

And in *Kemp v. Beasley*, 352 F. 2d 14, 21 (C.A. 8th, 1965), a case concerning the desegregation of the El Dorado, Arkansas schools, the school board argued in support of its plan that "as long as the Negro is not required to attend the Negro school, his constitutional rights have not been violated." The Court stated that it could not "accept the position advanced by the Board," pointing out that it was "logically inconsistent with *Brown* and subsequent decisional law on this subject."

A similar idea is stated in *Brown v. County School Board of Frederick County, Virginia*, 245 F. Supp. 549, 560 (W.D. Va., 1965)

The ideal to which a freedom of choice plan must ultimately aspire, as well as any other desegregation plan, is that school boards will operate "schools," not "Negro schools" or "white schools."

The recent Federal decisions also show that the courts are looking with increasing disfavor on delay in school desegregation. In *Bradley v. School Board of City of Richmond*, 382 U.S. 103, 105 (1965) the Supreme Court declared that:

... more than a decade has passed since we directed desegregation of public school facilities "with all deliberate speed." Delays in desegregation of school systems are no longer tolerable. (Citation omitted)

And in an earlier opinion (June 22, 1965) in the *Jackson, Mississippi* case (348 F. 2d 729 (C.A. 5th, 1965)), the Fifth Circuit stated:

The time has come for footdragging public school boards to move with celerity toward desegregation. Since May 17, 1954, public school boards throughout the country have known that they must desegregate their schools. And as the law moved with rising tempo to meet changing conditions, school boards might have foreseen that further delays would pile up rather than spread their nettlesome problems. This Court has urged school authorities to grasp the nettle now. We have put them on notice that, "the rule has become: the later the start, the shorter the time allowed for transition. (Footnotes omitted) (348 F. 2d at page 730)

In the second *Brown* decision in 1955, the Supreme Court made it clear that Federal district courts may take local problems and conditions into account when framing school desegregation decrees, except that opposition to desegregation may not be a ground for delay. The Court declared:

But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them. (349 U.S. at page 300)

The principle has been reaffirmed by the Federal courts, most recently in the 1965 *El Dorado, Arkansas* and *Jackson, Mississippi* cases. In the *El Dorado* case the court stated:

The first basic issue to be determined is whether or not the plan is moving forward with appropriate speed. We feel it is not. It is our opinion that the Board has not affirmatively performed its duty to provide a system of non-segregated schools as required by the Equal Protection Clause of the Fourteenth Amendment with "good faith compliance at the earliest practicable date" and with "all deliberate speed" as required by the second *Brown* decision.

The Supreme Court in refusing to countenance delay in the Little Rock, Arkansas school desegregation matter because of tension, bedlam, chaos, and turmoil in the schools, in *Cooper v. Aaron* over seven years ago used the following significant language:

* * * * * Of course, in many locations obedience to the duty of desegregation would require immediate general admission of Negro children, otherwise qualified as students for their appropriate classes, at particular schools. On the other hand, a District Court, after analysis of the relevant factors (which of course, excludes hostility to racial desegregation) might conclude that justification existed for not requiring the present nonsegregated admission of all qualified Negro children. In such circumstances, however, the courts should scrutinize the program of the school authorities to make sure that they had developed arrangements pointed toward the earliest practicable completion of desegregation, and had taken appropriate steps to put their program into effective operation. It was made plain that delay of any guise in order to deny the constitutional rights of Negro children could not be countenanced and that only a prompt start, diligently and earnestly pursued, to eliminate racial segregation from the public schools