DESEGREGATION: WHAT IT MEANS TO THE MEDICAL PROFESSIONS AND THE RESPONSIBILITIES IT PLACES ON THE NEGRO PROFESSIONALS*

CONSTANCE BAKER MOTLEY, LL.B.

Associate Counsel, NAACP Legal Defense and Educational Fund, Inc.
New York City

The desegregation era in this country officially commenced May 17, 1954 when the Supreme Court in the School Segregation Cases held racial segregation in public education unconstitutional. Since that time, the courts have struck down racial segregation in all public transportation facilities and services, local, state and interstate, all public recreation, not only when operated by public authorities but when leased to private individuals and firms for public use, public housing, public restaurants, public libraries and public museums.

As a result of these court decisions, it is now clear that racial segregation in any public facility or public function or public service violates the equal protection clause of the Fourteenth Amendment to the Federal Constitution.

Prior to 1954, the 17 southern states and the District of Columbia enforced racial segregation in virtually every area of public activity, including court houses, public hospital services and facilities and public employment.

In Northern states, both prior and subsequent to 1954, although no state law required or requires such segregation, residential segregation has spawned segregated schools, segregated recreational facilities, segregated hospitals and segregated libraries and other segregated public facilities and services.

The greatest single impact of the 1954 decision, in my opinion, has been the impact which that decision has had upon the determination of Negroes, themselves, for desegregation not only in the South but in the North.

As a result, from 1954 until the present, there has been more progress in securing equal rights for Negroes than in any decade in this country since the decade following the Civil War, 1865-1875, during which period the Congress and the people of these United States provided the constitutional and legislative foundation whereby slavery was abolished, citizenship was conferred on the newly freed slaves and citizenship rights secured to them in law.

Progress in desegregating public elementary and high schools in the South, if measured in terms of the number of Negro children attending schools formerly limited to white students, has been slow and discouraging, but if measured in terms of the geographical area in which desegregation has occurred, or the number of states, then the progress have been somewhat more encouraging. In every state now, since 1954, Negroes have been admitted to either a university or a public school formerly limited to white students. In the border states and in the District of Columbia, there has been widespread integration in terms of admission of Negroes to formerly all white schools. In the deep South, only a handful of Negroes have been admitted, but every state has been forced through legal action to abandon the "white only" policy on some educational level.

The ending of legal segregation in this country has provided Negroes with a new will to fight for equal opportunities and privileges in every area of public life. The Freedom Riders, the Sit-Ins, and the Freedom Marchers have provided the best evidence of this new determination for first-class citizenship.

Prior to 1954, it was extremely difficult to stir the Negroes in a community like Albany, Georgia or Birmingham, Alabama, or Greenwood, Mississippi to action. As a matter of fact, the desire for freedom from racial discrimination in the South, particularly, has taken on the nature of a religious fervor sweeping the South's Negro communiites.

In 1954 most of us would not have believed that in 1963 Negroes would be eating at department store lunch counters in Nashville, Atlanta, Tallahassee, New Orleans, Brunswick, Georgia and similar communities. Few of us dreamed, in 1954, that in less than ten years the Jim Crow Car would have been nonexistent, and that Negroes would be staying in first-class hotels in Washington, D. C., Miami Beach, Greensboro, North Carolina, Atlanta, Georgia and other deep South cities. In short, since 1954, the desegregation time-table has been greatly accelerated because of the desire on the part of Negroes, themselves, for an end to their exclusion from the mainstream of American life.

The fact is that the demand on the part of Negroes for desegregation is now far greater than the ability of professional civil rights organizations to meet. Desegregation of public schools, alone, has proved to be a massive undertaking which has met massive resistance in many areas of the deep South, costing the NAACP Legal Defense and Educational Fund an estimated $5,000,000 in the past ten years. To this burden has been added the cost of litigation to desegregate public transportation, public recreation and other public facilities. The cost of defending student Sit-Inners and Freedom Riders has been close to a quarter of a million dollars in the past three years.

And now there are new demands. Negroes in Northern communities are demanding legal action to desegregate de facto segregated schools resulting from school board policies and procedures and residential segregation. They are demanding legal action to end discrimination in public and private employment and by labor unions. But the largest and perhaps most costly demand which we

* Opening Day Address at the 51st Annual Meeting of the John A. Andrew Clinical Society, Tuskegee Institute, Ala., April 21, 1963.

are now facing is for legal action to eliminate discrimination against Negroes in public health facilities and services.

Racial discrimination in all aspects of medical care exists throughout this nation. The primary form which this discrimination takes is discrimination against Negroes in need of medical attention and hospital care solely because of race and color. There is indirect discrimination against Negroes because of their financial inability to secure required medical services and facilities. However, discrimination against Negroes also results from restrictions on the ability of Negro physicians and surgeons and dentists to gain hospital staff privileges, membership in professional associations, internships and residencies.

Racial discrimination in medical facilities and services is one of the prime reasons why Negro infant mortality is from two to five times greater than white infant mortality; why white women are five times less likely to die in childbirth than Negro women; and why Negro life expectancy is almost seven years less than white life expectancy.

In the South discrimination is responsible for the fact that Negro physicians do not settle in communities where they are sorely needed. For example, in North Carolina, there is a white physician for every 725 white persons, but the Negro population has one Negro doctor for every 7,915.

There was a time when opportunities for Negroes to receive a first rate medical education resulted in a shortage of Negro doctors. Today, however, as a result of desegregation of the colleges and universities throughout this country and of the opening of first rate medical schools to Negroes in the North, this is no longer the case. Today there are fewer qualified Negroes available for first rate medical education than there are opportunities for such education. Few Negroes, of course, are qualified for first rate medical schools because they lack the basic prior education, training, and finances. But the fact is that race alone is no longer a bar.

Negro students are now admitted to formerly all-white medical schools at the University of Arkansas, University of Maryland, Johns Hopkins, George Washington and Georgetown Medical Schools in the District of Columbia, the Medical College of Virginia in Richmond, University of Virginia in Charlottesville, Virginia, University of North Carolina at Chapel Hill, Duke University at Durham, Bowman-Gray in Winston Salem, North Carolina, Emory University in Atlanta, University of Miami, University of Texas, University of Oklahoma, University of Tennessee, University of Kentucky, University of Louisville, University of West Virginia, Washington University in Missouri, St. Louis University and the University of Missouri. There may be others.

South Carolina, Georgia, Alabama, Mississippi and Louisiana are the only states where Negroes are not now accepted in white medical schools.

In the past two years, the NAACP Legal Defense and Educational Fund has commenced several legal actions to desegregate public hospitals, non-profit community hospitals receiving public financial assistance and public medical associations.

A suit has been filed in Atlanta, Georgia, attacking discriminatory practices at the Fulton-DeKalb Hospital and the discriminatory admission policies of four medical and dental societies. Another suit has been filed on behalf of some Negro doctors and their patients in Wilmington, North Carolina, who are seeking to gain the right to be admitted to the James Walker Memorial Hospital in Wilmington, North Carolina. A third suit has been filed against the State Dental Society of North Carolina. Still another suit was filed against the North Carolina Hospitals Board seeking to have the courts declare unconstitutional a North Carolina statute requiring segregation in hospital facilities. This suit has been won. The statute has been declared unconstitutional and the Negro child plaintiff has been transferred from the Negro hospital to the John Olmstead Hospital in Butner, North Carolina. A fifth suit is pending against the county owned hospital in Orangeburg, South Carolina. Finally, a suit has been filed against the two non-profit hospitals in Greensboro, North Carolina seeking to have the courts declare unconstitutional the "separate but equal" provision of the Hill-Burton Act, the federal law providing financial aid for the provision of such hospital facilities. The United States has intervened in this case in support of our position. The case was lost in the District Court and recently argued on appeal before all of the judges of the United States Court of Appeals for the Fourth Circuit. A victory in this case would be as significant, in my judgment, as the school desegregation decision because of the tremendous number of hospitals in this country receiving such federal financial assistance. Since the program began in August 1946, the national government has contributed more than a billion dollars to the construction of hospital facilities in this country.

However, as in the school desegregation cases, the establishment of the legal principle that Negroes may not be excluded from public health and hospital facilities must be implemented in every community. In many communities in the South, Negro teachers have been afraid to lead the fight for desegregation of public schools. They, more than anyone else, know how much the Negro child is being cheated in the alleged "separate but equal" classroom. The reluctance of Negro teachers to openly lead the fight for desegregation in the deep South is understandable.

However, the financial support which the Legal Defense Fund has received from Negro teachers over the past nine years has been most encouraging. During that period Negro teachers have contributed $144,000.

In the case of desegregation of hospital and health facilities the leaders in this fight must be the Negro doctor and dentist who, along with his patients, are being deprived of equal opportunities. Unlike the case of the Negro teacher, the Negro doctor's livelihood is not dependent upon the state or public authorities. The Negro doctor secures his livelihood from the Negro communities.

It is, therefore, clearly the responsibility of the Negro doctor and dentist in this country to lead the fight for

desegregation of health and hospital facilities. Like the Negro teacher, they know, better than anyone else, how much Negroes have suffered from discrimination in this area.

The Negro lawyers in this country have been in the forefront, by virtue of their professional training, of the fight for desegregation through resort to the courts.

It is, perhaps, the Negro professional in the country who has benefited more than any other single group in the Negro population from the legal victories won by the NAACP Legal Defense and Educational Fund.

As in the case of Negro doctors, there are today, I believe, in every professional category, far more opportunities for training and jobs than there are qualified Negro applicants. And desegregation on the professional and skilled levels is moving at a far greater rate than desegregation on other levels of employment and training.

There is, therefore, not only a clear duty on the medical profession to lead the fight for health facilities desegregation, but a clear duty on all Negro professionals, because of the benefits which they have received, to help increase, as rapidly as possible, the opportunities for Negroes on all other levels.

Unless such leadership is forthcoming, and unless such financial support is given, as the civil rights struggle presently requires, we are in danger of having imposed upon us in place of full and complete implementation of the Supreme Court's decisions banning racial segregation in public facilities a new compromise—tokenism—which will be as pernicious as the compromise reached in 1896 with the adoption of "separate but equal" as national policy in place of full equality for Negroes which the 14th Amendment and other laws were designed to secure. We are in danger of tokenism as the successor to "separate but equal" because the so-called moderates have already accepted it and failure of the Negro community to continue to press for full implementation of desegregation decisions will insure it.

N.A.A.C.P. HOSPITAL SUITS PENDING

Jack Greenberg, director-counsel of the N.A.A.C.P. Legal Defense and Educational Fund, Inc., reported that as of August 1, 1963, the Fund had five suits against hospital discrimination pending.

A sixth suit, against a nonprofit hospital in Virginia, will be filed shortly. The cases are:

1. *Simpkins, et al. v. Moses H. Cone Memorial Hospital*

Seven physicians and two of their patients brought this suit to desegregate two nonprofit hospitals in Greensboro, North Carolina, and have the "separate but equal" provision of the Hill-Burton Act declared unconstitutional. One of the hospitals does not admit Negro patients for treatment or Negro physicians to staff membership despite receiving approximately $2,000,000 in aid from the United States. The other hospital, which has received over $1,000,000 from the United States under the Hill-Burton program, admits a restricted number of Negro patients. Its racial policy with respect to staff membership has improved since suit was filed, the hospital having granted staff privileges to some of the plaintiffs. The district court held both hospitals were not instrumentalities of the State, but private institutions and, therefore, were free to discriminate on the basis of race. Appeal was taken to the United States Court of Appeals for the Fourth Circuit, where the case is now pending decision. The United States intervened in support of the Negro patients and physicians.

2. *Eaton v. James Walker Memorial Hospital*

Three physicians and two patients are suing to upset a hospital policy of refusing to admit Negro physicians to staff membership and Negro patients to nondiscriminatory use of treatment facilities. The hospital restricts admission of Negro patients and those admitted must, of course, discharge their Negro physicians and obtain the services of a white physician. The hospital has received large sums from government in the past to assist its development program and, in fact, operates on property given to it by government. The District Court dismissed the suit holding the hospital not subject to constitutional restraint against racial discrimination. Appeal to the Fourth Circuit Court of Appeals is pending. The case will be argued September, 1963.

3. *Rackley v. Orangeburg Hospital*

This suit was instituted by a Negro school teacher and her daughter to desegregate the waiting room and treatment facilities of the hospital, a publicly owned institution. The teacher had been arrested when she attempted to wait for her daughter, a patient at the hospital, in a "white only" waiting room. A motion for preliminary relief has been denied and a trial scheduled.

4. *Bell v. Fulton-DeKalb Hospital Authority*

A dentist, a physician, three persons eligible for emergency treatment, a patient and a prospective nursing student brought this suit to eliminate racial distinctions in the operation of the defendant hospital. Medical and dental societies were also named as defendants. The hospital—Grady Memorial in Atlanta—is publicly owned but segregates patient and nursing students. Before suit was filed Negro physicians were restricted in their use of staff privileges, but this policy has been modified. The Medical Society agreed to desegregate after suit was filed, but the dental society continues to refuse admission to qualified Negroes.

5. *Hawkins v. North Carolina Dental Society*

This action attacks the refusal of a state dental society and its component district society to admit qualified Negro dentists. Constitutional claims are founded in part on the right to elect certain state officers which has been delegated to the society by the State. Trial in this case is set for September, 1963.