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New South

Why An Atlanta School Suit?

By Benjamin E. Mays

THE SUIT filed September 19 by 200 Negro patrons of the public schools against the Atlanta School Board has attracted more attention and discussion than any local suit in recent years. The suit has been condemned by the Atlanta Press and some Negroes have condemned it. It is very difficult for people to speak and write on the subject of race with calm and objectivity, especially when the question of segregation is involved, for segregation is a sacred institution in our native South.

I think it was the great Woodrow Wilson who said that an educated man is one who can lend more light in an argument than heat. It seems to me that since September 19, we have generated more heat on this subject than light. I hope I can shed light and not heat. If I should succeed in helping to clarify a difficult issue, I will have rendered my community a distinct service. Whether I succeed or fail, believe me, my intentions are good.

The purpose of this address, therefore, is to give what I conceive to be the motives that lie behind the suit and to place it in its proper perspective. To argue that the suit makes an attack on segregation because the initiators of the suit want Negro children to go to school with white children is to miss the point entirely. Mixed schools is not the heart of the suit. Negroes opposed the curtain and the partition on the dining cars not because they wanted to eat with white people, but because the curtain and the partition were embarrassing to Negroes and because they set Negroes off as inferior persons. This the Negro resented. Eating with white people on the diner was not the issue.

Dr. Mays is President of Morehouse College and a member of the Southern Regional Council's Board of Directors. This article was drawn from a speech recently delivered at the Hungry Club of Atlanta. While it deals primarily with the suit filed last month in Federal Court against the Atlanta Board of Education, both the suit and Dr. Mays' comments on it have important implications for the whole South.

'Separate but Equal'

The motive behind the Atlanta suit represents the growing conviction, rightly or wrongly, among Negroes everywhere that there can be no equality under segregation — the growing belief that the "separate but equal" theory is a myth. Even the Negroes who argue that the suit was ill-timed are likely to say when talking among themselves that segregation means inequality. There is a growing conviction among Negroes that if one racial group makes all the laws and administers them, holds all the power and administers it, and has all the public money and distributes it, it is too much to expect that group to deal as fairly with the weak, minority, non-participating group as it deals with its own. If the Negro were a part of the policy making body, the situation might be different — but as things are now the Negro has grave doubts that equality in education

can be reached.

There is also a growing conviction that the gulf of inequality is so wide that in order for the Negro schools to be brought up to the standard of the white schools, appropriations for Negro schools must be increased over a long period — beyond the appropriations for the white schools. This would mean that the rate of improvement in white schools would have to be slowed down while the improvements in the Negro schools would have to be speeded up. The conviction exists among Negroes that the School Board will hardly reverse the appropriations in this way and that it would not accelerate the improvement in Negro schools sufficiently to bring them up to the standard of white schools within a relatively short time.

The Negroes who believe this way may be in error, but there is one thing that sustains their belief. The history of segregation is a history of inequality. History seems to be against the idea of "separate but equal."

Supreme Court Rulings

The Supreme Court seems to say as much. It seems to say in both the McLaurin and the Sweatt cases that segregated education could not be equal. It stated that, even if the school at Houston were equal in faculty and facilities, it would not be comparable to the Law School at the University of Texas. The McLaurin Case in the University of Oklahoma seems to say something similar. McLaurin's education in the University of Oklahoma under segregated auspices was not adjudged to be equal education.

I am convinced that the emphasis in the Atlanta suit has been wrongly placed. The emphasis has been placed on that phase of the suit which speaks of the white public schools being opened to Negroes. The emphasis, if rightly located, would be placed upon the reason why the suit was filed as it was. It says clearly that the conviction exists that that is the only way Negro children of Atlanta can have equal educational opportunities. The stress is not on mixed schools, but on the inequality that results from the dual educational systems. The responsibility, therefore, rests upon those in power to provide equal educational opportunities for all of Atlanta's children. Since our laws plainly say that there must be separation, but equality under separation, it should never have been necessary to file suits anywhere in the South to get what the law provides. The law should have been obeyed from the beginning. Now our own laws and, speaking as a minister, our own sins are catching up with us.

Comparative Facts

Honestly, I do not believe that it sheds much light on the subject to talk about the great improvements that have been made in Negro schools in recent years without at the same time pointing out the improvements that have been made in the white schools in a comparable period. The Atlanta public should know the facts comparatively. For, after all, in a dual civilization such as ours, which insists theoretically upon "separate but equal," one does not run a race alone. It is always a biracial race. We should take a second step. After making the comparison and if we find, as we surely will, that the Negro schools are in the main inferior to the white schools, we should find out in dollars and cents how much it will take to equalize the Negro schools.

We should face this problem honestly and courageously. And if a careful, scientific study should reveal that several million dollars are needed to bring the Negro schools up to the whites, we should accept the findings in good faith and with good intentions. It has been estimated that it would cost the State of Georgia anywhere from $100,000,000 to $175,000,000 to equalize the Negro schools. Is the State of Georgia willing to spend $100,000,000 or $175,000,000 to equalize Negro schools? Are the citizens of Georgia willing to be taxed for this purpose? If not, what is the solution? Then a third step should be taken. We should find out how long it will take to bring the Negro schools up to the standard of the white schools. If it will take ten years or twenty-five years or a century, that would suggest one thing. If it would take two, four, or five years that would be different. We could improve Negro schools for a half-century and not make them as good as the white schools. Honesty, democracy, and the Christian religion all require that we face this situa-

tion with a determination to give every child in Georgia an equal educational opportunity. The burden of proof is upon the South to prove to the world that it can have two separate but equal school systems.

If we believe in the democratic way of perfecting social change, we should be willing to trust the Federal Courts. This is the machinery which our founding fathers have set up as one of the ways to resolve differences and to adjust grievances. Negroes should not be criticized too severely if they take advantage of the democratic way which our founding fathers have bequeathed to us in the Federal Constitution. The Negro has always relied upon the machinery of the law and the courts to gain his objective, the machinery which the white man has created.

Faith in the South

I have another conviction and that is this: When the Supreme Court of the United States hands down a decision that decision will be respected and obeyed. When the highest court of the land speaks, the South, like the rest of the country, obeys. At this point I have faith in my native South. When the United States Supreme Court said that the University of Texas had to admit Sweatt, the University of Texas admitted him. When the Supreme Court ruled against segregation of McLaurin, the University of Oklahoma obeyed the court and stopped segregating him. When the University of Virginia barred a Negro in July, the Attorney General said that the action of the University would not stand up in court, and it did not. The officials of the University of Virginia accepted the ruling of the court and admitted the Negro. The Attorney General of the State of Tennessee has recently ruled that Negroes can attend the graduate, the law, and the dental schools of the University of Tennessee. The people of Tennessee will accept the Attorney General's decision. When the Day Law was amended in Kentucky, the colleges of Kentucky opened their doors to Negroes. Negroes are in the University of Arkansas by the voluntary act of the University.

When in King George County, Virginia, ten Negro children tried to enroll in the white schools in the fall of 1948 because the King George School officials had not followed a Federal Court order of the year before to equalize schools, the parents of the children took the officials to court. In order to equalize the facilities, the local judge suggested that the white school drop science. The white parents rose up in arms. As a result the white school got back its science and the Negroes got a new high school. When the Supreme Court ruled against the curtains and the partition on the dining cars, the South took down the curtains. When the Supreme Court ruled against disfranchising the Negro, the South permitted the Negro to vote. The South does not flaunt the decisions of the United States Supreme Court. I have faith to believe that we in Georgia will respect the decisions of the Federal Courts.

If the Negroes were resorting to illegal, un-Constitutional, undemocratic means to achieve their rights, they should be greatly condemned. But as long as they trust the peaceful ways of the Federal Courts, we should be calm and poised and wait with patience the decision of that Court. There is no need to be panicky, there is no need for rabble-rousing, this is no time for name calling, and there is no need for fear. For when we get through rabble-rousing, the question will still be: Can there be two separate but equal school systems?

I conclude, as I began. Let us not confuse the issue. The question is not mixed schools; the question is — can there be equality in segregation?

SRC ANNUAL MEETING

Members of the Southern Regional Council are asked to note that the annual membership meeting will take place Wednesday, November 8, in Atlanta. You will be notified by an enclosure with this *New South* of the time and place of the meeting.

Meanwhile, make your plans to attend and help shape the future of the South's leading interracial organization.

Southern Graduate Schools Come Abreast of Court Decisions

THE DOORS of Southern graduate and professional schools are opening to Negro students. Little more than four months ago, the U. S. Supreme Court ruled that the University of Texas must admit a Negro student to its law school. At the same time, the Court held that the University of Oklahoma must stop treating a Negro student, already admitted, differently from white students. In both cases, the Court repeated the doctrine already advanced by the Gaines decision of 1938, the Sipuel decision of 1948, and others. That doctrine, briefly, is that the state must provide its Negro citizens equal educational opportunity within state boundaries "as soon as it does for applicants of any other group."

The Court went a step farther in the Sweatt and McLaurin cases by defining more completely what it meant by equal. It had already established that equality is not achieved by the state's agreeing to pay a Negro's tuition at an out-of-state school. Nor, it now added, is it achieved by hastily erecting a building, stocking it with a collection of books, staffing it with a few teachers, and labeling it a "separate-but-equal" law school. Nor, it said further, is it even achieved by admitting a Negro to the white graduate school and then requiring him to sit, study, and eat apart from the other students.

Texas had gone to some expense to provide a special law school for Negroes, in order to offset Sweatt's lawsuit. Here is how the Supreme Court measured its inequality: "In terms of number of the faculty, variety of courses and opportunity for specialization, size of the student body, scope of library, availability of law review, and similar activities, the University of Texas Law School is superior." The Court also made comparisons between such qualities as faculty reputation, community standing, traditions and prestige, and opportunity to associate with those who would later make up most of the lawyers, witnesses, jurors, and judges in the state.

It was immediately apparent that Texas — or any other state, for that matter — could hardly provide separate graduate facilities which would meet these standards. Accordingly, the University of Texas without fanfare admitted Sweatt, as well as two other Negroes seeking graduate work in other fields.

Following is a state-by-state summary of developments in the rest of the South:

Oklahoma

The major question of Negro admittance to the University of Oklahoma was settled by the court ruling in the case of Ada Lois Sipuel Fisher in 1948. But the University had subsequently followed a practice of separating Negro students from white in classrooms, libraries, and the cafeteria. One of them, G. W. McLaurin, had filed suit maintaining that he was being discriminated against. The Supreme Court agreed. McLaurin, it declared, having been admitted to a state-supported graduate school, "must receive the same treatment at the hands of the state as students of other races."

"It may be argued," the Court declared, "that (McLaurin) will be in no better position when these restrictions are removed, for he may still be set apart by his fellow students. This we think irrelevant. There is a vast difference — a Constitutional difference — between restrictions imposed by the state . . . and the refusal of individuals to commingle where the state presents no such bar." The University of Oklahoma conformed to the ruling by eliminating differential treatment for the approximately ninety Negro students who were enrolled in its summer school.

Arkansas

Arkansas is the only Southern state in which graduate facilities were opened to Negroes voluntarily, without the necessity of any litigation. When the Supreme Court ruled in the Oklahoma suit in 1948, state officials saw the implications and proceeded to set their house in order. A qualified Negro student was admitted to the law school of the University of Arkansas that

year; the following year, another law student was admitted and a Negro girl entered the medical school. In the early stages, the Negro students were partially segregated, but that practice has gradually been eliminated.

Kentucky

Kentucky has likewise taken voluntary action, though a law suit figured early in the changes. In March, 1949, Federal Judge H. Church Ford ruled that the University must admit Negro students to its graduate schools until comparable courses were made available in Negro institutions. A year later, twelve Negroes were pursuing their studies at the University. The General Assembly in 1950 amended the state segregation laws to permit any institution of higher learning, on its own initiative, to admit Negroes to those courses not matched by Kentucky State College for Negroes. The governing boards of the University of Louisville, Berea College, and several other institutions have already exercised their local option by dropping racial bars.

Virginia

When Gregory Swanson, a Negro attorney of Martinsville, made application for the law school of the University of Virginia, the University's Board of Visitors rejected it, on the grounds that state law forbade his entrance to the white institution. The state attorney general had previously expressed his opinion that if Swanson chose to appeal to the Federal Courts, he would be sustained. That proved to be the case. After a brief hearing, in which no serious defense was offered by the state, a three-judge Federal tribunal ordered Swanson's admission. Since that ruling on September 5, a second Negro has been admitted to graduate work at the University, and several others have asked for admission to the Richmond Professional Institute.

North Carolina

Four students of the North Carolina College for Negroes have in the past few weeks suffered an adverse decision in their suit for admission to the state university's law school. The points at issue closely resembled those in the Sweatt case. The Negroes maintained — and produced distinguished witnesses to testify — that the separate law school established for Negroes is in no way equal to that at the University of North Carolina. The Federal Circuit Court in Durham, however, held that the two schools are "substantially equal" — the first such ruling since the Sweatt decision. An early appeal to the U.S. Supreme Court is anticipated.

Delaware

On August 9, the Court of Chancery ruled that Negroes must be admitted to the state university on the same basis as white students. The ruling came in response to ten separate suits against the University and its trustees. Vice-Chancellor Collins J. Seitz, who rendered the opinion, did not discuss segregation as such. He simply compared the facilities at Dover State College (for Negroes) with those at the University, and found them "grossly inferior." Since state laws provide that there must be equal educational facilities for all citizens, Seitz declared, the University had no choice but to admit qualified students without regard to race.

Maryland

A Supreme Court decision opened the law school of the University of Maryland to Negroes as long ago as 1935, but the other schools have remained closed to them. The Maryland Court of Appeals has upheld the right of Miss Esther McCready not to be excluded from the School of Nursing because of her race, and that decision has been unheld by the Supreme Court. Meanwhile, a graduate student in sociology, Parron J. Mitchell, has been admitted. An effort was made by the University to give him his instruction off-campus, but the Baltimore City Court, following the McLaurin case, ordered that he be given the same treatment as other students.

Missouri

Last June, the Board of Curators at the University of Missouri asked the circuit court for a declaratory judgment defining the educational rights of Negroes and defining the duties of state institutions. The court held that the State University and other state colleges must admit Negroes to all courses not matched at Lincoln University (for Negroes). The judge commented, "It seems to me that the Supreme Court of the United States has already written my opinion in this case."

(*Continued on page* 8)