

# TEARING DOWN THE PLANTATION WALLS

MIKEL HOLT

**J**une 10, 1998, will go down in our history books as the day the Wisconsin Supreme Court issued our second Emancipation Proclamation. With its decision affirming the constitutionality of the expansion of Wisconsin's Parental School Choice Program to sectarian schools, the Supreme Court, led by Patrick "John Brown" Crooks, replicated President Abraham Lincoln's most enduring executive act, some 125 years earlier. As a result, this year's celebration of Juneteenth Day will have more current relevance, as up to fifteen thousand low-income, mostly minority families will be able to send their children to the same schools the modern analogues of slave holders, overseers, and missionaries send their offspring to.

Our battle to secure opportunities for 15,000 low-income families, and in effect alter the educational debate, had reached a new plateau on June 10, 1998. The bar, of course, was to rise even higher. Five months later, the U.S. Supreme Court refused to review a related challenge of the Parental School Choice Program, thus reaffirming it. We hope that this phase of the war was over. History, however, suggests it is not.



Who could have guessed where the decisions made in Urban Day Community School nine years earlier would lead us? At the time, it was just a matter of righting an injustice, spitting in the face of the Establishment, forcing the educracy to explain its ineptitude, and pressuring it to finally respond to our cries. Our ultimate aim was to shift the power paradigm. Our ambition was to

induce the system to undergo a metamorphosis, resulting in an institution that truly served the needs of all children, regardless of race or economic status. The short-term goal was to provide low-income children with access to an educational environment with a proven history of academic achievement.

The efforts of that small group in 1989 would have a snowball effect that would drastically alter the status quo, moving Milwaukee, known nationally as one of the least livable cities for African Americans, to the vanguard of educational innovations. The limited Parental School Choice Program for which we

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had fought so hard nine years earlier had evolved into a more comprehensive voucher program. Charter schools would follow, offering even greater options to a community tired of excuses and false promises.

The state Supreme Court's original ruling on March 4, 1992, affirming the constitutionality of school choice in Wisconsin, shifted the debate for low-income parents from giving their children the option to attend an independent school to ensuring that there would be space available in that school. The bottom line was that there would not be enough seats for the number of families wishing to participate in the Parental School Choice Program. At maximum, there were only six hundred seats in the various nonsectarian schools. In addition, the school choice legislation allowed for only half of any school's students to be choice students.

A study by Sammis White and Howard Fuller dispelled the lie that school choice was skimming off the brightest and best students. There was truth to that assertion, but not in the sense that opponents intended. Academically, most choice students were on the bottom of the ladder; a majority came from single-parent households with incomes far below the poverty level. Most of these students had immense potential, but it had remained untapped under the MPS umbrella. These potentially bright candles were never lit, but private schools have historically been able to pull that genius to the surface.

As the world has since witnessed, the Wisconsin Supreme Court's 1992 ruling on our original school choice initiative was but the beginning. By the next year, the number of choice schools doubled, as did the number of participants. There was soon a waiting list of more than four hundred children, signifying widespread support of the program and highlighting the program's inability to accommodate all those interested. It soon became obvious that the desire to escape the plantation was far greater than the seats on the Underground Railroad train. But even with another \$1.6 million contribution to PAVE, a private founda-

tion offering partial scholarships for students ineligible for the state-funded choice program, the effort to serve everyone in need came up short, particularly with poor parents required to pay approximately half the tuition.

There seemed to be only two options available. The first was a substantial expansion of participating schools, a prospect that could be difficult to achieve given the unexpected closing of Juanita Virgil Academy, a choice school, in 1991, and the ammunition its closing gave opponents who asserted that school choice was unstable. As school choice progenitor and state representative Polly Williams noted in several interviews, the school's closing was an unfortunate scenario, but one that generally happens in the real world of accountability. Virgil Academy was a business that failed. Parents took a chance and some were hurt in the process. But they were strengthened by it, and the task before us then was to ensure that mechanisms were put in place to guarantee it wouldn't happen again. New schools were part of Williams's plan, and would eventually be crucial to the continuation of the program, but it was obvious that they must be nurtured. In addition, safeguards must be put in place to weed out the fly-by-nights who would be attracted by the smell of crisp dollars, which weren't as plentiful as it may have seemed. Williams also noted that dozens of MPS schools undergo the same problems as Virgil Academy, but instead of being closed are left open, even as the students continually fail. That's what accountability is about. Under school choice, if parents don't like an institution, they can remove their children, and that school will close. In MPS, parents and students are forced to suffer unless they have the financial resources to leave the system.

The limited number of choice seats, coupled with growing public interest in the program and the continued failures of MPS, soon sparked a new parents' movement to expand the Parental School Choice Program. Williams found herself besieged with requests to introduce new legislation, not just by parents involved in the original movement who were still reeling from the refusal of the state to

include Messmer and St. Joan Antida high schools in the program, but also by parents from several Central City Catholic schools that were under threat of being closed because of dwindling financial support from the Catholic Archdiocese.

The Archdiocese had undertaken a study during the early 1990s on the declining number of Catholics in the Central City and was close to merging several of the parishes, which would have meant the closing of several Catholic schools. While enrollment in the schools was steady, few Black parents were actually Catholic, putting the Archdiocese in a difficult position. When word reached Williams in January 1994 that St. Leo's, one of the most revered Central City Catholic schools, was being targeted for closure, she acted quickly.

On a cold February morning, Williams stood on the steps of the school with Mayor John Norquist, St. Leo's staff, and a dozen community residents to announce a bill to expand the state's Parental School Choice Program to include sectarian schools. Williams hoped the bill would be included as part of the budget and be debated within a few weeks in the Joint Finance Committee. She acknowledged to reporters that she had planned to introduce legislation to expand school choice to religious schools at some point in the future, but the immediacy of St. Leo's plight had forced her to adjust her plans. Her proposal would come in the form of an amendment to the current school choice legislation, rather than as a separate bill.

Mayor Norquist, a staunch supporter of choice and vouchers, declared that the plight of St. Leo's parents further exemplified the need to expand choice. The mayor said that his daily discussions with civic and business lead-

ers convinced him that MPS is a major impediment to efforts to expand Milwaukee's business base. The quality of education is a major concern of businesses, and the abysmal failures of MPS hindered the city's efforts to retain and attract new businesses. Expanding school choice would serve the dual purpose of forcing the public schools toward change and greater accountability and ensuring a larger pool of academically sound workers through the private-school networks.

Although Williams's amendment never saw the light of day — it was unceremoniously tabled in committee — that defeat didn't signal the end of the crusade. Instead, it sparked a

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new grass roots movement. Taking the lead in that endeavor were Zakiya Courtney, Messmer High School principal Brother Bob Smith, and Hispanic choice parent Pilar Gonzales, who helped create Parents for School Choice (PFSC), a new organization that pushed not only school choice but eventually public school charters as well. Under Courtney's guidance, the group forged alliances with prominent business

and civic leadership to advance its agenda.

Early in the process, PFSC worked with Williams, but it soon became obvious that an ideological clash would keep the parties on different trains. Williams had suspicions about the business community's involvement, although initially she attended several meetings with the Metropolitan Milwaukee Association of Commerce executives, led by Tim Sheehy, who had brought in George and Susan Mitchell as consultants to work behind political lines to press for an expansion of school choice. Williams agreed in principle with the goals of PFSC, but preferred to continue with her own networking base, which she hoped to expand through a new organization

she created called Milwaukee Parental Assistance Center (MPAC), a resource and advocacy organization that focused on educational issues. Williams's base of support was the grassroots network that she had groomed to take on other challenges, including electoral politics and economic development issues.

While Williams laid the groundwork for expansion of school choice by working behind the scenes and ultimately emerging with several key amendments, PFSC planned the first step in the historic journey under the guise of a major public celebration to highlight the contributions of schools and individuals to the school choice movement. Among the invited guests was Governor Tommy Thompson, who several months earlier had responded negatively when a news reporter asked him about expanding school choice to other Wisconsin communities or to religious schools in Milwaukee. Emphasizing his support for choice, Thompson nonetheless said he wasn't interested in expanding the program yet; he was awaiting more conclusive studies to show the program's success and an expected shift in the political leadership of the state assembly to the Republicans.

The growing army of choice supporters, however, had a different idea. As Thompson was to learn during the PFSC school choice celebration at the Milwaukee Area Technical College on October 29, 1994, the politically correct time is when demand is matched with opportunity and political expediency. Such was the case on this day, when after sitting through several skits by Black, White, and Hispanic children, and presentations from Brother Bob and Zakiya Courtney, Governor Thompson was asked before the glare of television cameras, several hundred celebrants, and a half-dozen politicians to entertain the possibility of championing legislation to expand school choice to religious schools.

Obviously caught off guard by the staged event, which had been sold as an awards ceremony, Thompson seemed to be lost in thought for several moments before, smiling broadly, he announced that he would give the matter

serious consideration. The outburst of applause signaled not only a recognition of his commitment but also an acknowledgment that once again the Freedom Train would be leaving the station.

### **Success in the Supreme Court**

Three months later, Governor Tommy Thompson announced he would introduce legislation to expand school choice to religious schools. His announcement was met with applause from the low-income community, although there was an undercurrent of concern that this battle would be much harder than the previous campaign, not just because of the constitutional questions that could easily derail the Freedom Train, but also because the first time around we had caught the opposition unprepared. They had not only underestimated the depth of community support but also were astonished by our ability to establish a bipartisan and multi-ideological coalition. This time they would be prepared and were obviously willing to expend all munitions to win the war.

Though the strategy for advancing the new choice program was similar to the original campaign, this time the road was much rockier; the teachers union and the American Civil Liberties Union were clamorous in their opposition to the new proposed legislation, and several key Democrats who were sponsors of the first bill, such as State Representative Spencer Coggs, were steadfastly opposed the second time around. Gwen Moore, who had since been elected to the state senate, was much more vehement in her opposition to the new proposal and found herself under attack from PFSC. Like Coggs, she expressed reservations about the constitutionality of the measure as well as fears that the measure would have a negative impact on MPS. Moore also let it be known that she was a strong supporter of the MTEA, a fact that incensed many in the Black community who viewed the union as the greatest impediment to school reform.

State Representative Antonio Riley, elected the year before, emerged as a more-than-adequate replacement for Spencer Coggs and

Gwen Moore. Also an African American, Riley was eager to expend political capital advocating on behalf of the parents and community leadership who championed the expanded program, even to the point of antagonizing Democratic Party leadership. In fact, Riley's support cost him key committee appointments, prompting him to join Williams in blasting the Democratic Party leadership for "selling out to the teachers unions" over loyal Black supporters.

As it turned out, Williams's and Riley's support was helpful, but not necessary: as the governor had hoped, the Republicans took control of the assembly, and passage of the expanded school choice legislation was a foregone conclusion.

Personally guided by Assembly Leader Scott Jensen, a hearing on the measure on March 29, 1995, drew hundreds of low-income parents to Madison. As had been the case five years before, White out-state lawmakers were left with little doubt that school choice was not only viable, but a top priority of the urban poor, who saw it as a weapon to break the chains of mediocre education. Black parents showed up in large numbers for the hearing, and their presence was not ignored by the politicians, who always seem to be looking over their shoulders.

Six weeks later Williams introduced amendments to the legislation, including provisions to increase the number of participants from 3 to 7 percent of the MPS total and to allow low-income families with children already in private schools to participate. She also amended the legislation to keep the funding tied to the state aids formula instead of shifting it to Chapter 220, a shrewd maneuver that increased the financial allocation to nearly \$4,000.

Soon the governor expressed his support for her amendments, and one week later, on May 17, the Joint Finance Committee approved the measure by an 11-5 vote and included the proposal in the 1995 budget bill, where it was immediately passed. The ink didn't have time to dry before Thompson added his signature to the bill, making Wisconsin the first state in the country to enact a Religious School Choice Program.

Within two weeks, one hundred private schools had indicated their interest in participating in the program, and a central clearing-house was receiving an average of one hundred calls a day from Milwaukee low-income

families seeking registration information. If there was ever any doubt about the community's interest in the program, it was easily dismissed by the flood of calls. Yet history was set to repeat itself in more ways than one.

Again the *Milwaukee Journal* and *Sentinel*, joined by the neoracist *Shepherd Express Weekly*, editorialized that school choice was a right-wing conspiracy to destroy or privatize public education and segregate the (already segregated) public schools, and would generally mean the end of the world. At the same time they admitted that the public school system was ineffective, the school board was rudderless and inept, and the MTEA presented a major obstacle in the advancement of education reforms. In essence, the White press was telling frustrated Black parents that the system was rigged against them, but to escape the plantation was not an option. Apparently, the message was "stay and suffer."

Department of Public Instruction head John Benson, who made no secret of his support of and allegiance to the state teachers union, responded to the passage of the reli-

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gious school choice legislation with a tirade of insults and unsubstantiated prophecies of doom, including the prediction that racist groups and terrorists would start schools under the program. Although he, too, acknowledged the abysmal state of public education in Milwaukee, Benson made known his intent to undermine the program if possible. At one point he announced that he was hiring a special consultant to develop a reform plan for MPS. There was momentary hope from Milwaukee parents until it was discovered that the \$20,000 "research and development grant" would be awarded to Maury Andrews, the former president of the state teachers union! Months later, Andrews's recommendations were soundly rejected by all parties in the school reform debate, including the teachers union, although they would resurface three years later when the MTEA-controlled school board and the national missionary organization People for the American Way needed a diversion to offset the growing support for a breakup of MPS.

The response from the teachers union was also predictable: officials announced a lawsuit in conjunction with the ACLU to halt the program before it could get off the ground. This

time, they were successful in getting an injunction, but not before several hundred parents had signed up for the program.

The injunction, filed in Madison Circuit Court, centered on the constitutionality of the new legislation. It bypassed the circuit courts and made a beeline for the Wisconsin Supreme Court, where it was stonewalled by a split court, 3-3, after Justice Ann Walsh Bradley withdrew. The split meant the case was sent to a lower court for consideration, where Religious School Choice was declared unconstitutional, although the judge maintained provisions expanding the program to fifteen thousand students.

Proponents, led by Clint Bolick and Governor Thompson, immediately appealed. And finally, on June 10, 1998, after weaving its way through the appeals process, the case was again heard by the Wisconsin Supreme Court, this time with a new member, Justice Patrick Crooks, who had replaced one of the anti-choice justices. As it turned out, our prayers were answered, and on a bright sunny day in June the streets of Milwaukee's Central City looked a little brighter. The hopes of thousands of Black parents appeared closer to reality as another brick in the plantation wall crumbled.