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Nineteenth Century De Jure School Segregation in Connecticut

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NINETEENTH CENTURY DE JURE SCHOOL SEGREGATION IN CONNECTICUT

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INTRODUCTION

On July 1, 1969, racial imbalance in Connecticut's public schools was ostensibly outlawed.[1] Segregation in the state's public school system was not a problem that had arisen overnight.[2]

Northern style segregation, of the type which has come to infect Connecticut's school districts, is often inaccurately ascribed to fortuitous population drifts or adventitious housing patterns. The real causes, however, are more complex and invariably involve both subtle and unsubtle forms of racial discrimination.[3] Often, if not always, the roots of racial segregation in the public schools go deep into the past. In Connecticut those roots go well back into the previous century.

From 1680, when the government of the Colony of Connecticut paused to note that there were so few blacks in the Colony that only two black christenings had been

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[1] 1969 Public Act 773; CONN. GEN. STAT. REV. §§ 10-226a - 10-226e (1969). Regulations adopted by the State Board of Education to implement the new law were promptly voided by the Interim Regulation Review Committee of the General Assembly, and the law at present stands unimplemented and unenforced.

[2] *See* Twachtman, Jr., *De Facto Segregation—The Northern Problem,* 40 CONN. B. J. 493 (1966).

[3] *See* RACIAL ISOLATION IN THE PUBLIC SCHOOLS, a Report of the United States Commission on Civil Rights (1967), at page 17, where the Commission acknowledges that "(t)he causes of racial isolation in the schools are complex. It has its roots in racial discrimination that has been sanctioned and even encouraged by government at all levels. It is perpetuated by the effects of past segregation and racial isolation."

recorded,[4] to the 1800's, scant attention seems to have been paid to Negro education.[5]

THE ABORTIVE NEW HAVEN NEGRO COLLEGE

In 1831, at a time when liberal thinkers and churchmen were advocating the recolonization of Africa as a solution to the race problem,[6] a convention of free Negroes in Philadelphia began to discuss education as a means of achieving equality. Because they wanted to establish a college with a mechanical department, and because Connecticut, and particularly New Haven, offered both a scholarly atmosphere and opportunities for mechanical training,

> New Haven seemed to these negroes an ideal community for this enterprise. The inhabitants of that city thought otherwise, and at the mayor's call met and resolved "that we will resist the establishment of the proposed college by every lawful means," registering themselves as opposed to meddling in the affairs of other states through encouraging emancipation or negro education. It is possible that the scheme would never have materialized in any case, but the action taken by the citizens of New Haven was sufficient to discourage it.[7]

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[4] Vol. III, THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT, 293, 298 (1678-89).

[5] That is *not* to say that other aspects of Negro life in Connecticut did not receive abundant attention during that period. The infamous black code, begun in 1690, subjected Connecticut's black population to less than second-class citizenship for over a century. *See* Vol. IV THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT (1690 — Negroes prohibited from traveling about without a pass); Vol. IV *id.* (1703 — Innkeepers prohibited from selling strong drink to Negroes and from allowing Negroes to sit in taverns); Vol. VI *id.* (1723 — Curfew of 9:00 p.m. imposed on Negro servants); and Vol. VII *id.* (1730 — Negro slaves prohibited from using defamatory speech). Penalties for violations of the black code involved whipping, and most of the code was not repealed until 1797. Vol. IX RECORDS OF THE STATE OF CONNECTICUT, 92 n. 17 (1797-99).

[6] Weld, *Slavery in Connecticut,* 19 (1936) (Committee on Historical Publications, Tercentenary Commission of the State of Connecticut; Yale University Press).

[7] *Id.* at 19, 20.

THE CRANDALL CASE

In 1833, a young Quaker teacher named Prudence Crandall opened, in the town of Canterbury, a school for Negro girls ("little misses of color" as she referred to them). In response to this "threat," the General Assembly of the State of Connecticut hastily enacted Chapter IX of the Public Acts of 1833, which prohibited the setting up of unlicensed schools for the instruction of "colored" persons who were not inhabitants of Connecticut. The preamble to the Act bluntly set forth the undisguised fear of the state legislature that the

> (e)stablish[ment of] literary institutions in this State for the instruction of colored persons belonging to other states and countries would tend to the great increase of the colored population of the state, and thereby to the injury of the people. . . .[8]

The case understandably had become a *cause celebre* by the time Miss Crandall's conviction has been appealed to the Supreme Court of Errors. The trial judge had charged the jury that Negroes, be they slave or free, were *not* citizens:

> To my mind, it would be a perversion of terms, and the well-known rule of construction, to say, that slaves, free blacks or Indians, were citizens, within the meaning of that term, as used in the constitution. God forbid that I should add to the degradation of this race of men; but I am bound, by my duty, to say, they are not citizens.[9]

The appellant's attorneys, seizing upon what appeared to be such an obvious misstatement of the law, argued that free blacks were, indeed, citizens, and that the law in question violated section 2 of Article Four of the United States Constitution which guarantees to the *citizens* of each state all privileges and immunities of the citizens in the several states.[10] Counsel for the state joined issue vehemently on

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[8] CONN. PUBLIC ACTS 1822-1835, at 425, 426.

[9] Crandall v. Connecticut, 10 Conn. 339, 347 (1834).

[10] *Id.* at 348. It is interesting to note that appellant's counsel in the

the citizenship question.[11] The Court, as fate would have it, however, deftly ignored the question of whether or not Negroes are citizens and held that the information charging Miss Crandall with haboring colored persons neglected to mention that the school was unlicensed, and that defect was fatal,[12] thus vindicating Miss Crandall.

The Negro citizen, however, was not vindicated in Connecticut until thirty-two years later when the Judges of the Supreme Court of Errors finally, in an extraordinary advisory opinion in response to a question posed by the General Assembly, ruled that

> a free colored person born in this state is a citizen of the state and of the United States. . . .[13]

De Jure Segregation In Hartford

In 1868, the General Assembly passed a one sentence amendment to the Education Law which provided for open enrollment without regard to race or color.[14] The history of that amendment (which is still on the books as part of section 10-15 of the Connecticut General Statutes) goes back at least to 1830. In that year the General Assembly passed a Special Act which brought the doctrine of "separate but equal"[15] to the Hartford school system:

> RESOLVED BY THIS ASSEMBLY, that the first school society in the town of Hartford, be, and they are hereby empowered to cause a school to be kept within said society, exclusively for colored children. . . .[16]

Crandall case presaged the right to travel argument in Shapiro v. Thompson, 394 U.S. 618 (1969), when they argued, as a corollary, that Connecticut was prohibited from keeping out paupers and vagabonds who were citizens of other states. *Id.* at 353.

[11] *Id.* at 353.

[12] *Id.* at 367 *et seq.*

[13] Untitled Opinion of the Judges of the Supreme Court, reported at 32 Conn. 565 (1866).

[14] Chapter CVIII of the PUBLIC ACTS of 1868.

[15] *See* Plessy v. Ferguson, 163 U.S. 537 (1896).

[16] Vol. 2 PRIVATE LAWS OF CONNECTICUT, 1088 (1789-1836).

By 1868, the paternalistic tenor of the 1830 law had deteriorated. In the spring of 1868, a town meeting was held at Hartford to discuss the question as to

> whether white children shall be forced to mix and miscegenate with negroes in the schools.[17]

The Hartford Courant of the day reported the text of the ordinance passed by that town meeting:

> [I]t should not be lawful for any of the colored children residing therein (in five of the town's attendance districts) to attend upon or be educated in any of the schools of said districts, but it shall be the duty of said children to attend said Pearl Street colored School.[18]

To their credit the members of the General Assembly responded to the ordinance adopted at that Hartford town meeting by quickly passing Connecticut's open enrollment law.

Twentieth Century Reflections

In the nineteenth century, White response to Negro educational efforts often presented a dichotomy. On the one hand, blunt and unsophisticated exploitation of common racial fears seems to have characterized the actions of many public officials and politicians. On the other hand, however, many legislators and jurists evinced decisiveness and even statesmanship in correcting some of the more obvious injustices.[19]

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[17] *See* The Hartford Courant, August 1, 1868.

[18] *Id.*

[19] The Hartford Courant's August 1, 1868, account of the Connecticut antidiscrimination school law gives ample evidence of this dichotomy. The article characterizes one town personage as "suffering as usual from the fear that the African race will be too much for him, if he does not oppress it by legislation", and portrays a town meeting in Hartford hastily ratifying the action of a district committee which "forbade the teachers to instruct the two or three and a half dozen well clothed, well behaved, obedient colored children, who came there to school." On the other hand, the article reports the decisive and statesmanlike conduct of the General Assembly in outlawing the action of that Hartford town meeting before the year was out.

In the twentieth century, bluntness and lack of sophistication have given way to predictable lip service and hollow pretentions, and injustices are no longer obvious. However, in many respects, we find reflections of the same dichotomy.

On the positive side, as the evils and harms of racial segregation in the public schools became known, state and local school officials responded with programs such as Project Concern, a pilot demonstration effort to test the feasibility and effectiveness of treating the damage of segregation by integrating the school populations of the city and the suburb. Educationally, Project Concern has proven to be both feasible and effective.

Again on the positive side, we have seen the General Assembly take action to outlaw racial imbalance in the public schools of our state.[20]

On the negative side, however, both Project Concern and the new racial imbalance law present evidences of that old dichotomy. Although Project Concern has been a resounding success educationally, it has not fulfilled its promise as a pilot demonstration project. Once a demonstration project has demonstrated its worth, one would expect the demonstration phase to end and full implementation to begin. Project Concern, however, has remained so incredibly small in scope that, although it has proven itself successful educationally, it has virtually no effect on the increasing degree of racial imbalance in our urban school districts. The fact that the minds of some inner city children are being saved so effectively by Project Concern somehow focuses more attention on the fact that the minds of so many more inner city children, which could be saved if Project Concern were fully implemented, are being lost. What is needed, of course, is a continuation of that deciseveness and statesmanship that gave Project Concern its impetus.

Again, on the negative side, the new racial imbalance law has become nothing short of a cruel hoax upon our state's

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[20] See note 1 *supra.*

children. At a time in which the greatest degree of racial isolation occurs in the urban cores of our state and three of our cities' school populations are now predominantly nonwhite,[21] the new law, by its terms, treats only of intra-town segregation and ignores today's era of urban apartheid characterized by a largely Black city surrounded by overwhelmingly White suburbs. Moreover, whatever good might have come from the new racial imbalance law was apparently forever silenced, when (1) the Interim Regulation Review Committee of the General Assembly voided the proposed regulations of the State Board of Education which were to have implemented the law; (2) the Commissioner of Education of the State of Connecticut declared that he viewed the racial imbalance law as void and inoperative without such regulations; and (3) the 1971 session of the General Assembly did nothing whatsoever to correct the problem.

It becomes increasingly evident that Connecticut's response to the problem of racial isolation in its public schools has been in the past and is now characterized by flashes of decisiveness and statesmanship, interspersed with periods of anguished vacillation.

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[21] Hartford, New Haven, and Bridgeport.