

SPRING 2004 • VOL. 3, NO. 3

respect

A NEWSLETTER ABOUT LAW AND DIVERSITY

Resegregation in American Schools: Are We Moving Backward?

by Phyllis Raybin Emert

We were picked up by the Army... They had a Jeep in front, a Jeep behind. They both had machine gun mounts, and there were soldiers with rifles... We marched up the steps with this circle of soldiers with bayonets drawn... As they withdrew the troops from inside the corridors, you were subject to all kinds of taunts, someone attempting to trip you, pour ink on you, in some other way ruin your clothing... someone physically attacking you. — Ernest Green, one of nine African-American students in Little Rock, Arkansas who, in 1957, integrated Central High School. Green was the first African-American student to graduate from Central High School. (Excerpted from *Freedom's Children* by Ellen Levine.)

Ernest Green is describing how the governor of Arkansas used the state National Guard in an attempt to stop the nine students, nicknamed the Little Rock Nine, from attending school that day in 1957. Mob violence erupted at the school and the mayor of Little Rock asked for federal help. President Eisenhower sent in federal troops to restore order to Little Rock.

Brown v. Board of Education sparks civil rights movement

This year marks the 50th anniversary of the landmark decision, *Brown v. Board of Education of Topeka, Kansas*, which made the desegregation of Central High School in Little Rock possible, along with many

other schools across the nation. The decision declared that racial segregation in public schools is unconstitutional, and many credit the ruling with sparking the civil rights movement.

According to the *Brown Quarterly*, a publication of the Brown Foundation for Educational Equity, Excellence and Research, the 1849 case of *Roberts v. City of Boston* was the first documented lawsuit dealing with school segregation. The plaintiff in the case, Benjamin Roberts, a black man, was denied the right to enroll his five-year-old daughter, Sarah, in Boston's public schools. While [>continued on page 2](#)

Newark, 1967: Racial Tension Leads to a Deadly Riot

by Cheryl Baisden

It was a summer day much like any other when Newark police arrested cab driver John Smith for illegally passing a double-parked patrol car on the evening of July 12, 1967. When Smith, a black man, arrived at the fourth precinct headquarters badly beaten, word spread quickly among the predominately black residents of the neighboring public housing project.

Although police said Smith's injuries were the result of him resisting arrest, an angry crowd began congregating outside headquarters. Local civil rights leaders urged the crowd to remain calm, but the following day, as false rumors spread that Smith had died in police custody, the enraged mob began lobbing bottles and bricks at the precinct house.

While officers managed to disperse the crowd, as they receded from police headquarters [>continued on page 6](#)

This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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Roberts lost his legal battle and Sarah was required to attend an all-black elementary school despite passing five other all-white schools on her walk every morning, the case would foreshadow the facts in the *Brown* case more than a century later.

Brown v. Board of Education of Topeka, Kansas, which would become famous in the years to come, centered around Linda Brown, the eight-year-old daughter of the lead plaintiff in the case, Oliver Brown. Linda was forced to walk a mile everyday to attend a black elementary school when an all-white elementary school was located a few blocks from her home. At the urging of the National Association for the Advancement of Colored People (NAACP), Oliver Brown and 13 other parents brought a lawsuit against the Topeka Board of Education.

When it finally reached the U.S. Supreme Court, the *Brown* case would encompass four other desegregation lawsuits from Delaware, South Carolina, Virginia and Washington, D.C. NAACP lawyer Thurgood Marshall, who would later become the first African-American U.S. Supreme Court justice, argued the case. On May 17, 1954, the U.S. Supreme Court decided in *Brown* that

“separate but equal has no place in public education,” and that separate educational facilities are “inherently unequal,” as well as a violation of the Fourteenth Amendment, which guarantees every citizen equal protection of the law. The Court noted in its opinion, written by Chief Justice Earl Warren, that “to separate black children from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”

What is separate but equal?

Segregation of the races was first legally justified in 1896. The U.S. Supreme Court in *Plessy v. Ferguson* ruled that racial separation was constitutional in schools and

other facilities so long as they were equal. This “separate but equal” principle became a part of everyday life in America. Segregation extended to schools, the transportation system and housing. This was especially true in the Southern states, although New Jersey grappled with its own problems of segregation as well (see sidebar).

Despite the ruling in *Brown*, for the next ten years, the South would resist school desegregation and little progress would be made until the passage of the 1964 Civil Rights Act. This was the first time since the Reconstruction period after the Civil War that Congress passed a law to protect civil rights. U.S. Supreme Court decisions ending intentional delays and requiring immediate integration finally produced results and,



according to Harvard University's Civil Rights Project Director Gary Orfield's research on the subject, "the South moved from almost total racial segregation to become the

nation's most integrated region." Another important desegregation case, *Green v. School Board of New Kent County*, was decided in 1968.

The Virginia case centered on the school board's adoption of a "freedom-of-choice" plan for desegregation, giving all students a choice of which school they would like to

attend — the formerly all-white school or the formerly all-black school. The result of this plan was that no white students had elected to attend the formerly all-black >continued on page 4

Segregation — Not Just a Southern Problem

While many may believe that segregation was only a problem in the Southern states, the Eastern part of the country also had issues with integration, and New Jersey was no exception. As Massachusetts had the *Roberts* case, New Jersey had the *Pierce* case of 1884.

According to the New Jersey Historic Trust, New Jersey's Southern counties continued practicing segregation in schools despite the passage of the New Jersey School Law of 1881, which required integration in public schools. Some Southern New Jersey school districts divided their districts along racial lines, thereby keeping the schools segregated. In 1884, the New Jersey Supreme Court ruled that under the New Jersey School Law of 1881, the four children of Rev. Jeremiah Pierce, a black man in Burlington County, must be admitted to Burlington's white schools.

Despite the victory in that case, according to an article in *The Princeton Packet*, the elementary schools in Princeton were not integrated until the 1948–49 school year, following the enactment of the New Jersey State Constitution in 1947, which prohibited segregation in public schools. At the time, *The Packet* reports that while many high schools across the state, including Princeton High School, were integrated, some elementary schools, especially in the Southern counties, and the towns of Princeton and Englewood, were still segregated.

Resegregation in New Jersey

According to Gary Orfield and John Yun in their report for the Civil Rights Project at Harvard University, *Resegregation in American Schools*, New Jersey ranks among the highest segregated states in the country, placing fourth from the bottom according to the research. The state's "blacks and Latinos tended to be left behind in highly segregated, very poor and seriously declining central cities surrounded by wealthy suburban rings," the report states.

An article in *The Record* claims that part of the reason for the resegregation of New Jersey schools is due to whites moving to the suburbs in the 1970s, leaving the state's urban schools with mostly minority students.

Robert Holster, superintendent of schools in Passaic told *The Record*, "Everyone wants to move from an apartment house to a one-family home. The housing in Passaic couldn't accommodate this." Holster went on to say that whatever the cause, "racial segregation is diametrically opposed to the ideals of equality and democracy."

Diversity and opportunity in Jersey City public schools

Despite the statistics to the contrary, some inner city school districts like Jersey City have become shining examples of diversity and opportunity. With a total of 31,000 students, this multiracial district consists of 39.4 percent Latino students, 35.6 percent African-American students, 14.4 percent Asian students, 9.4 percent white students and 1.2 percent American Indian students.

"We believe in offering our students a multitude of choices," declared Joanne Kenny, associate superintendent of programs and services for the Jersey City public schools. Kenny is also proud to boast, "The number one high school in the state for the last six years," she said, "has been the Ronald E. McNair Academic High School right here in Jersey City."

Researchers Orfield and Yun present several solutions in their report to combat the problem of resegregation in America's schools. One suggestion offered is setting up more magnet schools that diminish segregation.

According to Kenny, there are more than 20 magnet schools in Jersey City and 15 to 20 percent of its 7,000 high school students are involved in these programs. Participation in the magnet programs, Kenny says, can lead to internships or employment in the student's senior year, and careers in their chosen field or entrance into college for continued study.

The Jersey City school district offers magnet programs in the areas of commercial arts, visual and performing arts and media arts, which allow students to write, produce, direct and broadcast their own educational-related television shows in a new multimillion dollar facility. In addition, there is also a cosmetology magnet, culinary arts magnet and legal professions magnet, as well as magnets focusing on business, computer science, ROTC, and travel and tourism. ■

Resegregation *continued from page 3*

school and only 115 black students had switched to the formerly all-white school. The plaintiffs in the case contended that the plan “perpetuated the racially dual or segregated school system and placed the burden of desegregation on the shoulders of the black children.”

The U.S. Supreme Court agreed and ruled that the dual or segregated system must be dismantled. With its decision in *Green*, the Court introduced six factors that measured desegregation in a school district. These factors took into account the racial composition of faculty, staff, transportation, extracurricular activities, facilities, and student assignments in a particular district. The Court would consider these six “Green factors” for future cases in determining whether a school district had eliminated all traces of segregation.

The present — moving backward

After decades of progress in eliminating racial separation in the nation’s schools, the courts started terminating desegregation plans in many states in the late 1980s. As a result, Orfield noted in his study, *Schools More Separate: Consequences of a Decade of Resegregation*, which was conducted for Harvard’s Civil Rights Project and published in *Rethinking Schools Online*, a

newsletter for educators, “resegregation continued to intensify in the 1990s.”

Orfield stated in his study that in the South, “most of the progress of the previous two decades in increasing integration in the region was lost. The South is still much more integrated than it was before the civil rights revolution, but it is moving backward at an accelerating rate.” The percentage of black students who attended white majority schools, Orfield reveals, was 2.3 percent in 1964, rose to 43.5 percent in 1988, declined to 34.7 percent by 1996, and is still decreasing.

In the 1990s, Orfield noted, there were three important U.S. Supreme Court decisions that continue to affect Court-ordered school desegregation plans to this day. The decisions limited desegregation plans and resulted in attempts by many school districts to end them altogether by declaring themselves nonracial and unitary, and, therefore, no longer segregated systems. Unitary is a legal term for what a school district must achieve in order to be relieved of court oversight. In other words, a court must decide that a school district has made a “good faith effort toward integration” before its desegregation plans can be terminated.

The first decision, *Board of Education v. Dowell*, came in 1991. The U.S. Supreme Court ruled in that case that court supervision of local school district desegregation plans was intended as a temporary measure only. If the district proved it had made a genuine effort to follow a desegregation plan and had eliminated all traces of discrimination, using the six *Green* factors as a guide, then it could be declared a unitary district and court supervision would end.

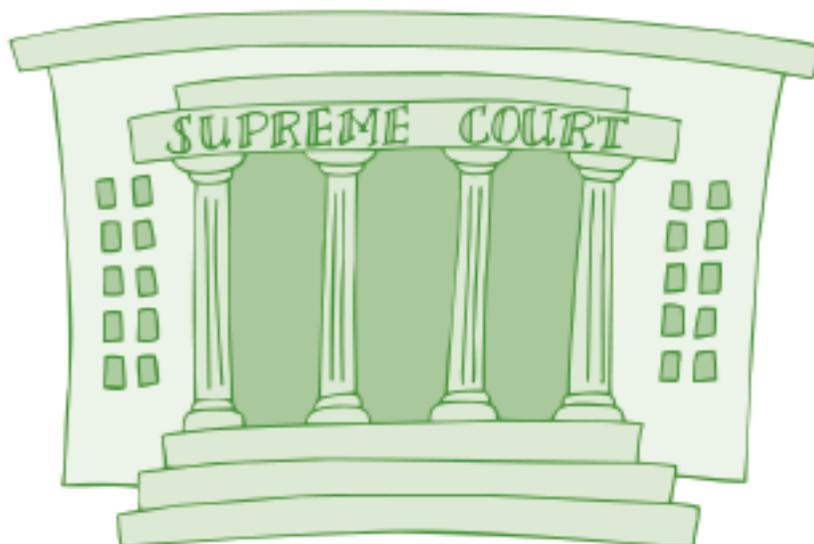
In 1992, with *Freeman v. Pitts* the Court ruled that the government could end supervision of the *Green* factors in which the school district had eliminated traces of discrimination and achieved unitary status. The Court would continue supervision of the *Green* factors in which it had not eliminated discrimination. In other words, if a school district shows that it has eliminated discrimination in, for example, the faculty and transportation areas, court supervision in

those areas would cease, however, supervision would continue in the remaining four areas.

The Court also ruled in *Freeman* that where racial segregation or imbalance in a school district was due to demographics, such as residential housing choices and population shifts, it was not a constitutional issue and was beyond the authority of the Court to intervene.

Finally, with *Missouri v. Jenkins*, in 1995, the Court found that “numerous external factors,” beyond discrimination and segregation, including demographic and socioeconomic factors, affected minority achievement in schools. The Court also noted that continued racial imbalance and separation was not the result of *de jure* segregation, or segregation by law, but the natural result of demographic and socioeconomic factors over which the Court had no control.

These three cases, Orfield noted in his research,



reflected a trend by the U.S. Supreme Court to end judicial involvement in desegregation plans and restore local control back to community school districts.

Most segregated race today — Latinos

African-Americans are not the only race affected by resegregation, Orfield reports. Latinos, he says, have become the largest minority group in the U.S. and “they have been more segregated than blacks... not only by race and ethnicity, but also by poverty.”

Latino students are the most segregated today, especially in western states like California, where according to an article in *The Philadelphia Inquirer*, “more than 80 percent of Latino students attend predominantly minority schools, compared with 42 percent in 1968.” According to Orfield’s research, New Jersey, along with New York, Texas, Illinois and California, leads the U.S. in the segregation of Latinos. He says that each of these states has more than 38 percent of Latino students attending schools where the student population is less than one tenth white.

Is integration still necessary today?

Despite the attempt to eliminate many court-ordered plans, desegregation is an accepted standard in America today and integration has been

proven to be effective.

According to *The Test of Our Progress*, a 1999 report on civil rights enforcement by the Citizens Commission on Civil Rights, a **bipartisan** organization established to monitor the federal government’s civil rights policies, there has been a reduction in the academic gap between black and white students. U.S. Census Bureau data from 2000 stated that among African-Americans 25 and older, 79 percent had graduated from high school and 17 percent had graduated from college. The same figures for whites in that age group were 88 percent and 25 percent. In sharp contrast, only 57 percent of Latinos 25 and older had graduated from high school, and only 11 percent had obtained college degrees.

Orfield cites the many benefits of integration in his research including a study of elite law schools that showed that the black and Latino students accepted to the most prestigious schools came from integrated educational backgrounds.

“Minority students tend to be much more successful in college if they attended interracial high schools,” Orfield maintains.

Orfield also mentions in his research another survey which showed that white and minority students in integrated school districts reported overwhelmingly that they are

confident of their ability to work in diverse settings as adults, having been exposed to people of all types of races and different backgrounds in school.

Despite this research, *The Houston Chronicle* reported that a 1998 survey conducted by the Public Agenda Foundation, a **non-partisan** opinion research organization that explores the opinions of Americans on critical issues, found a significant number of the parents polled — 80 percent black and 88 percent white — favor raising academic standards for all students and believe that is more important than integration. Another poll conducted by the Gallup Organization for CNN and *USA Today*, however, reported that 59 percent of Americans believe that more should be done to integrate our nation’s schools.

Black leaders divided over continued integration

The conflicting results from the opinion polls mirror the conflict among black leaders over the issue of integration. Some favor going back to neighborhood schools, which would be divided across racial lines.

Robert L. Woodson Sr., founder and president of the National Center for Neighborhood Enterprise, who was active in the civil rights movement in the 1960s, said in *Issues & Views*, a conservative newsletter that

profiles black Americans, “I didn’t fight for integration, I fought against segregation. The opposite of segregation is not integration, it is desegregation. I want the right to sit in a black church, if I choose to, without being called a separatist or supporter of a segregated institution,” he said.

Others, like Barbara Crawford, principal of a Tennessee middle school, told the *National Journal* that she worries about neighborhood schooling and fears it will put an end to social integration.

“Many of my students are going to be shortchanged,” Crawford said in a *National Journal* article. “Nashville’s neighborhoods are still segregated. I’m worried that the type of friendships I have developed while working in integrated schools will no longer take place.”

The NAACP, which has fought for integration since the organization’s inception 95 years ago, echoes Crawford’s concerns.

“We can’t go back to where we were before school desegregation,” Maxine Waters, chairwoman of the NAACP’s National Education Committee, told the *National Journal*. “Resources have always followed the white child. If we go back to separate facilities, that will happen again.” ■

some of the protesters began breaking into stores, and violence spread into the city's black neighborhoods. The New Jersey State Police were quickly mobilized to contain what was now being described as a riot.



Within 48 hours National Guard troops would enter the city, a move that immediately intensified the level of violence, recalled attorney David M. Satz, who was the U.S. Attorney at the time.

Overnight, Newark had become a war zone, where children could be killed while riding in the family car, and mothers could be shot sitting on the front steps of their home.

Ira Roberson, who was four at the time of the riots, lived in the center of the gun violence and property damage. Max A. Herman, an assistant professor at Rutgers University in Newark, spoke to Roberson, who remembered a bullet coming through the family's front window and his mother taking the children from the front bedroom to a more protected room in the middle of the house. Throughout the rioting, Roberson recalled, the children slept under the beds in that room to keep them safe from gunfire.

Just five days after Smith's arrest, 26 people lay dead. According to the state police, 725 people were injured. The Newark City Hospital director reported at the time that the number was closer to more than 1,000. According to Herman's research, close to 1,500 people were arrested.

Racial unrest and prejudice leads to violence

Although it may seem strange that a single incident like the arrest and beating

of John Smith could trigger so much violence, the Newark riots of 1967 did not come as a complete surprise, according to those who witnessed the uprising. In fact, explained Herman, in 1967 Newark was a bomb just waiting to be detonated.

Herman believes that a variety of factors contributed to the Newark riots, including police brutality, political exclusion of blacks from city government, urban renewal, inadequate housing, unemployment, poverty and rapid change in the racial makeup of the city's neighborhoods. In the 1960s, as blacks fought for their civil rights all across the country, many of these same factors resulted in riots in other cities as well, Herman said.

"In Newark, conditions had been going downhill fast," recalled Satz. "The mayor had not been providing the leadership that was needed for the city's changing population. There was a real mistrust of government, and racial tension was escalating," he said.

Many of the problems that led to the violent uprising in Newark were based on prejudice, according to Herman.

"At the time in Newark, and elsewhere, blacks were treated like second-class citizens," he said. "A good way to understand how they felt is to imagine an older brother getting all of the attention from his parents and the younger brother getting the scraps that were left over," Herman described. "It would naturally create an unfair situation that would result in tension between the two brothers."



When rumors spread that police had killed John Smith, the incident, even though it proved to be inaccurate, was the last straw for some members of the black community. Stopping the violence once it started was difficult, partially because of prejudice toward the black community, said Satz.

"Because of their own prejudice," Satz said, "the state police lost sight of how they should be handling the situation as law enforcement officers."

Those prejudices were echoed by some of Newark's white residents as well. Ed Poteet, who served with the National Guard during the riots, told Herman that white residents on the streets who were using racial slurs encouraged law enforcement to take quick and dramatic steps to stop the violence, including urging the officers to kill the people in the angry mob.

Lack of representation

Prejudice against blacks had been on the rise as Newark's population began changing and the majority began to shift from white to black, explained Herman.

And while more and more black residents moved into the city, the power remained in the hands of the white members of the community.

"Some good examples are the fact that black representation in city government and on the school board was next to nothing. There were 1,500 members of the police force and only 150 were African-American," Herman said. "The police acted more like they were occupying a war zone than protecting the community they were employed to serve, and they were known to stop and question black youths for no

reason other than their race. Sometimes arrests resulted in police brutality, and there were even some incidents of African-Americans dying in police custody.”

Economic factors

While all of this was going on in Newark, other problems were affecting the relationship between the races. Factory jobs were disappearing from the city, leaving 30 to 40 percent of the black population unemployed, and poverty was becoming a growing problem, said Herman. Urban renewal was taking place at the same time, with homes in some black neighborhoods being torn down to make room for new buildings like the medical school. Unemployed and pushed out of their homes, many blacks found themselves forced to live in poor housing projects, where frustration levels rose along with violence, according to Herman.

“In general, the city of Newark, which was once so strong, was deteriorating,” he said, “and the white community was blaming the growing black population for its downfall.”

The beginnings of change

“The riots ended through a series of meetings I arranged,” said Satz. “It was my job to bring the sides together slowly to work out their differences and bring the violence to an end. The situation was so touchy that we had to meet at my house instead of the office because people didn’t want to be seen going into the meetings in the city.”

While a move toward racial equality did begin in Newark following the 1967 riot, both Satz and Herman agree that problems still remain.

“Housing, jobs and good schools are still a problem in Newark,” said Satz, “and the city’s leadership still has some weaknesses. But all of the building blocks are now there to make Newark a strong, united community.” ■

Black and White Not Just for Tuxedos

by Jodi L. Miller

Tradition for students in two Georgia high schools is to hold two proms — one for white students and one for black students. You may be thinking that must have been the case in the 1950s or 60s. Actually, that was the tradition just last year.

The story of segregated proms captured national attention in 2002 when an African-American student at Taylor County High School in Georgia convinced her classmates to break with “tradition” and hold an integrated prom. Despite the success of the inclusive prom, according to an article in *People*, some 50 white students voiced their disagreement with the change and last year held a whites-only dance outside the county. A mixed dance in Taylor County was also held.

Johnson County High School, also located in Georgia, conforms to the same tradition of separate proms. The school’s principal, Roland Thomas, told *The Macon Telegraph* that the parents of the students make all the arrangements for the proms, pay all the bills and host them off school grounds. The school board and faculty have nothing to do with the planning of the prom nor do they attend the event.

Constitutional law attorney Brian M. Cige of Somerville, noted that the key to the legality of these Georgia proms is the removal of government or school board funding, making it strictly a voluntarily attended event.

“The U.S. Supreme Court has said in previous cases that it is legal to restrict your membership if an event is not government-funded,” Cige said. “The

more private an event is made, the more defensible it would be.”

An editorial that appeared in *The Macon Telegraph* called the private party designation of the whites-only prom a ruse. “Private parties usually have a more exclusive guest list than the entire white student body of the junior and senior classes,” the editorial said.

Are we self-segregating?

While many may be appalled that these types of proms are still being held five decades after the U.S. Supreme Court declared “separate but equal” unconstitutional, not everyone is concerned, and some say there is



a double standard at work. A *Fox News* report pointed to many celebratory events held by colleges and

universities around the country, including the University of Michigan and the University of Pennsylvania, that are specifically for minority students. According to the report, some universities, including Vanderbilt University and the University of California, even offer separate graduation ceremonies for minority students.

“We understand that [the whites-only prom] is discrimination,” Linda Chavez, president of the Center for Equal Opportunity, a non-profit public policy research organization, told the *Fox News Channel*. “But, it seems like there is a double standard in these places toward similar activities when it’s engaged in by minority students.”

Carol Swain, author of *The New White*

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Bring a Little Drama to Your Class to Promote Tolerance

Teachers looking for an innovative way to promote tolerance might consider having the George Street Playhouse's Touring Theatre perform one of its tolerance-based stage productions at their school.

The plays address such timely issues as school violence, tolerance, prejudice and peer pressure. All the performances are followed by a discussion with the audience facilitated by the actors. In addition, every student receives a student guide or "playbill," which mirrors the traditional theatrical playbill, preserving the theater experience for students. Printing of the "playbills" is sponsored by the New Jersey State Bar Foundation.

The Play's the Thing

The plays are as diverse as their subject matter and cater to different age groups. A description of each play follows.

The Last Bridge (grades 5–12) recounts the true story of Barbara Ledermann, a young woman in war-time Amsterdam, who is faced with the horrible decision of whether to go with her family and face certain death in a Nazi concentration camp or live underground.

New Kid (grades 1–6) is the story of an immigrant family from a fictitious place called "Homeland." When the family arrives in America, they discover a new culture and unexpected prejudice against "Homelanders." The Homelanders speak English while the Americans speak gibberish, demonstrating the complexities of cross-cultural communication and the implications of prejudice. Through comedy, this play

addresses the themes of racism, prejudice, peer pressure, and conveys the need for tolerance.

Peacemaker (grades K–4) is the story of the Blue People and the Red People who have lived on either side of a "wall" for many years. Interaction between the people is forbidden, and both communities live in fear, suspicion and mistrust. When Simp, a Red person, sees a Blue person for the first time, the automatic response is panic; once the pair interact, however, they learn they have a lot to offer one another, and an unexpected friendship begins. A parable of our diverse society, the play promotes the themes of tolerance and acceptance and advocates an end to prejudice on the basis of appearance and origin.

In Between (grades 6–9) explores issues of self-esteem, social pressure and the correlation between peer disrespect and school violence. The story focuses on a new student, Cue, who finds herself choosing between friendships with the popular Tad and the forgotten Barrett. The play examines the fragile identities and fickle emotions that make decision-making difficult for young people. The use of popular music and youthful dialogue holds the students' attention, allowing the idea that they have options and the courage needed to effect change in their own lives to be absorbed.

For a brochure and/or booking information call the George Street Playhouse at 732-846-2895 ext. 115. It's not too early to book your show. George Street is currently accepting bookings for this year and the 2004–2005 school year. ■

Black and White *continued from page 7*

Nationalism in America: Its Challenge to Integration, told *Fox News*, "It is hard for them [white students] to understand why it's understandable for blacks, Latinos and Asians to have separate groups but not tolerated when whites try to make the same choices." Swain is an African-American woman and a professor at Vanderbilt University Law School. In her book, she urges African-American leaders to address what she

believes are legitimate concerns of white nationalists on race matters.

Not everyone, however, is convinced there is a double standard. Civil rights attorney Leo James Terrell told *Fox News* that any whites-only group on an integrated college campus is racist and insulting.

"Someone is trying to assume that Asians and blacks are on the same level, historically in this country, as whites," Terrell said. ■

Glossary

bipartisan — supported by two political parties. **de jure** — by law or lawful. **desegregation** — the elimination of racial segregation. **integrated** — something that has been made available equally to all races. **non-partisan** — not adhering to any established political group or party. **resegregation** — renewal of segregation, as in a school system, after a period of desegregation. **segregation** — the policy of separating people from society by race or social class.