton, Ruben Flores, Michael Olivas, and Kathleen Weiler — none of whom should be held responsible for any errors I may have committed. I am grateful as well to all the other scholars whose fine works on Mexican-American history were so helpful. They are listed in the bibliographic essay.

Clara E. Rodriguez of Fordham University and Terry McCaffrey of the U.S. Postal Service helped me with the history of the commemorative *Mendez* stamp. Jane Zamarripa, an intern with the Latin American Program at the Wilson Center, translated articles in *La Opinión*. I am grateful to Christine Eubank and Giovanni Hortua Vargas, who winnowed out information from newspapers in California archives. Special thanks go to Ashley Bohrer, my Wilson Center research assistant par excellence, for her talents, enthusiasm, and patient persistence.

I owe thanks to many librarians and archivists, but none more so than Janet Spikes, the extraordinary librarian of the Woodrow Wilson International Center for Scholars, who manages to find sources that have eluded others for years. Her staff, Dagne Gizaw and Michelle Kamalich, were endlessly helpful. My gratitude to the many people who dug through files and sent crucial information and documents: Michael Hironymous at the University of Texas at Austin's Benson Latin American Collection; Randy Thompson, National Archives and Records Administration—Pacific Region in Laguna Niguel, California; Charles Miller, National Archives and Records Administration—Pacific Region in San Bruno, California; Mora Prestinary, Orange County Public Library; John Elliott, Santa Ana History Room; Chris Jepsen of the Orange County Archives; and Jack W. Golden, senior assistant county counsel of Orange County.

I am grateful as always for the continuing support of the particularly nice and talented people at the University Press of Kansas, especially editor in chief Michael Briggs and assistant director and mar-

keting manager Susan Schott. Thanks as well to Larisa Martin for overseeing the production process and to Karl Janssen for designing the striking cover.

Above all, I must thank the Woodrow Wilson International Center for Scholars, which has blessed me with space in which to work, research assistance, library privileges, an information technology staff able to tame my sometimes recalcitrant computer, and a host of colleagues with whom to trade ideas during working sessions and indulge in far less cerebral conversation in moments of relaxation. The Center is sheer bliss for scholars, and I am fortunate to be part of it.

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## Introduction

Soledad Vidaurri walked up to the schoolhouse door, five little children in her wake. It was a warm September 1943 day in Westminster, California, home to some 2,500 residents and right in the heart of citrus-growing country. American soldiers were still fighting overseas — almost two more years of battles lay ahead before World War II would end — but Orange County was peaceful and bustling economically because of the wartime demand for agricultural products and war factory materiel. Mrs. Vidaurri had come to the Westminster Main School to enroll her two daughters — Alice and Virginia Vidaurri — and her niece and two nephews — Sylvia Méndez, Gonzalo Méndez Jr., and Jerome Méndez — in the neighborhood public school.

Notice the last names. They're important.

Mrs. Vidaurri was welcomed to the school and was told that her daughters could be registered. Their father had a French ancestor, and their last name sounded acceptably French or Belgian to the teacher in charge of admissions. Besides, the Vidaurri girls were light-skinned. The Méndez children, however, were visibly darker and, to the teacher, their last name was all too clearly Mexican. They would have to be taken to the "Mexican" school a few blocks away. Little Gonzalo Jr. would remember the teacher telling his aunt, "We'll take those," indicating the two Vidaurri girls, "but we won't take those three." "We were too dark," Gonzalo recalled.

"No way," an outraged Mrs. Vidaurri replied, and marched all the children home. Her equally outraged brother, Gonzalo Méndez, simply refused to send his children to the "Mexican" school. Two years later the Méndezez would lead a group of Mexican-American parents into federal court, challenging the segregation of their children, and legal history would be made.

What follows is a story about Mexican-Americans standing up for

their rights and about the other Americans who helped make the fight successful. There were many courageous figures in the tale of *Mendez v. Westminster*—Soledad Vidaurri certainly qualifies—but this is a relatively short book, so it focuses only on three men and one woman. One of the men is Gonzalo Méndez, father of the three Méndez children; the woman is their mother, Felicitas Méndez. The second man is David Marcus, a Jewish attorney, and the third is an Irish-American Catholic judge named Paul McCormick.

The other heroes and heroines of the tale are Mexican-American parents living in Southern California in the 1940s. The four who joined Gonzalo Méndez in bringing the 1946 school desegregation case, and the others who helped with moral and financial support, were not thinking in terms of heroism; they simply wanted their children to get the best possible education. The suit they filed claimed that the arbitrary placement of the children in Orange County's segregated "Mexican" public schools violated their constitutional right to an equal education. The effort behind the case involved many members of the local Mexican-American community, and the outcome energized Mexican-Americans fighting for equality throughout California and elsewhere in the Southwest.

For Mexican-Americans, the decision in *Mendez* was as important as the 1954 case of *Brown v. Board of Education*, in which the U.S. Supreme Court held that segregated schools for African-American children were unconstitutional. *Mendez*, in fact, had a direct impact on the attorneys of the National Association for the Advancement of Colored People (NAACP) who would later take *Brown* all the way to the Supreme Court. It also displayed the arbitrary nature of racial categories and the complicated relationship between what is happening in American society at any given moment and what is happening in American law. *Mendez* is, in many ways, the story of how and why law evolves, as well as the saga of all the people who made *Mendez* a landmark in American history and law.

The tale of what these people accomplished begins on land owned by Japanese-Americans and leased by Mexican-Americans. As it unfolds, the nation's largest African-American civil rights organization becomes involved, and so do associations of Jewish-Americans and Japanese-Americans. It is not a melting pot story, but more like a kaleidoscope.

---

In telling the tale of *Mendez*, I use Méndez (with the accent) when speaking about members of the Méndez family. I refer to the case as *Mendez* (without the accent) because the court personnel who transcribed the trial proceedings and prepared the judicial opinions for publication omitted it. The same is true for all Hispanic names in other court cases mentioned here.

The word *Mexican* was used throughout the litigation to describe children of Mexican descent, whether American citizens or not, and although it sometimes seemed appropriate to follow that usage in the narrative that follows, for the most part, I use *Mexican-American*. (I do not use *Chicano*, as that expression was not common in the 1940s.) Other children were referred to as *Anglo* or *Anglo-Saxon* or *white*. For the sake of convenience, I sometimes employ these terms where they make the context clear. As we will see, however, one of the issues in the case was whether *white* was appropriately differentiated from *Mexican* or *Latin*.

---

## Mexican-Americans in California

*A minority is somebody everyone else thinks is different and worse.*

MEXICAN-AMERICAN SCHOOLBOY, 1940S

Mexicans had lived in California for hundreds of years before Gonzalo and Felicitas Méndez went to court in 1945. Or, rather, for much of that time they had lived in a part of Mexico, known as California, that would be absorbed by the United States. In 1846 the United States' desire to annex Texas plunged it and Mexico into the Mexican-American War. The conflict ended with the 1848 Treaty of Guadalupe Hidalgo, which forced Mexico to cede a large part of its territory. All of what would become the states of California, Arizona, and New Mexico, as well as Texas and parts of what would become Colorado, Nevada, and Utah, were folded into the United States. The treaty gave resident Mexicans the option of returning to Mexico or declaring themselves permanent resident aliens in the United States. If they chose neither option within one year, they would become American citizens with, according to the treaty, "all the rights of citizens." These new citizens and their descendants were commonly referred to by others as *Californios*.

Other Mexicans immigrated to the United States in the decades after the war. By 1900, the American Mexican population had increased from 116,000 to an estimated 500,000 out of a total of 76,212,168 people living in the United States. Their migration, as is the case with many waves of immigration, reflected both a "push" from the home country and a "pull" by the receiving country.

The push was the economic and political turmoil that occurred in Mexico beginning in 1876, when Porfirio Díaz became the country's president. His administration sought to better Mexico's economy by encouraging foreign investment, the commercialization of agriculture, and the fashioning of large *haciendas* (ranches or farms) capable of producing exportable crops. The haciendas were created by seizing what



had been communal lands, and as many as 5 million Mexicans soon found themselves landless. Simultaneously, the emphasis on producing crops for export led to a decrease in the production of maize, which was the key food staple for most families. The price of food went up; the cost of living in general rose; and at the same time, the labor surplus created by the Díaz land policy resulted in a decline of wages.

The Mexican Revolution, which began in 1910, was in large part a reaction to the Díaz regime. For the next ten years civil war roiled Mexico, and hundreds of thousands died. Many Mexicans were by then looking for an escape and a more promising life — Gonzalo Méndez's family was among them — and thousands believed that the new network of Mexican railroads going north would lead them to it.

Railroads in the United States had grown as well, expanding into the American West in the decades after the end of the American Civil War. Simultaneously, advances in irrigation enabled western growers to produce large quantities of fruits and vegetables, which could be transported in the newly invented refrigerator cars on the railroads that now crisscrossed the United States. That became the pull for Mexican immigrants, as the need for cheap labor among both the growers and the railroads increased exponentially. Mexicans would replace Chinese and Japanese as farmhands and layers of railroad tracks.

The railroads and farms had encouraged the immigration of Chinese laborers to California in the 1850s and 1860s. Prejudice and the concerns of native American workers about a competitive labor force, however, caused Congress to enact the Chinese Exclusion Act of 1882, effectively minimizing the number of Chinese who could gain entry to the United States. Agricultural and railroad corporations then turned to Japanese immigrants, but farm owners soon found that the Japanese were too well organized for their purposes. The immigrants banded together to demand better working conditions and refused to compete with one another; they organized to become highly competitive entrepreneurs themselves. The growers' resentment of the Japanese farmers' assertiveness, coupled with the racism that seemed endemic to the country, resulted in the so-called Gentlemen's Agreement of 1907 between the United States and Japan. It took the form of a pact between President Theodore Roosevelt and the Japanese government and gave the president the power to refuse entry to Japanese would-be immigrants — a power Roosevelt used vigorously.