

Since the federal courts justified busing for racial balance as a remedy for the segregative actions of government officials, it is important to understand just what those officials did. Government officials admittedly built roads that enabled whites to live apart from blacks even as they commuted to jobs in increasingly-black Wilmington. They also built a disproportionate number of subsidized public housing units in Wilmington. But the same could be said of officials in many other areas that were never required to have metropolitan busing.

The problem in Delaware, the plaintiffs in the busing lawsuit maintained, was that the State Legislature committed one additional "flagrant act" which stood out as "the ugly pinnacle of State action which perpetuated racial segregation in the public schools." In the Educational Advancement Act of 1968 the legislature gave the state Board of Education for one year the authority to reorganize and consolidate school districts without holding a referendum in each district, a practice that had been required by a longstanding Delaware law. The legislation also provided that districts consolidated during that year should have enrollments of between 1,900 and 12,000 students. As a result, the number of districts was reduced from 49 to 26. Three of the newly consolidated districts were in northern Delaware, but most of the consolidation occurred downstate.

Because the Wilmington public schools already enrolled more than 12,000 pupils, they were prevented from joining with other districts during the year of grace -- as were two large suburban districts, Newark and Alfred I. Du Pont. The pro-busing plaintiffs complained that the Educational Advancement Act "was designed to perpetuate and has in fact perpetuated [a] racially discriminatory dual school system." It had "as its natural, probable and foreseeable consequence, the drawing of school district lines so as to circumscribe the overwhelmingly black Wilmington area into an identifiable black school district." It was "purposely taken to lock in the . . . 'threat' represented by black children and their parents." It "re-established the state-mandated pattern of segregated schools [that had existed prior to Brown] in New Castle County."

The evidence for this interpretation is far from incontrovertible. The sponsors of the Educational Advancement Act had maintained that it was intended to facilitate the consolidation of small, rural districts that had too few students to afford expensive scientific equipment. "We took it for granted that Delaware's schools were integrated [by 1968], and we were trying only to improve the quality of education . . . in the poorer, smaller districts, most of them rural," recalled Clarice Heckert, the chairman of the House Education Committee. Hearings on the Educational Advancement Act were held throughout Delaware, and "at no time was integration or racial composition discussed or any figures having to do with race called to our attention. . . . It was taken for granted that integration of the schools had been completed."