

SCHOOL DESEGREGATION
IN THE SOUTHERN AND BORDER STATES
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ALABAMA HIGHLIGHTS

The Alabama school boards of Jefferson County, Fairfield and Bessemer joined with school boards of four Louisiana parishes Jan. 30 to appeal for a full-court review by the U.S. Fifth Circuit Court of Appeals of a Dec. 29 order that embraced federal school desegregation guidelines as a standard. The Alabama boards asked for a review of the sweeping 2-1 ruling by the three-judge court, arguing that the entire 12-judge court should hear the case en banc because of its import.

Dale County's Board of Education, faced with what was called an unprecedented suit by the Department of Health, Education and Welfare, threatened a countersuit for damages.

The Wilcox County Board of Education was ordered Jan. 17 to admit 66 more Negroes to traditionally white schools and provide transportation for them.

Closing out his term as governor, George C. Wallace attacked "federal judicial blackguards" along with "strutting bureaucrats" and "social engineers" for interfering with Alabama schools. He was joined in his denunciations of HEW by outgoing State Supt. of Education Austin Meadows. Wallace also told the Senate Finance Committee in Washington that "our school boards are harassed and intimidated with telephone calls and surveys."

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ALABAMA

Legal Action

Three Alabama boards of education joined with four from Louisiana Jan. 30 to ask the U.S. Fifth Circuit Court of Appeal for a special full-court review of a sweeping 2-1 appellate decision Jan. 29 approving HEW's guidelines as a standard for court-ordered desegregation in the circuit. Because of the import of the decision, the appellants claimed, the entire 12-judge court should review the case en banc--a suggestion originally made by the lone dissenter in the ruling, U.S. District Judge W. Harold Cox of Jackson, Miss.

Although only the school systems of Jefferson County, Fairfield, and Bessemer were directly involved in the decision, which would require total desegregation of all grades by next fall, state and local education officials were alarmed. They concluded that the order, if allowed to stand, would ultimately include them.

The petitioners contended that the ruling affected all free-choice school districts, which would include virtually all the systems in Alabama operating either under a court order or an agreement with HEW.

The rehearing petitions in which the Alabama boards joined claimed the decision destroys the uniformity and continuity in rulings of the court and raises important and novel issues of law.

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Dale County, faced with what was called an unprecedented suit by the Department of Health, Education and Welfare to compel compliance with federal school desegregation guidelines, threatened in January to file a countersuit for damages. County Supt. of Education Joe E. Payne said he had advised U.S. Education Commissioner Harold Howe II that any suit, as threatened earlier by the Office of Education, might provoke a countersuit for damages, unless county officials are advised of the basis of alleged complaints against the board.

Payne said that, as far as he knew, this would be the first suit in which HEW has acted directly against a local board by taking court action to compel compliance. In a telegram to Howe, Payne contended that "under law, the board is entitled to know what complaints of alleged discrimination exist." He said the board had asked for the information three times but failed to get it. His telegram continued:

"If by reason of your intentional act or negligence in this regard the board suffers damage, we will consider filing suit against you individually and under federal tort claims act for your intentional disregard of the law which causes us damage."

Payne said he had learned of the possible federal suit against his county early in January. He quoted Howe as writing to the board that it had "refused to honor the choices of a number of Negro parents" who want their children to attend formerly all-white schools.

Payne said he met with HEW officials to seek a solution and asked for an extra 10 days beyond HEW's Jan. 19 deadline to the board could decide upon its actions in face of the threatened suit. He was turned down without explanation, he said. He said he had asked what would be required to bring the board into compliance and was told 12 to 15 per cent of the Negro pupils must be enrolled in predominantly white schools, with one Negro teacher assigned to each such school and some white teachers moved to Negro schools. He said the moves would require relocating 72 to 90 Negro pupils while only nine have asked for such transfers.

Dale County is using a freedom-of-choice plan and last June agreed to comply with HEW's guidelines, Payne said. It might be as long as a month, Payne said in mid-January, before the HEW suit is filed, but:

"We're going ahead and let them bring suit. We (he and board members) agreed there wasn't enough time to make the changes. I don't see how we could possibly make all those changes, moving the pupils and changing school bus routes, in that length of time (by Jan. 19)."

In addition to pupil transfers, Payne said, HEW insisted that at least one Negro teacher be assigned to each predominantly white school and an unspecified number of white teachers to each Negro school.

When the board signed the compliance form in June, Payne said, it agreed to place three Negro assistant librarians in white schools and to approve the transfer applications of all Negro pupils. However, he said, the board was later notified that these terms were not acceptable.

In early January, he said, he was notified that his request for a hearing, on learning that federal funds had been held up, was rejected because "there appears to be no occasion for an administrative hearing at this time."

The board has received no notice from the justice department that Negroes have made any complaints, he said. In a wire to HEW, he said:

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"If you have a complaint, I would like to receive notice of it as the law requires. If you have no evidence that anyone is claiming they are discriminated against, then I respectfully request you discontinue using the threat of cutting off our funds and the threat of lawsuits, which is not befitting an educator."

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The Wilcox County Board of Education was ordered Jan. 17 to admit additional Negro pupils to traditionally white schools. U.S. District Judge Daniel H. Thomas of Mobile said in his order that 66 Negro pupils in grades 1-3 and 7-9 were denied transfers to white schools last September. If the applicants still wish transfers, he said, they should report for admission.

The court would decide if their admission caused any overcrowding, Thomas said.

The order was based on testimony at a pre-trial conference in early January. Thomas noted that only 11 Negroes were currently enrolled in white schools of the rural southwest Alabama county, although 21 were approved by the board last September. Plaintiffs said 66 elected to attend white schools last fall.

Wilcox County Supt. of Education Guy Kelly said of the ruling:

"We will follow the court's order to the letter. The court says it will be the judge of whether classes are overcrowded. We are so overcrowded that classes are meeting in auditoriums, laboratories and teachers' lounges. But if the court tells us to admit more students, we will have to admit them.

"Fourteen of those 66 Negro students who applied for transfer last year attended Boykin School at Gees Bend. They requested transfer to Wilcox County High School in Camden. If they transfer, we will have to bus them 50 miles twice a day to and from their homes, and they will bypass three other schools on the way."

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U.S. District Judge H. H. Grooms of Birmingham upheld Jan. 12 the suspension of two Negro girls from the predominantly white Fairfield High Schools.

Three girls were expelled for circulating vulgar writing in the school, according to court testimony. Judge Grooms ordered one of them readmitted to the school, finding that she merely had some material written by others.

Attorneys for the three contended they were expelled because of their race.

Fairfield, a suburb of Birmingham, is one of three Alabama school districts involved in an appeal from the U.S. Fifth Circuit Court of Appeals' desegregation order of Dec. 29. The other two systems, those of Jefferson County and Bessemer, also serve the Birmingham area.

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Schoolmen

In the first reported action of its kind, the federal agriculture and welfare departments were reported from Washington to have joined to end some financial assistance to two school districts in Alabama.

An Office of Education spokesman said Jan. 6 that the Dallas and Escambia County boards of education were notified in late December of the action. The counties were given 20 days to ask for a public hearing to determine whether some federal aid should be ended on the ground that the districts have failed to comply with the 1964 Civil Rights Act. No requests for a hearing had been received, the federal spokesman said.

Involved were not only all the funds the counties receive from the Office of Education but also their share of funds for school purposes from payments made from receipts of national forests within their borders.

There are substantial national forest areas in both counties.

The forest funds, assumed by critics to belong to the counties, caused the greatest criticism by politicians and newspapers.

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What They Say

Mrs. George C. Wallace, wife of outgoing Gov. George C. Wallace, was inaugurated governor Jan. 16, promising to continue her husband's fight for states' rights.

In his brief introductory address, former Gov. Wallace again hinted of his possible candidacy for president in 1968 and again attacked federal intrusions on states' rights. Referring to his forays into three presidential primaries in 1964 and the possibility of a repeat performance next year, Wallace said:

"We have carried the message across this nation and gained allies by the millions who have come to join us in freedom's cause. We shall continue that cause. Where you have sent us, we have gone. And now, where you would send us, we will go."

Although his speech was not as strong as his inaugural address of four years ago, when he pledged "segregation forever," it was plain that only the language had been modified. In his final address to the legislature, he had underscored his continued resistance to federal "bureaucrats" and "judicial blackguards."

Gov. Lurleen Wallace reminded her listeners that she had entered the race "for the purpose of permitting my husband to take our fight to the final court of appeal--the people of the United States in whom rests the ultimate sovereign power of this nation." She said of federal school desegregation efforts:

"Even now, a federal agency attempts to tell us the schools our children shall attend, to regulate the contents of their textbooks, who shall teach them, and with whom our children shall associate. This is an effort to gain control of the hearts and minds of our children. I resent it. As your governor and as a mother, I shall resist it. I shall seek support of concerned parents from everywhere to help overcome this menace to the welfare of our children."

Mrs. Wallace was a stand-in candidate for her husband, winning overwhelmingly in the May primary and the November general election. Former Gov. Wallace could not succeed himself, failing in the fall of 1965 to persuade the legislature to pass a measure that would have permitted a constitutional amendment to the succession barrier.

Her election, Mrs. Wallace said in her address, "is notice to all the world that the strength and determination of a free people to defend the principles of self-government will not be suppressed by force--force from China, from Russia, from Cuba, or from Washington, D.C."

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Addressing the legislature for the last time as governor Jan. 10, George C. Wallace referred to his record and "federal judicial blackguards." He also indicted "the antics of strutting (federal) bureaucrats" and the "eggheads and social engineers in America."

"These federal judicial blackguards," he said, "have torn down the temples of a great judicial tradition built by their betters and have sown the soil around it with salt."

Americans, he said, have been shown by opinion polls to be "fed up with bureaucrats telling them that they haven't got sense enough to know what is best for their children or sense enough to run their own schools and hospitals and local governments and other democratic institutions."

It was evident to observers that former Gov. Wallace intended to make another invasion of presidential primaries in 1968, chiefly on a states' rights platform, as in 1964.

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The outgoing State Superintendent of Education, Austin R. Meadows, said in the final few days of his term:

"The greatest public school handicap is the federal destruction of local school board authority in the assignment of teachers and pupils which, if increased, will destroy first the educational function of the public schools and finally the state public school systems.

"Mass integration is a complete failure at the national level in the District of Columbia as evidenced by the fact that 93 per cent of the public school pupils are Negroes.

"Mass integration now is a failure in the Hayneville High School (in Lowndes County, Alabama) as evidenced by the fact that out of the total enrollment of 118 pupils, 114 are Negroes and four are white boys."

Meadows warned that continued desegregation efforts by the federal government would bring another "tragic era" and that "the children who need public schools most will suffer most in such a tragic era and the entire national will suffer in the end."

The nation needs the South, he said, and the South needs "a friendly trusting hand from Uncle Sam, not the federal bayonets of Little Rock or the federal-supported marches against state and local constitutional authority."

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Dr. Ernest Stone, a self-proclaimed segregationist who succeeded Dr. Meadows as state superintendent Jan. 16, told a Birmingham Rotary Club meeting in early January that if Alabamians had "prayed as much as we have cussed since the 1954 'Black Monday' decision of the U.S. Supreme Court, the state would be in much better shape today."

Although his office would not volunteer ways to speed school desegregation, he told the Rotarians, "we do not want to be belligerent." Laws and court orders have to be obeyed, he said, "but we will volunteer no more."

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Former Gov. Wallace, appearing before the Senate Finance Committee in late January to protest a threatened cutoff of \$95 million in welfare aid to Alabama for failure to comply with desegregation guidelines, reached beyond welfare and told the senators:

"Our school boards are harassed and intimidated with telephone calls and surveys.

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"Federal officials are attending local school board meetings and while there are threatening the boards with loss of funds.

"Federal officials are actually telling local school boards how many teachers they must place in particular schools."

Wallace also charged that federal school guidelines require "racial balances" specifically forbidden by the Civil Rights Act and that \$500,000 in federal funds has been held up for two years without evidence of discrimination.

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Former Atty. Gen. Richmond Flowers, who finished a distant second to Mrs. Wallace in his bid for the Democratic gubernatorial nomination last May, made several speeches in January hammering on this line:

"Negroes and white moderates and liberals across the South... are emerging as a new force in Southern politics.

"Until last year's Alabama election," Flowers said, counseling patience for his followers, "there had been, in recent years, no debate or discussion of equal rights on the state level in the South."

Looking at the bright side of his poor second to Mrs. Wallace, in which he got the lion's share of Negro votes, Flowers said:

"My vote total was more than the next three candidates combined... I outpolled the candidate who came in third by a larger percentage than Mrs. Wallace beat me."

Calling for the political assimilation of the Negro minority voter into the two major parties, Flowers said that unlike Jews in Hitler's Germany who wore identification armbands, "Negroes wear armbands on their faces."

The Democratic and Republican parties in the South must learn, he said, to balance their tickets: "The first rule of politics is simple mathematics. And almost all politicians can count."

He spoke before such groups as the Alabama Council on Human Relations at meetings in Montgomery, Mobile and Florence. Other comments:

"The entire struggle for freedom in the South during the last decade has been a struggle against the ways of men--white men... It has been a struggle of law against order, new law against a harsh old order."

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"The history of Southern politics since 1890 has been one of total and absolute white supremacy, a history that I shamefully admit that I have been, at one time, a part of."

Politics is not a science but an art, he said, the art of compromise: "But on the Negro question, the white South will never compromise."

Observers believed that Flowers had already begun his 1970 gubernatorial campaign.

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