tricts, the Court indicated, would impose a task that few, if any, judges are qualified to perform and one that would deprive the people of control of their schools through elected representatives.[1634] "The constitutional right of the Negro respondents residing in Detroit is to attend a unitary school system in that district."[1635]

"The controlling principle consistently expounded in our holdings," the Court wrote in the *Detroit* case, "is that the scope of the remedy is determined by the nature and extent of the constitutional violation."[1636] Although this axiom caused little problem when the violation consisted of statutorily mandated separation,[1637] it required a considerable expenditure of judicial effort and parsing of opinions to work out in the context of systems in which the official practice was nondiscriminatory, but official action operated to the contrary. At first, the difficulty was obscured through the creation of presumptions that eased the burden of proof on plaintiffs, but later the Court appeared to stiffen the requirements on plaintiffs.

Determination of the existence of a constitutional violation and the formulation of remedies, within one district, first was presented to the Court in a northern setting in *Keyes v. Denver School District*.[1638] The lower courts had found the school segregation existing within one part of the city to be attributable to official action, but as to the central city they found the separation not to be the result of official action and refused to impose a remedy for those

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[1634] 418 U.S. at 742–43. This theme has been sounded in a number of cases in suits seeking remedial actions in particularly intractable areas. Mayor of Philadelphia v. Educational Equality League, 415 U.S. 605, 615 (1974); O'Shea v. Littleton, 414 U.S. 488, 500–02 (1974). In Hills v. Gautreaux, 425 U.S. 284, 293 (1976), the Court wrote that it had rejected the metropolitan order because of "fundamental limitations on the remedial powers of the federal courts to restructure the operation of local and state governmental entities . . . ." In other places, the Court stressed the absence of interdistrict violations, id. at 294, and in still others paired the two reasons. Id. at 296.

[1635] Milliken v. Bradley, 418 U.S. 717, 746 (1974). The four dissenters argued both that state involvement was so pervasive that an inter-district order was permissible and that such an order was mandated because it was the State's obligation to establish a unitary system, an obligation which could not be met without an interdistrict order. Id. at 757, 762, 781.

[1636] 418 U.S. at 744. *See* Hills v. Gautreaux, 425 U.S. 284, 294 n.11 (1976) ("[T]he Court's decision in *Milliken* was premised on a controlling principle governing the permissible scope of federal judicial power."); Austin Indep. School Dist. v. United States, 429 U.S. 990, 991 (1976) (Justice Powell concurring) ("a core principle of desegregation cases" is that set out in *Milliken*).

[1637] When an entire school system has been separated into white and black schools by law, disestablishment of the system and integration of the entire system is required. "Having once found a violation, the district judge or school authorities should make every effort to achieve the greatest possible degree of actual desegregation, taking into account the practicalities of the situation. . . . The measure of any desegregation plan is its effectiveness." Davis v. Board of School Comm'rs, 402 U.S. 33, 37 (1971). *See* Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1, 25 (1971).

[1638] 413 U.S. 189 (1973).