COMMENT: ATLANTA — LIVING WITH *BROWN* TWENTY YEARS LATER

By DR. BENJAMIN E. MAYS*

Editor's note: The historic decision in Brown I *announced the constitutional demise of the "separate but equal" doctrine, and Brown* II *required that school desegregation be achieved with "all deliberate speed." A decade after Brown, Congress passed the 1964 Civil Rights Act and the Supreme Court increased its pace in enforcing the mandates of Brown* I and II.

The school closing in Prince Edward County, Virginia, was invalidated in 1964. In 1965, the Court required faculty desegregation, and invalidated grade-a-year programs. After three years of inactivity the Supreme Court struck down freedom-of-choice plans that did not bring immediate desegregation.

By 1970, the Court had made it clear that immediacy was required. A year later the Court approved busing in Swann v. Charlotte Mecklenburg Board of Education, *402 U.S. 1 (1971). The Court has before it this year the case of* Milliken v. Bradley, *484 F.2d 215 (6th Cir. 1973), which goes to the issue of metropolitan desegregation.*

The process of desegregation has taken a long time. What have local school boards and courts been doing since Brown II? *Is metropolitan desegregation necessary to effectuate* Brown I?

The following comment provides a partial answer to these questions from the lay point of view by focusing on one school system — the Atlanta Georgia Independent Public School System.

THE MAY 17, 1954 decision of the United States Supreme Court declaring segregation in the public schools unconstitutional was momentous. *Brown v. Board of Education*[1] began the process of abolishing segregation in every sector of American society. From the mid-1930's to 1954, the stage was being set for this decision. The 1896 *Plessy v. Ferguson*[2] decision was attacked for the first time when Donald G. Murray, a 1934 graduate of Amherst College, challenged the right of the University of Maryland to deny qualified applicants admission to its law school solely on the basis of race. In this 1935 case, the Maryland court ruled in substance that the University of Maryland had to accept Murray or build a law school for him, equal to the one at the University. The court rejected the state's argument that equal protection was fulfilled by awarding Murray a $200 scholarship to attend the nearest Black law school available (Howard University in Washington, D.C.).[3] The *Murray* decision signalled the assault on the thirty-nine year old "separate but equal" doctrine that had never before been tested in the federal courts. In 1938, the same issue facing Murray, only this time involving the University of Missouri Law School, was successfully litigated before the Supreme Court in *Missouri ex rel. Gaines v. Canada.*[4]

Following *Murray* and *Gaines*, two

---

*B.A., 1920, Bates College; M.A., 1925, University of Chicago; Ph.D., 1935, University of Chicago. Dr. Mays has also received numerous honorary doctorates. He is currently the President of the Atlanta School Board, and the Chairman of the Board of the Martin Luther King, Jr. Center for Social Change.

1. *Brown v Bd. of Educ.*, 347 U.S. 483 (1954).
2. *Plessy v. Ferguson*, 163 U.S. 537 (1896).
3. *Univ. of Maryland v. Murray*, 167 Md. 478 (1935).
4. 305 U.S. 337 (1938).

different equal protection questions were litigated in Texas and Oklahoma. *Sweatt v. Painter*[5] held that even if a state established separate law schools for Blacks, the fourteenth amendment was violated unless that law school was qualitatively equal to the white law school within the state. Blacks would not be forced to enroll in a separate but unequal school. *McLaurin v. Oklahoma State Board of Regents*,[6] the companion case to *Sweatt*, challenged the right of a state-supported graduate school to restrict Blacks to separate seating in classrooms, libraries, and cafeterias. The Court found that these restrictions served to impair and to inhibit a Black student's ability to study, to engage in discussions and to exchange views with other students and, in general, to learn his profession. *McLaurin* established that Black students admitted to a state-supported graduate school must receive the same treatment at the hands of the state as students of other races.[7]

While these successful attacks were being made in graduate and professional schools, "the separate but equal" doctrine was tested in other areas. Black teachers received higher salaries after the court held in *Morris v. Williams*[8] that Black teachers could not be paid salaries different from those paid white teachers if the inequality of pay scales was based solely on race.

In *Brown*, the Supreme Court declared segregation of white and Negro children in the public schools of states solely on the basis of race, pursuant to the state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment — even though the physical facilities and other tangible factors of white and Negro schools may be equal.[9] The Court concluded that the questions raised in the school segregation cases had to be determined "in the light of the full development of public education and its present place in American life throughout the Nation," and not "on the basis of conditions existing when the Fourteenth Amendment was adopted."[10] Finding that the states had assumed responsibility for public education, the Court ruled that the state must provide equal educational opportunities to everyone, regardless of race.[11]

THE GEORGIA LEGISLATURE responded to *Brown* with a flurry of activity. Interposition and nullification resolutions were drafted.[12] Laws were passed prohibiting the expenditure of funds by the state or localities for desegregated schools.[13] The Governor was empowered to close public schools when a court ordered desegregation.[14] Children in districts where the schools were closed would be provided state tuition grants.[15] Primarily to combat the NAACP, the Georgia Attorney General proposed the re-enactment of legislation regulating corporations and groups which sought to influence public opinion or to encourage litigation.[16] The Governor was empowered, upon proclamation, to suspend the state's compulsory school attendance law.[17]

In spite of massive white opposition, Black parents filed with the Atlanta School Board, written petitions requesting that the Board operate Atlanta schools in compliance with *Brown*. When the Board refused to negotiate, Black parents in 1958 sued to desegregate the Atlanta Public School System.[18]

DURING THE YEARS of the desegregation process, Black enrollment increased substantially while white enrollment steadily decreased. At the present time, Black enrollment is 82 percent and white enrollment is 18

5. 339 U.S. 629 (1950).
6. 339 U.S. 637 (1950).
7. *Id.*
8. 149 F. 2d 703 (8th Cir. 1945).
9. *Brown v. Bd of Educ.*, 347 U.S. 483 (1954).
10. *Id.* at 492.
11. *Id.* at 493.
12. Ga Acts, ch. 130 (1956).
13. Ga Acts, ch. 82 (1955);
Ga Acts, ch. 11 (1956);
1 Race Rel. L.R. 418 (1956).
14. Ga Acts, ch. 11 1956;
1 Race Rel. L.R. 418 (1956).
15. *Id.*
16. 1 Race Rel. L.R. 156 (1956).
17. Ga Acts, ch. 939 (1957).
18. *Calhoun v. Bd. of Educ.*, 188 F. Supp. 401, (N.D. Ga. 1959) aff'd 309 F.2d 638 (5th Cir. 1959).

percent. This percentage increase in Black pupils began in 1952. At that time the white enrollment was 49,020 and Black enrollment was 23,296. Blacks outnumbered whites in the city of Atlanta for the first time in 1970 when the Black population reached 51.3 percent. In that same year, the white pupil enrollment was 32 percent and the Black enrollment was 68 percent.

Why have the Atlanta public schools become increasingly Black? There is no easy answer. The middle class in Atlanta is moving to the suburbs. White flight in Atlanta is largely due to the fact that the majority of white people are unwilling to live in the same communities with Blacks. They are afraid to raise their children in close proximity to Blacks and to have them attend school with Blacks. Although whites argue that they are afraid that property values will decline if Blacks live in the same neighborhood, or that their children's schooling will be adversely affected, logical refutation of these complaints will not convince them to remain in the city.

This irrational fear of interracial contact has frustrated many efforts to achieve desegregation in Atlanta. Schools, formerly all white, became predominantly Black in a relatively short period of time. Attempts to achieve stabilized integrated communities by prominent Blacks and whites failed.

The 22 year enrollment trend noted earlier is only one factor contributing to Atlanta's failure to achieve a unitary system with substantial student desegregation. The desegregation process, which began late, moved too cautiously and too slowly because of district court and local school board resistance to meaningful desegregation. Although the Atlanta Board of Education was sued in 1958, schooling went on as if *Plessy* were still the law until 1961. In 1959, the district court held that racial segregation contrary to the fourteenth amendment as interpreted in *Brown* existed in Atlanta, and enjoined the Atlanta School Board from further operation of a dual school system.[19] A grade a year (grade 12 downward) pupil placement plan, submitted by the Board, was approved by the district court in 1959;[20] but implementation was delayed until September 1961 because of the Georgia law which required the closing of any integrated school.[21]

Under the Pupil Placement Plan, initial school assignments were continued as they had been under the dual school system. Every Black student who wished to attend a white school was required to request transfer from the Black school to which he was assigned. Transfers could be obtained only for those grades designated for desegregation. The granting of the transfer request was controlled by the interpretation school officials placed on a number of factors, including: available room and teaching capacity in the schools; availability of transportation facilities; effect of the admission of new pupils upon established or proposed academic programs; the suitability of established curricula for particular pupils; the adequacy of pupils' academic preparation for admission to a particular school and curriculum; the scholastic aptitude and relative intelligence or mental ability of the pupil; the psychological qualifications of the pupil for the type of teaching associations involved; the effect of the admission of the pupil upon the academic progress of other students; the home environment of the pupils; the morals, conduct, health and personal standards of the pupils; the request of the parent and the reasons assigned therefor. Black students were required to pass psychological tests, to achieve the class average score on standardized achievement tests, and to complete successfully a personal interview with school officials before they would be allowed to attend a white school.[22] White student applicants for transfer to other white schools, whether desegregated or not, were not required to meet these standards.

---

19. *Calhoun v. Bd of Educ.*, 309 F. 2d 638 (5th Cir. 1959).
20. *Calhoun v. Bd. of Educ.*, 188 F.Supp. 401, 405 (N.D. GA. 1959) (discussion of plan); see 5 Race Rel. L.R. 56, 57 (1959) (for copy of the plan).
21. *Id.*
22. *Calhoun v. Bd. of Educ., 309 F.2d 638 (5th Cir. 1959).*

BEGINNING IN 1961, ten Black students in grades 11 and 12 were admitted to four white high schools under the Pupil Placement Plan, while 120 other Black applicants were denied admissions. The following year, grade ten was desegregated, with 44 Black students being permitted to transfer to seven additional white high schools. Two-hundred-two Black students, who also requested transfers to white high schools, were denied admissions. By 1963, only 54 Black students were enrolled in eleven white high schools. During the 1963-64 school year, the Fifth Circuit, on rehearing, prohibited the use of personality tests, intelligence tests, or other devices that were only being employed on Black students.[23]

The Board of Education adopted a freedom-of-choice plan on April 18, 1964. This plan would desegregate grade 8 on the basis of availability of space, the requested school, and the proximity to the residence of the student. It was adopted by the Board of Education only after the plaintiff's challenge to the Pupil Placement Plan had been argued before the United States Supreme Court.[24] This modified Pupil Placement Plan was approved by the district court in April, 1965.[25] Even with this Plan, the Board of Education continued to use criteria which allowed it to deny the transfer requests of many Black students seeking admissions to white schools. In one instance, 79 Black students were denied admissions to formerly all white Murphy High School, though it was admitted that Murphy had space available and was closer to the students' residences than the Black school to which they were assigned. The district court approved the school officials' explanation that space was not available and that the Black school was more suited to the remedial help the students needed.[26]

Aided by Supreme Court decisions which ordered the speedup of desegregation in Atlanta, the district court increased the pace of desegregation to two grades per year: kindergarten and grade one were added in 1965, and two additional grades each year thereafter until grades six and seven were reached in 1968.[27] However, desegregation of the schools was slow in coming. In 1963, the school year began with two high schools and six elementary schools 10 percent or more desegregated schools: seven high schools and 21 elementary schools opened 10 percent or more desegregated. But by 1968, there was a significant increase in the number of desegregated schools: seven high and twenty-one elementary schools opened 10 percent or more desegregated. In 1969, there was little change over the previous year: eight high schools and 22 elementary schools were 10 percent or more desegregated. By September 1970, only 13 high schools and 32 elementary schools were 10 percent or more desegregated.

SEGREGATION IN THE schools of Atlanta was greater under freedom-of-choice than it would have been under a strict system of geographic zoning. In 1965, the nearest high school for many elementary students attending Bolton (100 percent white), Chattahoochee (100 percent white) and Mt. Vernon (92 percent white), was Archer High School (100 percent Black). Under a plan of strict geographic assignment, these three elementary schools normally would have fed into Archer. Under the freedom-of-choice system, students graduating from these elementary schools attended O'Keefe High School (97 percent white).[28]

School officials influenced the exercise of choice to intensify and perpetuate segregation. The Superintendent of Schools sent a letter to the parents of children in the Kirkwood School (100 percent white) which was located in an area becoming all Black, notifying them that Blacks were being allowed to transfer to Kirkwood. The school officials

23. *Calhoun v. Latimer*, 321 F. 2d 316 (5th Cir. 1963).
24. *Calhoun v. Latimer*, 377 U.S. 263 (1964).
25. *Calhoun v. Latimer*, 10 Race Rel. L.R. 621 (N.D. Ga. 1965).
26. *Id.* at 624.
27. *Calhoun v. Latimer*, 10 Race. Rel. L.R. 621 (1965).
28. U.S. Commission on Civil Rights, 63-64, "Racial Isolation in the Public Schools", (1967).

allowed white students to transfer and allowed the faculty to choose whether to transfer or remain. The principal and several staff members chose to remain at Kirkwood School, while the student body, which had been all white in 1964, was all Black in 1965.[29]

Discretionary decisions by school officials such as site selection, school construction, transfers, and the determination of where to place students in the event of overcrowding also contributed to segregation in Atlanta. Between 1954 and 1967, classroom space was, for the most part, added in areas of high Black concentration, and schools were constructed for whites in areas where few Blacks lived. Four high schools which opened in 1960 were located in all white areas close to the city limits.[30]

In 1966, Atlanta's proposed building program emphasized construction in racially homogeneous residential areas. Three new elementary, two high schools, and additions to an elementary and two high schools were planned for Black residential areas. Plans were also made to purchase additional land for the expansion of one of the white high schools on the fringe of the city.[31]

Of the elementary schools newly built or enlarged between 1950 and 1965, 25 percent of the schools opened 90-100 percent white and were still 90-100 percent white in 1965. Thirty-four percent opened 90-100 percent Black and were 90-100 percent Black in 1965.[32]

As early as 1962, the plaintiffs petitioned the district court to desegregate the teaching staffs in the school system, but the court refused to do so. However, the Board of Education, without a court order, transferred approximately 500 teachers to schools of the opposite race. And in early 1970, the Court of Appeals ordered that the teaching staffs be further integrated;[33] approximately 1,600 teachers, Black and white, were transferred to guarantee thoroughly integrated teaching staffs. The school system's ratio of Black to white teachers was 57 percent to 43 percent, and an attempt was made to have each school's teaching staff reflect this ratio. The initial transfer was accomplished with reasonable success; unfortunately, many white teachers resigned at the end of the 1970 school year.

BEING DISSATISFIED WITH the breadth of student desegregation up to 1970, the plaintiffs' attorneys submitted a desegregation plan* developed by Mr. Michael Stolee, a school desegregation expert at the University of Miami in Florida.[34] Mr. Stolee's plan called for the school system to have a majority of Black students in each of the 153 schools. The Black student population would range from 55 percent to 87 percent in each school.[35] This

29. *Id.*
30. *Id.*
31. *Id.*
32. *Id.*
33. *Calhoun v. Cook*, 430 F. 2d 1174 (5th Cir. 1970).

Ed. Note — Plaintiff's plan for pupil assignment would eliminate all one race schools by various techniques such as rezoning, contiguous and noncontiguous pairing of schools, and busing.

The district court determined that the Stolee plan was "workable" and "feasible" in the sense that it apparently is a sound approach to the problem of redistributing both Black and white pupils on a[n] equal basis so as to create a more nearly perfect racial mix." District Court hearing, Civil Action No. 72-2453, R. 675.

The plan was rejected as unreasonable, however, becuase the court found that there was no constitutional violation and that implementation of the plan would increase white flight leaving the school system all Black since segregation in Atlanta Public Schools had been *de facto* since at least 1967 and court decrees and school board action had removed all vestiges of the dual school mandated by law. *Calhoun v. Cook* 322 F. Supp. 804 (N.D. Ga. 1972) (plaintiffs appealed).

The Court of Appeals found that 106 out of 153 schools began the 1972-73 school year with student bodies totally or virtually segregated; that only 47 schools enrolled more than 10% Blacks (with one school in this category only because Cuban students were counted as an ethnic minority); 81 of the 106 segregated schools had been continuously operated as more than 90% Black or more than 90% white schools; that the majority of these schools had been operated virtually in a segregated manner since Georgia law compelled separate schools for Blacks and whites; five of the schools were switched from all one race schools to schools enrolling only students of the other race through Board of Education orders between 1959 and 1964.

The Court of Appeals vacated the findings and conclusions of the district court determining that the Atlanta school system as now operated is nondiscriminatory and unitary, and remanded the cases to the district court to prepare a plan that was in accord with the remedy provisions of *Cisneros v. Corpus Christi Ind. Sch. District*, 467 F.2d 142 (5th Cir. 1972), and Judge Bell's opinion in *U.S. v. Texas Educational Agency*, 467 F.2d 848 (5th Cir. 1972). The factor of white flight was not to be considered in the plan. The court directed that at a minimum the plan must utilize pairing or grouping of contiguous segregated schools. Transportation, if needed to effectuate the plan, must be furnished by the school board. The Court also directed that any failure to eliminate any one race schools must be justified under the principles declared in *Swann. Calhoun v. Cook*, 487 F. 2d 580 (5th Cir. 1973)

34. *Calhoun v. Cook*, 451 F.2d 583 (5th Cir. 1971).
35. Brief for Plaintiff-Appellants, 31-33, *Calhoun v. Cook*, 469 F 2d. 1067 (5th Cir. 1973).

plan would be facilitated by busing 30,000 students which would cost the public school system millions of dollars to purchase buses. The Board of Education rejected this plan because it was costly. Also, it felt integration would not work in Atlanta unless the 'white flight' option was closed off: because whites would simply move into the five adjacent counties (which are 94-97 percent white) as they had been doing since 1952. Even though a few members of the Board of Education thought metropolitan desegregation was feasible and desirable, the Board of Education would not take the leadership role in developing a plan for metropolitan-wide desegregation that would include the five counties and four city school systems surrounding Atlanta.**

The Board of Education finally agreed to call together a committee composed of members of the Board and members of the Atlanta NAACP to develop a desegregation plan to be presented to the court and to the Legal Defense Fund attorneys (who had been attorneys-of-record for the plaintiffs since 1958).

An attorney for the local NAACP secured powers-of-attorney from the named members of the plaintiff class, while attorneys for the Board presented the negotiated plan to the Fifth Circuit Court of Appeals. The plan was then challenged as unconstitutional by the attorneys for the Legal Defense Fund, because it did not effectively integrate the school system. The plan was rejected by the Court of Appeals. On remand, the Fifth Circuit ordered the district court to determine the status of the representation of the plaintiff class and to require the Board to develop a desegregation plan that further integrated Atlanta's schools.

At the district court hearing, the local NAACP counsel joined Legal Defense Fund attorneys as counsel-of-record for plaintiffs. The district court ordered the Biracial Committee to convene and preside over meetings to be held by representatives of the Board, the local NAACP, and attorneys for both parties. During the negotiations which followed, contact was maintained between the local NAACP and the national NAACP in New York. A representative of the Legal Defense Fund participated in several of the negotiating sessions. From these meetings came what is now called the Atlanta Compromise Plan.

The District Court approved the plan in spite of the objections by the lawyers for the plaintiffs in *Armour v. Nix*;[36] the Legal Defense Fund attorneys, on behalf of the members of the plaintiff class; CORE,*** on behalf of poor Blacks; and, the national office of the NAACP.[37] The Fifth Circuit Court of Appeals rejected the Plan as a compromise plan, but ordered it into effect as an interim plan for the 1973-74 school year.[38] It also directed the district court to conduct hearings on petitions for intervention by members of the plaintiff class and to enter a final order on the merits of a plan for student desegregation before May 1, 1974.

THE COMPROMISE PLAN HAS three parts: 1) desegregation of the teaching staff, based upon the 1970 order which requires each Atlanta school to have on the average a Black-white faculty ratio of 57-43; 2) complete integration of administrative staff from the superintendent down to the lowest paid administrators; 3) further desegregation of the student body or at least stabilization of

---

****Ed. Note** — The Metro Plan — Black plaintiffs have filed suit, *Armour v. Nix* (No. 16708, N.D. Ga.), requesting that all school districts in the five counties surrounding Atlanta be consolidated for purposes of metropolitan wide desegregation. This suit has not gone to trial. The case was stayed pending *Bradley v. Richmond*, and again stayed pending the decision in *Milliken v. Bradley*. The plan, which would leave each local district school intact, calls for each local unit to send representatives to a metropolitan wide board.

36. Civil Action 16708, (N.D. Ga. pending).

***Ed. Note** — CORE's basic position involves the concept of community control and the creation of school districts based on a community of educational interests. *Calhoun v. Cook*, CORE Appeal Brief 487 F. 2d 680 (5th Cir. 1973) at 13. The CORE plan is an "open school plan" which does not deny admittance on the basis of race, or on the other hand, provide integration by a mere dispersal of Blacks and whites, but centers itself along community lines without the control in the hands of the 'white monopoly' which existed prior to *Brown*. *Id* at 14.

37. *Calhoun v. Cook*, 362 F. Supp. 1249 (N.D. Ga. 1973).
38. *Calhoun v. Cook*, 487 F. 2d 680 (5th Cir. 1973).
39. On May 1, 1974, the district court gave approval to the Compromise Plan. Civil Action No. F 2-2453.

the current Black-white student ratio. At the present time the administrative staff is 50 percent Black and 50 percent white.

Neither the ACLU, the Legal Defense Fund, nor the national NAACP objects to the teacher and administrative aspects of the Compromise Plan. The quarrel of these organizations is with the small degree of student integration attempted under the Plan. The complaint is justified. The question is: How can the Atlanta School System, 82 percent Black and 18 percent white, be made a thoroughly integrated student body? The Compromise Plan made no effort to thoroughly integrate Black and white students. The hope of many Black leaders now is to maintain the integration already achieved and if possible, reverse the trend of 'white flight.' The student phase of the Plan should be considered with this in mind. This phase includes two parts: (1) a Majority-to-Minority Pupil Transfer Plan and (2) a Student Assignment Plan. Under the Majority-to-Minority Transfer Plan, any student who is in a school where his race is in the majority may transfer to a school where his race is in the minority. Under the court ordered Compromise Plan, the Majority-to-Minority Transfer Plan was to be a greatly expanded version of the program established in 1970. The Board of Education pays the transportation costs of students who elect the majority-to-minority transfer option.

Two thousand-eight-hundred students are taking advantage of this option. The Majority-to-Minority Transfer Plan has one major weakness: it is voluntary. A moderate degree of desegregation in white schools has resulted from this phase of the Plan; however this device has not been successful in achieving desegregation in Black schools. The vast majority of the 2,800 students transferring are Black students going to white schools. White parents seldom voluntarily send their children to Black schools.

THE STUDENT ASSIGNMENT PLAN is more complicated. It requires that there be no all-white schools. Each white school must be at least 30 percent Black. Students are assigned by school officials to specific schools in order to maintain this balance.

The Student Assignment Plan requires busing for which the school system pays. Since the Atlanta School System owned no buses, reliance had to be placed on public transportation and the rental of approximately 40 buses to assist in the implementation of this plan.

Before the Compromise Plan was implemented, there were 32 white schools with less than 30 percent Black enrollment. Five of these 32 schools were exempted from the 30 percent requirement because they had maintained a constant Black enrollment at an adequate level over a period of years. These schools have Black enrollments ranging from 17.7 percent to 29.5 percent. Six of the 32 schools were closed because their overall enrollments were too small.

We have never argued that the Atlanta Compromise Plan is the best plan, nor have we encouraged any other school system to adopt it. This plan is the most viable plan for Atlanta — a city school system that is 82 percent Black and 18 percent white and is continuing to lose whites each year to five counties that are more than 90 percent white.

THE PHENOMENA OF white flight and of the consequent resegregation of the schools can in no way be confined to Atlanta. It is a nationwide problem which threatens the very heart of *Brown* and any attempt to create the integrated educational setting for all children that *Brown* envisioned.

One of the most clearly defined instances of white flight to avoid integration is the nation's capitol, Washington, D.C., a school system that is more than 96 percent Black. No effective means short of metropolitan desegregation can create the integrated school system for which *Brown* opened the door once the white exodus from Washington was completed.

Other examples of the problem faced in Atlanta can be seen in Baltimore, Maryland; Cleveland, Ohio; and Chicago, Illinois.[40] In

40. This author is indebted to school officials in Baltimore, Chicago, Cleveland, Jacksonville and Memphis for their assistance in providing information on their school systems.

Baltimore, 118 of the 206 schools in the city have an enrollment 90 percent or more Black. In addition, 34 of the remaining schools are 90 percent white. If white behavior patterns towards Blacks are in any way universal, Baltimore appears to be in the same position today Atlanta was in a few years ago. If this is in fact the case, a prediction can be made that once plans for full school system desegregation are initiated, white flight will intensify until there are few whites left in the city. The Baltimore school system, without metropolitan desegregation as an alternative, would find itself unable to provide Black children with the equal educational opportunity which *Brown* announced an integrated education would provide. There would be no whites left so that integration could take place.

A similar configuration of circumstances is taking place in Chicago. The Chicago school system has 669 attendance centers (schools and branches). There are 313 centers with an enrollment 90 percent or more Black, and 116 that are 90 percent white. Only 209 attendance centers, 30 percent, are considered to be completely integrated. If the same white behavior patterns of fear and flight are present in Chicago as were present in Atlanta, the majority of the 314,000 Black children in that school system will probably never receive the benefits which *Brown* tried to provide for them.

THE PROBLEMS DISCUSSED here go to the heart of *Brown*. The potential for implementing *Brown* in large American cities is rapidly evaporating. Several forces have coalesced to create this evaporation and to ensure that *Brown* will never be fully implemented.

As discussed above, chief among these factors is the phenomenon of white flight. When white flight is combined with a judicial process slow to act, and a school board dragging its feet, the end result is the denial to Black children of the opportunities which *Brown* intended to afford them.

Resort to the courts was not able either to prevent white flight or to end immediately the maneuvering of the school board in Atlanta. The courts do not have the means to halt immediately white flight. Constitutional barriers, along with the problem of physically preventing a given family from moving, stand in the way. The court response to this phenomenon that has appeared elsewhere is metropolitan desegregation, which in effect tells people that they can leave the city but that their departure will not isolate their children from an integrated education.

As the hisotry of Atlanta shows, the legal system cannot anticipate and immediately remove every obstacle that a school board throws up in the path to integration of the schools. The response by whites to the failure of the courts to act quickly has been to build suburbs and encourage white flight.

Unless and until some way is found to make "all deliberate speed" meaningful, and white flight is prevented, Black children will watch white school boards drag their feet in integration until all white people who are able to do so leave the city. If *Brown* is to be viable in the next decade, ways must be found to force white America to face the problem of integration and not to run away and hope Black people will somehow become invisible.

Yet until a mechanism can be found to stop white flight and to ensure the implementation of "all deliberate speed," we should not sit idly by and bemoan what is occurring. Instead, the effort to integrate the public schools completely must continue. The fear some will raise by arguing that further integration will increase white flight should not keep us from doing what needs to be done to integrate the schools.

In addition, housing patterns, parental attitudes, cultural values and economic factors, all of which contribute to continuing segregation, must be clearly identified. Resolution of the problems created by these factors will ensure that the *Brown* rationale has a reasonable opportunity to benefit Black children.

Most importantly, Black people must not resign themselves to the pessimistic view that a non-integrated school cannot provide Black

children with an excellent educational setting. Instead, Black people, while working to implement *Brown*, should recognize that integration alone does not provide a quality education, and that much of the substance of quality education can be provided to Black children in the interim.

Hopefully, the above discussion can be of assistance to Black parents and civil rights lawyers in other cities who are concerned with what may happen once full desegregation of the schools is begun.