

**THE LOUISVILLE & JEFFERSON COUNTY  
SCHOOL DESEGREGATION CASES  
(U.L. Law Class)**

The declarers of our independence stated that "all men are created equal." In 1863, Abraham Lincoln declared that our nation was dedicated to that proposition. After the Civil War, Congress and the states approved the 14<sup>th</sup> Amendment which said that "no state may deny any person the equal protection of the laws." Thirty years later the first Justice Harlan said that the constitution is "color blind." Some sixty years later the United States Supreme Court decided that state sponsored racial segregation in schools violated equal protection. During the following twenty years our courts tried to remedy those violations, even approving or requiring race consciousness to eliminate the effects of past discrimination. During the last century various participants in this struggle have waged a political, legal and social war over its meaning. My look was more specific: devising the true purpose and intent of a prior court's remedial order, in different times and under different law.

I want to describe for you some of the process I undertook to understand and explain the meaning of equal protection in this time and at this place.

One key to my thinking was learning enough about the case to ask the right questions. Though the parties didn't raise it - I began to wonder what events occurred which transitioned the Board from being required to use race to being prevented from using race at all. To understand this I began to look carefully at the original litigation and the original decree. I started considering what point marked the Board being required to maintain racially balanced schools from the point of doing so voluntarily. This would prove more and more important.

Began to understand -