

THE LOUISVILLE SCHOOL DESEGREGATION CASES
AND
THE PROMISE OF BROWN v. BOARD OF EDUCATION
(The Lawyers Club
December, 2001)

The declarers of our independence stated that "all men are created equal." Lincoln declared our country dedicated to that proposition. The first Justice Harlan said that the Constitution is "color blind." Not until many decades later did the Supreme Court establish that the segregation of children in public schools on the basis of race deprived them of equal protection. When the Sixth Circuit required Judge Gordon to devise a busing plan, it did so to fulfill its own conception of the promise of *Brown v. Board of Education*.

The most recent round of Louisville desegregation cases was that it required one to consider the definitions and contradictions of equality and equal protection for a different group and at a different time than ever before. To African-American plaintiffs in 1975 the equal protection meant—the promise of *Brown* required-- the right to go to schools containing a majority of white students; to a different group of African-American plaintiffs in 1998, the promise of equal protection meant the right to go to their neighborhood school with a majority black population. It does seem strange that this same amendment could mean each thing. Could equality have a different meaning to different people with different experience? Could equality mean different things to the same people at different times? Did the experience of our community schools at this time represent the final fulfillment of *Brown v. Board of Education* or not? My remarks this evening will describe only in part the process I undertook to understand and explain the meaning of equal protection for a few people at this time and for this place.

One of the most important insights which I want to discuss is that which gradually came