Racially Integrated Schools and the Future of Public Education

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IN AN open society there is necessity to discuss all kinds of items, even those which have emotionally inflammatory overtones. How else can such items be reduced to the rational? This paper is an analysis of the present rejection of integrated public education by huge portions of the American populace.

From our cultural background has come the current social situation which is described as de facto segregation. If the predominant cultural background can be described as the mother of de facto racial segregation, then *Brown v. (Topeka) Board of Education* (1954) can be identified as the father. It is the position of this paper that efforts to overcome de facto segregation, in which public schools become the instrument for overcoming, produce an uncertain and perhaps dismal future for public education. Whether or not de facto segregation is a result of skin color or of economic condition is not especially material to the analysis of public education caught in the battle between those who wish to overcome vs. those who wish to maintain segregation in public education.

Our political system presumes that statutes enacted by elected representatives are expressions of the sentiment of the majority. Practically, the enforcement of legislative statutes and court pronouncements—case law—produces the same results. When case law of a revolutionary character is pronounced and social settings are radically altered, citizen resistance can be expected. Despite Court findings from the immediately preceding years which logically pointed toward a decision such as *Brown* (1954), the pronouncement was revolutionary; it was a reversal from *Plessy v. Ferguson* (1896). If integrated education had been desired, it would have been statutorily enacted. It was not. The pronouncement for desegregation, made far from local settings, has produced a truculent, evasive citizenry.

Federal Enforcement

Examination of a social-legal principle is relevant. The principle is as follows: To the extent that local educational units are not in compliance with federal legislation (or court decisions), an overriding federal enforcement unit should be active. This principle provided the base from which units of the federal government have become locally active in school desegregation. The *Brown* decision had a very shallow base in the culture. Many local schools did not implement the decision, or did so slowly.

Now, in 1970, with a long backlog of consistent decisions and legislation, the implementing arm of the U.S. Department of Health, Education, and Welfare (through the

Civil Rights Act) is very active in demanding integrated student populations in some Southern states. In such instances, the stated social-legal principle is seen as accepted by the federal government, and used.

However, in a statement of December 29, 1969, made while signing the appropriations bill for the U.S. Departments of State, Justice, and Commerce, President Nixon chose another position. This bill contained an anti-riot provision of a much more stringent nature than that previously passed in the Higher Education Amendments of 1968. The 1969 bill contains a section requiring institutions periodically to certify their compliance. The President emphasized that he did not interpret this legislation to mean that the federal government would assume "the role of enforcer or overseer of college rules and regulations." In the case of campus riots at whatever local setting (which might or might not have racial overtones), the stated principle on federal enforcement will obviously be used selectively.

Many people might agree that there is more tolerance in the American cultural background for racial segregation (de facto or not) than for riotous violence among post-adolescents. The point is that there is an extremely strong culturally based opposition to a now legal premise for the operation of public schools, and this can be demonstrated through comparison of the two instances in which forces adjudged necessary for implementation are or are not supplied from a federal source.

The circumstance in which public schools are being used as an instrument for racial integration has another cultural background characteristic which is noteworthy. It is that schools have been locally controlled. Local control of schools—and local support—was a characteristic of the earliest Massachusetts schools. The local support aspect has receded, but citizens have never ceased to speak of the desirability of local control. Without any attempt to determine true educational value, local control is cited in this paper as another accepted characteristic of public schools. This has been so emphatically stated, and so frequently stated, that it has almost obscured the fact that states are the governmental units legally responsible for public education.

With the *Brown* decision, the Court put the federal government in opposition to culturally based racial segregation. As a consequence of subsequent decisions and enactments, implementation of the decision has put the federal government in opposition to the culturally based, time honored concept of local control of public schools.

Perhaps it was the high ethical plane, much admired, from which *Brown* came, or perhaps it was something else which disallowed the production of any really significant prediction of what was to come. In 1954 the racial balance of children in the Washington, D.C., public schools was nearly even, 50 percent white and 50 percent black. Fifteen years later the racial compositibn was over 90 percent black and less than 10 percent white students. Similar data from other cities could, but need not be cited. What happened to the *Brown* decision calling for school desegregation? The happening came slowly, inexorably, and in retrospect it was predictable when viewed from the base of cultural background. It is called de facto segregation. It is not a new social phenomenon, but its current magnitude, intensity, and publicity may be new.

De facto segregation describes that circumstance in which persons seek persons with similarity to themselves as neighbors. This similarity may be economic, religious, racial, or other. Stated in reverse, it is that circumstance in which persons remove themselves from associating with dissimilar persons.

As an economic commodity, de facto segregation is available only to those persons who can afford it, and who are willing to pay for it. In the current American social scene, and stated crassly, it is used to describe the situation in which white Americans (who can afford it) move to areas away from black Americans. For public schools with local control and neighborhood loyalties, this means some schools will have all black students, some will be mixed, and some will have all white students.

Local Control

This dilemma should point up the fact that the culturally based concept of local control of schools is being forced to give ground as the concept of federal enforcement is ascending. The real twister, which complicates understanding even further, is that this loss of local control is occurring because the schools attempted to perpetuate another culturally based concept: racial segregation. Generally, one well accepted school goal is perpetuation of the culture.

Society's answer to this puzzle, at least in larger cities, has been de facto segregation. Yet, it seems probable that the federal government perceives as a problem what most white Americans perceive as solution. The federal enforcement units will soon be in pursuit of some such power base as court orders for the bussing of school children in attempts to secure racial "balance." This might be described as a federal enforcement effort against de facto segregation.

Yet, Yankee ingenuity has had worldly acclaim, and other alternatives to racial integration of students will inevitably be developed. The reason is obvious; segregation is desired. For those who can afford to do so the alternatives will be commodities to be purchased. To some extent, the prototype is in existence, and it is the private school of selective admission, whether it be church or non-church affiliated.

If this nonpublic school is to be the primary device by which integration of students in public schools can be circumvented, these schools must be perpetuated and extended. Yet, as a group they are in trouble, financially. Of the group, church related schools enroll 90 percent of the nonpublic school students. Should they be recipients of public tax funds, for operation? In *Pierce v. Society of Sisters* (1923) the Court upheld the right of parents to select schools other than public schools to which they might send their children, and this included church related schools meeting certain minimum standards.

Periodically, courts have held in favor of some tax support for nonpublic schools, but this support has been restricted to such

services as transportation, lunches, and textbooks. However, with the enactment of the Pennsylvania Education Act of 1968, public tax funds have been made available in one state for operational costs of nonpublic schools, including those which are church related. In an initial test, the statute has been upheld by a panel of three federal judges (a 2-1 decision) in which the majority determined the purpose to be for the "welfare of the people." If this statute stands further test, it will immediately become a pattern for many—most—all other states, and it can be predicted with confidence that the nonpublic schools will greatly increase in number.

The Supreme Court faces a dilemma. Should it refute the general welfare concept, it may well set the stage for suits which will produce decisions that remove the presently legal services from church related nonpublic schools. Of this school group, 90 percent are related to the Catholic Church, the largest, most politically potent church group in the nation. Such withdrawal of support might mean the collapse of this church's schools, and would produce a very large, unhappy group.

If such a decision sounds ominous, there are other possibilities as outcomes of the certainly approaching contest on constitutionality of the Pennsylvania law. Consider the outcome of a finding by the Court that the law is sound. Other states would follow suit, all wishing to promote the "welfare of the people." Private schools of selective admission and (token) tuition would prosper. Patrons who could afford to do so, and who could meet other admission requirements, would register their children in tax assisted private schools. The others would continue in public schools, with open admission and no entrance fee.

Sadly, the number of alternative solutions to the approaching contest are basically only the two enumerated. If the Court decides to allow support to the nonpublic schools at the same time that federal enforcement units are busy implementing its *Brown* (1954) decision, it will have legitimized a structure in which financial tax subsidies will be provided to many persons who find private education a happy escape from integrated public schools. The pattern would not be new. It is present, now, in de facto segregation. The facts are bitter. They do not speak well for the humaneness of America. They point toward a dismal future for public education in areas where there is a large concentration of black Americans.

New school organization structures are called for, in which both public and nonpublic units are incorporated. The rationale, and details, for such structures merit immediate attention. They should be designed by educators, not enunciated by the court. They should be based on culturally accepted characteristics which, after compromise, can be articulated and fused, with the probability of acceptance by the general population. Such plans must be developed if the assets of nonpublic schools are to be maintained and realistically used in aiding the general population's move toward racial integration. There is need for professionals to design new school attendance concepts—now. Such efforts merit strong support from the U.S. Office of Education.

After organizational development, implementing statutes should be enacted. These statutes should be realistic translations of citizen expectations. They must honor the spirit of integrated public schools, which is the constitutionally guaranteed minimum of equal opportunity. They must not get bogged down in absolute ratio of black and white. Then, it may be possible to say that our laws are serving us well.

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