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On May 17, 1954, Chief Justice Earl Warren read the opinion for a unanimous United States Supreme Court in a decision in which, for the first time, the court ruled that in the field of public education the doctrine of separate but equal has no place and that segregation in public schools deprives children of the equal protection of the laws guaranteed by the Fourteenth Amendment.[1] There followed further proceedings. On May 31, 1955, Chief Justice Warren, again speaking for a unanimous court, ruled that the cases would go back to the lower courts that would design remedies having in mind local problems and that desegregation would now proceed "with all deliberate speed."[2]

In Milwaukee nothing happened to implement the decision until 1965, when attorney Lloyd A. Barbee brought a class action in the United States District Court for the Eastern District of Wisconsin challenging actions of the Milwaukee School Board, which he alleged created a segregated school system.[3] The case proceeded very slowly. Finally, in 1976, Judge John Reynolds, to whom the case had been reassigned, issued his initial decision after trial, finding that the Milwaukee Public School authorities "engaged in practices with the intent and for the purpose of creating and maintaining a segregated school system, and that such practices had the effect of causing current conditions of racial imbalance in the Milwaukee public schools."[4] This holding of liability was affirmed by the Court of Appeals on July 23, 1976.[5]

The case went to the United States Supreme Court,[6] which vacated

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* Irvin B. Charne was born in Milwaukee and attended the North First Street Elementary School and Riverside High School. A partner in the firm of Hall, Charne, Burce & Olson, he was appointed by Judge John W. Reynolds to serve as counsel in the Milwaukee desegregation litigation of the 1970s. He delivered his reflections on the era at Marquette University Law School's conference, *Segregation and Resegregation: Wisconsin's Unfinished Experience,* Brown's *Legacy After 50 Years*, on April 8, 2004.

1. Brown v. Bd. of Educ., 347 U.S. 483, 495 (1954).
2. Brown v. Bd. of Educ., 349 U.S. 294, 301 (1955).
3. Amos v. Bd. of Sch. Dirs., 408 F. Supp. 765 (E.D. Wis. 1976).
4. *Id.* at 818.
5. Armstrong v. Brennan, 539 F.2d 625 (7th Cir. 1976).
6. Brennan v. Armstrong, 433 U.S. 672 (1977).

the judgment of the court of appeals and remanded the case for reconsideration in light of *Village of Arlington Heights v. Metropolitan Housing Development Corp.*[7] and *Dayton Board of Education v. Brinkman*[8]. The court of appeals, in turn, remanded the case to the district court[9] and there followed additional hearings on liability with regard to the incremental effects of each segregative act and with regard to the question of segregative intent.

In his initial ruling in 1976, Judge Reynolds had determined that the case was too great a burden to place upon an individual attorney and therefore appointed me, Attorney Irvin Charne, and my firm to represent the class of children in the case. Lloyd Barbee continued representing the named plaintiffs. After twenty-seven days of court hearings and the introduction of almost 1000 new exhibits and the testimony of about sixty-five witnesses, the court issued another decision, 132 pages in length.[10] The court concluded that the "defendants' decisions, at least since 1950, with respect to teacher assignment and transfers, student busing, student transfers, school sittings, leasing and construction of school facilities, use of substandard classrooms and boundary changes were undertaken with an intent to segregate students and teachers by race."[11] After protracted negotiations, the parties entered into a settlement, which was approved by the court.[12]

Part of the settlement, which was incorporated in a judgment, provided that the defendants, including the Board of School Directors of the City of Milwaukee, the members of the board, the superintendent of schools for the City of Milwaukee, and their successors, officers, and agents were permanently enjoined from discrimination upon the basis of race in the operation of the public schools of the City of Milwaukee with respect to any matter which was the subject of the litigation.[13] With regard to the specific provisions required to be undertaken by the school to remedy the desegregation, the settlement and the court order provided that they would expire on July 1, 1984.[14]

In 1984, the Board of School Directors of the City of Milwaukee

7. 429 U.S. 252 (1977).
8. 433 U.S. 406 (1977).
9. Armstrong v. Brennan, 566 F.2d 1175 (7th Cir. 1977).
10. Armstrong v. O'Connell, 451 F. Supp. 817 (E.D. Wis. 1978).
11. *Id.* at 866.
12. Armstrong v. Bd. of Sch. Dirs., 471 F. Supp. 800 (E.D. Wis. 1979).
13. *Id.* at 815.
14. *Id.* at 818.

commenced a new action against the state of Wisconsin and the state officials as well as various school boards of school districts in Milwaukee County and contiguous to Milwaukee County.[15] The Board alleged that these other school boards had been guilty of illegal racial segregation and had created a racially dual structure of education in the Milwaukee metropolitan area.[16] After the court denied the defendants' motion to dismiss,[17] the case moved forward with discovery and pretrial motions until the parties reached a settlement calling for the interdistrict transfer of students to lessen the impact of segregation in the school system. Within just a few years after the settlement, more than 5500 Milwaukee public school minority students were enrolled in suburban school districts and about 1000 students from suburbs were attending Milwaukee schools.[18]

15. Bd. of Sch. Dirs. v. Wisconsin, 649 F. Supp. 82 (E.D. Wis. 1985).
16. *Id.* at 85.
17. *Id.* at 100.
18. COMPACT FOR EDUCATIONAL OPPORTUNITY: ANNUAL REPORT 4 (1990-91).

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