

December 5, 1993

An Assessment of the Consent Order of November 28, 1993

The first part of this assessment deals with the history of busing for racial balance in Delaware. Part II comments on the state of the law with respect to issues that are currently before the Court. Part III assesses the particulars of the Consent Order of November 28, 1993, and Part IV offers some conclusions.

I

History

The Consent Order begins with a brief recapitulation of the history of Delaware desegregation case. This makes sense, since Evans v. Buchanan eventually led to a metropolitan busing plan that then Associate Justice William H. Rehnquist has described as one "more Draconian than any ever approved by this [Supreme] Court." As Rehnquist noted, eleven independent, locally elected school boards in northern New Castle County were dissolved, and "every single student [was] reassigned away from his or her local school for a period of no less than three years and for as long as nine years. The plan [was] designed to accomplish a racial balance in each and every school, in every grade, in all of the former eleven districts, mirroring the racial balance of the total area involved."

Since the court-ordered busing plan was so wide-ranging, many citizens assume that the State of Delaware must have done something terribly wrong. Influential voices in the State, especially at the Wilmington News Journal, have reinforced this impression. On December 1, 1993, for example, an editorial declared that in Delaware "the segregation was so egregious that the remedy was to reach beyond the city -- across district lines into the suburbs." The editor of the editorial page, John Taylor, has written that the courts "quite correctly" decided that the schools of northern New Castle County were "unconstitutionally racially segregated." Columnists Norm Lockman and Ralph Moyed have chimed in with similar comments.

What did the State do that was "so egregious"? After the landmark Brown case of 1954, the smaller districts in New Castle County desegregated their schools immediately, and Wilmington proceeded in stages, beginning with grammar schools in 1954 and proceeding to junior high schools in 1955 and senior high schools in 1956. By 1956 students throughout New Castle County were assigned, irrespective of race, to neighborhood schools.