S. C. BRIEF HINTS AT REBELLION:

Defies high court in JC school suit

By LOUIS LAUTIER

WASHINGTON (NNPA) If the Supreme Court should reverse the special three-judge Federal District Court, which upheld the provisions of South Carolina's laws requiring racial segregation in public schools, neither the high tribunal nor the trial court can tell South Carolina how it shall remodel its public school system on a racially mixed basis.

That is the defiance the State of South Carolina threw at the Supreme Court in its brief on reargument of the Clarendon county school segregation case—one of five such cases which are set for reargument beginning Monday.

Lawyers for the state limited their brief on reargument to answering the five questions which the court directed the lawyers in the five cases and the U.S. attorney general to discuss in their new briefs and on oral argument and rebuttal.

Lacks Power To Act

The three-judge federal court at Charleston, S. C., upheld the validity of South Carolina's jim-crow constitutional and statutory provisions, but ordered Clarendon county school officials to provide for colored children in that school district educational facilities equal to those furnished white children.

If the Supreme Court should reverse this judgment, attorneys for South Carolina say that neither it nor the district court has the judicial power to do more than forbid compulsory or permissive segregation and to permit gradual desegregation of existing segregated school systems.

States Must Decide

It will then be solely for the school authorities of the particular state or school district involved, the brief states, to determine how they shall remodel its school system upon a nonsegregated basis and that decision will necessarily be made in the light of local conditions.

Neither the Supreme Court nor the District Court can impose a particular plan of nonsegregated schools upon the legislature of the state or local school boards, nor can it substitute itself a "super board of education" to direct the operation of the state's public schools according to a judicially devised plan, the brief declares.

While it is undoubtedly within the judicial power—assuming that a constitutional basis for the decision exists—to declare a particular school segregation law unconstitutional and void, the brief states, the court has no power to determine what, if any, nonsegregated school system shall be substituted in its place.

Would Require Probe In State

South Carolina contends that a proper disposition of the South Carolina case would call for further evidence and findings relating to the particular conditions in the communities involved.

The state says facts would have to be determined as to location, number, size and accommodations of all of the public schools within a particular district; the number, ages, grades, and residences of all public school children;

The proportion of white and colored teachers, school transportation facilities available in a relation to the location of schools and residences of pupils the nature of the present school facilities or redistribution to accommodate the new nonsegregated school system;

The funds needed to effect compliance and the existence or non-existence of sources sufficient to supply such funds.

Special Master Powerless

As far as has been discovered, the state asserts, court appointment of a special master in the South Carolina case would be unprecedented.

(In one of its sub-questions, the court asked whether it should appoint a special master to hear evidence with a view to recommending specific terms of its decrees if it is decided that segregation in public schools violates the 14th Amendment.)

South Carolina says a special master simply acts as the agent of the court. His powers, it adds, can be no greater than those of the court which appoints him. Since the Supreme Court may not in the South Carolina case hear evidence concerning local conditions, the brief states, a special master is similarly barred from doing so.

Answers Court's Questions

In answering the court's questions, South Carolina also contends that neither the Congress which proposed nor the states that ratified the 14th Amendment believed that it would bring about mixed schools.

(That statement ignores the fact that for a time during Reconstruction South Carolina had interracial schools.)

It also contends that neither the Congress nor the states believed that the amendment empowered future Congresses or the courts to abolish segregation in the public schools of the nation.

'Barred By Own Decisions'

South Carolina contends that the Supreme Court has no power to construe the 14th Amendment "adversely to the understanding of its framers as abolishing segregation in the public schools."

It adds that the court is barred by the principle of "state decisis" (standing by matters already decided by its own opinions) from handing down a decision that would abolish segregation in the public schools.

Assuming that it is decided "improperly," the South Carolina brief says, "that public school segregation violates the 14th Amendment, a decree would not necessarily follow that within the limits set by normal geographical school districts colored children should immediately be admitted to schools of their choice."

BAN SCHOOL SEGREGATION, SAYS BROWNELL—Attorney General Herbert Brownell, shown at press conference in Washington, where he told newsmen that he had filed a 188-page brief telling the Supreme Court that it can and should outlaw racial segregation in schools. He suggested a one-year time limit for the states to comply. The brief strongly set forth the administration's opposition to separate schools for colored and white children. (INS Photo)

BATTLING BOARD MEMBER:

Brief in D.C. school case challenged by Dr. Butcher

WASHINGTON

Dr. Margaret J. Butcher of the D.C. School board this week challenged several points in the brief on the local school segregation case which the corporation counsel filed in the Supreme Court on Monday.

She said that she personally felt that the members of the school board should have been informed in advance of the legal position the corporation counsel was taking in representing the board.

"I cannot let it be assumed," she went on in a 1,000-word statement, "that what the corporation counsel has said in his brief coincides with my own beliefs and convictions.

'Poor and Inadquate'

"The local segregated system," Doctor Butcher continued, "is poor, inadequate, and incapable of rendering proper educational services to the children of either Division 1 or 2."

Doctor Butcher specifically rapped the corporation counsel's brief for what she called "almost an invitation to violence," in case schools here are mixed.

The brief cited the Anacostia swimming-pool problem a few years back and the clashes in Cicero, Ill.

No Comment From Karman

Doctor Butcher also challenged the views advanced in the brief that integration, if it comes, must, first be "rounded out" or "perfected; and that expensive courses (requiring Congressional appropriations) must be arranged to teach teachers how to handle mixed classes.

Assistant Corporation Counsel Milton D. Korman, who will argue the District case before the Supreme Court justices next Monday, said on Wednesday that he had no comment on Doctor Butcher's statement.

He referred to the final paragraphs of the brief which stated that it was concerned with legal rather than "sociological" questions.

No Poll Taken

The brief also stated that individual D.C. school board members differ in their views on segregation and that no poll has been taken of the members on this issue.

Doctor Butcher, in her statement, made the following points, in addition to those mentioned above:

1. "Integration now may not bring about a perfect school system, but it would at least be a starting - point for righting some of the wrongs of the dual system.

Segregation Helps Prejudice

2. "Not all D.C. citizens are unfamiliar with interracial patterns. The Supreme Court has handed down rulings which work against some personal preferences, but people have obeyed the law.

3. Segregation helps build prejudice. Gradual integration and talking about integration is a waste of time.

"The first positive step is to integrate let the children and teachers see each other as people all aspiring to learn and to teach. The problems of interpersonal relatioship can be resolved as they appear.

Difficult, Not Insoluble

4. The problem of teacher replacements and promotions in integrating a dual system may be difficult.

"But it is certainly not one "that cannot be resolved, nor one that by being delayed will be any easier to resolve.

5. "The District brief stressed that lawyers for the complainants in the local school case don't charge "inequality of facilities." But Superintendent Corning's own reports show how unequal Divisions 1 and 2 are.

Segregation Framework

"Besides, the lawyers in the District case recognize these inequalities, but they are arguing this particular case solely in the segregation framework, not the separate-but-equal framework."

Doctor Butcher also stated that she knew that the local school board is being sued "as an entity." But, she added:

"The board is composed of nine responsible individuals, each of whose names appear singly in the Supreme Court files. As one of those individuals, I feel impelled to state my personal feeling."

—Eleven hours

(Continued from Page 1)

The Five Questions

Here are how the various briefs seek to supply answers to the five questions:

(1) Whether congress in submitting the 14th amendment and the states in ratifying it, intended or understood that it would abolish segregation in the public schools of the nation.

Both Thurgood Marshall and Attorney General Brownell reply "yes."

It was the clear intent of congress that there should be "full and complete equality" between all citizens of the United States, they say.

Virginia and South Carolina were positive that "no congress" would propose a constitutional amendment which it thought would abolish segregated schools.

They cited the history of the dual school system in the District of Columbia in an effort to support their belief.

Kans., Del. Views

Kansas also holds that it was not the intention of congress to abolish segregated schools.

Delaware insists in its brief that a constitutional question is not even involved. Delaware says it is only appealing a lower state court decision.

Insufficient time was allowed to setup equal facilities under the segregated system made mandatory under the state constitution, it said.

The District, disputing that congress intended to abolish segregated schools, points to the fact that separate schools were created in Washington in 1866 by congressional action.

(2) If that was not the intention or the understanding at that time, did congress and the state understand that future congresses or the courts might outlaw such segregation.

Mr. Brownell finds in answer to this question that the legislative history of the amendment in congress is not conclusive.

Delaware says its examination of the congressional debates offered "no convincing proof."

(3) Is it within the judicial power in construing the amendment, to abolish segregation in the public school?

Thurgood Marshall and Herbert Brownell answer that it is most certainly within judicial power to eliminate segregated school systems because they are unconstitutional.

South Carolina, conceding that while it may fall within judicial power to abolish segregation, the court has not authority to make the state setup an integrated school system.

Virginia, Delaware and Kansas deny that the courts have power to abolish segregated schools, contending that only through legislative actions could such a radical change be accomplished.

The fourth and fifth questions dealt with the form a judgment ending segregated schools should take. The court wanted to know whether the order should be effective at once or should allow a gradual adjustment.

Here Mr. Brownell and Mr. Marshal disagreed slightly.

Mr. Marshal insists the order should call for an "immediate" end to dual school systems.

Mr. Brownell is willing to give the states at least a year, or longer if circumstances deem it necessary.

South Carolina says the court "may permit an effective gradual adjustment to be brought about."

Virginia also favors the gradual approach. "The best solution," it argues, "may require years before amalgamation is complete."

Thurgood Marshall is expected to file his reply to the Virginia, South Carolina, Delaware and Kansas briefs Monday morning.

George E. C. Hayes, who represents the parents in the District of Columbia case, will also have the right to reply to Corporation Counsel West's brief at the same time.

Conveneas at Noon

The court will convene each day for its morning session at 12 noon. The lunch recess is held from 2 until 2:30 p.m. The afternoon session concludes at 4:30 p.m.

Because there are only a limited number of seats available to the public, spectators hoping to be admitted begin lining up outside the Supreme Court building as early as 8 a.m.

A majority of the seats are reserved for lawyers in the cases as well as visiting lawyers who have been admitted to practice before the Supreme Court.

Another section is reserved for families of members of the Department of Justice, diplomats and other high government officials, as well as special guests of justices of the Supreme Court.

No Standing Allowed

When all of the public seats are filled, no other persons are admitted, until the departure of a spectator leaves a vacant seat.

Members of the court are seated from left to right in this order: Mr. Justice Tom Clark, Mr. Justice Robert H. Jackson, Mr. Justice Felix Frankfurter, Mr. Justice Hugo Black, Chief Justice Earl Warren, Mr. Justice Stanley Reed, Mr. Justice William O. Douglas, Mr. Justice Harold Burton and Mr. Justice Sherman Minton.

Meanwhile, the general talk in legal circles is the striking similarity of Thurgood Marshall's brief and that of U.S. Attorney General Herbert Brownell.

Reach Same Conclusion

Both quote the same sources, cite the same laws, use similar quotations and in general reach the same conclusions.

Universal opinion has been expressed that Mr. Brownell and the Eisenhower administration had done a superb job in preparing and filing the brief.

'BUT WE CAN DO BETTER JOB':

Virginia bows to court,s power to end JC schools

WASHINGTON

Complying with a request of the U. S. Supreme Court, the State of Virginia, through its attorney general, filed with that tribunal a brief in which it did not question the court's power to abolish segregated schools but said the state could do a better job.

The brief, filed by the state's attorney general, J. Lindsay Almond Jr., and T. Justin Moore sr., counsel for the Prince Edward county school board, said in part:

"School segregation is a legislative problem: as time passes, it may well be that segregation will end. But the judges of the proper time to end it should be the legislators who are so much nearer the facts of the racial problems that caused segregation.

"The question is a practical one for them to solve; it is not subject to solution in the theoretical realm of abstract principles."

Court Has Power, But —

Bulk of the Virginia brief, as in the case of most of the states involved, was devoted to the propriety of the Supreme Court's placing on the 14th Amendment any construction that would abolish segregation in the public schools of the South.

The Virginia lawyers admitted that the Supreme Court has power to make and enforce such an interpretation of the amendment, but they pointed out that:

"To interpret the 14th Amendment as authority for the judicial abolition of school segregation would be an invasion of the legislative power and an exact reversal of the intent of the framers of the amendment."

Asks Gradual Integration

Virginia's brief asked that if the court strikes down school segregation, it "permit effective gradual adjustment, "warning that "precipitate action would make education impossible and do irreparable harm to all children in the schools."

Although the Virginia brief points out on one hand that the court's decision would affect only the county involved (Prince Edward), it asserts on the other that school segregation is not an "isolated" custom, stating that it is practiced in "two-thirds of the nation."

A decision abolishing segregation technically would not affect Nottoway county, adjoining Prince Edward county, nor the State of North Carolina, the Virginia brief contends adding that the cases are limited to the five specific localities.

Held in N. C.

(Continued from Page 1)

living room floor dead.

Both of the men were married.

According to witnesses, in the initial melee Brown made a pistol away from Thomas. The fight started again, Chief Worrell declared, when Sergeant Thomas returned to the four-room apartment to get his gun back.

Worrell said witnesses in the Brown home there were informed that the two soldiers had been drinking heavily before the fight started.

In the preliminary hearing in city court Wednesday, Sergeant Thomas declined to testify. His case is scheduled to go before the Fayetteville grand jury the middle of January.

Neighbors in the Hostloop project described the two men as "a couple of nice looking young men who had been friends for a long time."

Corp. headquarters of the 82nd Division declined to release any information concerning the two men until their next of kin were notified.

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54-year-old Bragg school to open as opportunity unit in February

Edward Williams named principal. Mrs. Vivian Washington to serve as full-time social worker. Student body self-determined.

By LULA JONES GARRETT

A city unit to aid boys with personality adjustment problems will become a reality here, in February, when the department of public schools formally opens the Bragg School for Boys, on a 32-acre site on the Old Frederick rd., two miles west of Catonsville.

The school, to be operated under the educational department's division of special services, will be comparable to Highwood school for white boys, which has been in operation since 1938.

In 1949 the department purchased the school, formerly a diocesan institution from the Protestant Episcopal church at a price of $40,000.

Renovate Old Building

The old building, formerly a chapel and recreation room has been renovated, and a new barn, administration building, classroom, shop and gymnasium added. Also added are residences for the school head and the caretaker, who will live on the premises.

The school will accommodate 70 boys, but less than 20 are expected at the opening in February.

In addition to the regular academic program, the boys will participate in shop work, gymnasium activities, gardening and the care of farm animals.

The youngsters will range in ages from 11 to 16, and will attend the school daily, being transported to and from school by bus.

Opportunity School

The school is not a correctional institution. Youngsters are not sent to the school, but offered an opportunity to study there upon their own request. Generally there will be a two-week probation period for each pupil at the school.

One week will allow the child to determine whether or not he wishes to attend the school, after he has obtained his parents' consent, and another week for the school administration to determine if he is a proper candidate for the year's courses.

Williams Named Principal

The school will have a faculty of four to begin with. Edward Williams, now of the faculty of the Samuel Coleridge Taylor school No. 122, will be principal. Mrs. Vivian Washington, social worker of the special services department, will be a full time staff member.

There will also be a caretaker, bus driver and a dietitian. Lunch will be served at the school, Dr. Arthur Lichtenstein is director of special services, under which it will operate.

Mr. Williams, a native Baltimoreans, is a graduate of Coppin Teachers' College on Morgan State college and is presently studying for a masters' degree in guidance at NYU. He has been a city school teacher since 1934, his entire career being in occupational industry arts.

He is a member of St. Pius Catholic church, the Holy Name Society, the Catholic Intergracial League, Kappa Alpha Psi fraternity and the Guardsmen and Octonory clubs.

54-Years Old

The Bragg School has an old and interesting history. Established in 1899 as an institution for orphans, its first sponsor and mainstay through many years was Father George F. Bragg Jr., late rector of St. James Episcopal church.

Others, including Dr. George B. Murphy Sr., James W. Frank Sorrell and Anthony Orban, were among those who gave of their time and funds to keep the institution in operation.

The school was named for Father Bragg in 1941, a year after his death, and the basis for its truition as a special city school project was laid by the late Dr. William F. Lemmel, former superintendent of schools.

New Land Mark

Commenting on the opening of the school, Dr. Houston R. Jackson, assistant superintendent of schools said:

"The opening of the Bragg School for emotionally disturbed colored boys in February, 1954, will be a landmark in the history of education in Baltimore City and another evidence of the determination of the Department of Education to provide equality of educational opportunity for every pupil.

"Experience has shown that some children develop to their fullest potential by being grouped in schools with other children of different abilities and interests. Other children grow best by separation into classes and schools with children of live abilities and interests. Still others achieve most through extreme individualization of instruction.

"Diagnosing the abilities of each child and providing an educational program by which he can best grow and develop is what we call providing equality of educational opportunity.

"The educational program planned at the Bragg School for colored boys in Catonsville is unique in the United States. I know of no city which has combined the rural and the city and incorporated the agricultural, industrial, and academic phase of education into a curriculum for public school children to the extent planned in Baltimore, and particularly at the Bragg School.

"With the co-operation of the parents, I am confident that the investment will pay dividends to the community in terms of better adjusted youth and more value some personalities."

Raymond Young

Ex-special delivery boy appointed carrier foreman

Postal worker Raymond A. C. Young, 2323 Druid Hill ave., who started in the post office as a special delivery messenger 35 years ago was promoted to carrier foreman on December 1.

He was sworn in by Leonard Frank, foreman in the postmaster's office, and witnesses included John White and Page Bell.

Mr. Young took the Civil Service test and was appointed letter carrier in 1920.

He has been chairman of the welfare committee of the Baltimore Branch National Postal Alliance, vice-president of the Postal Hospital Fund, and a member of the local U. S. Civil Service Board.

Many Congratulate Him

Employees came from all over the post office to congratulate him after he was sworn in.

For nearly 23 years he served as a letter carrier in the area around North avenue, Charles and St. Paul streets.

Mr. Young is a member of an old Maryland family. His father, Howard Young, was a teacher in the public schools and a newspaperman, and his grandfather, Rev. C. H. Young, was for many years pastor in the AME Church.

National NPR Veep

Mr. Young was formerly national vice-president of the National Postal Alliance and president of the Baltimore Branch from 1937-45.

He is active in Bethel Church, the Masonic Order, the Urban League, and the NAACP and was awarded the gold trophy for work done in a recent campaign.

The promotion came as a birthday gift to Mr. Young who will be 53 on December 20.

Court divides Shaultz estate

The $7,365 estate of Charles H. Shaultz, who died at his home here, Sept. 19, 1952, has been divided between a sister and the children of sisters and brothers, the Orphans Court records show.

The estate derived from the sale of Mr. Shaultz's home at 841 Harlem ave. Because he necessary for the division to be made by the court, following the filing of a friendly suit by the heirs.

The suit was filed by Lloyd G. Peters, a nephew, and his sister, Miss Carrie C. Peters.

Lawyer Distributes

Roy S. Bond, attorney, who was named trustee by the court, made distribution this week of the following amounts to the following heirs:

Mrs. Ana Wilson of Lexington, Va., sister, $1,298.18; Lloyd G. Peters Miss Carrie C. Peters, Fred D. Peters, Thomas E. Peters, John H. Peters, and Mrs. Margaret Walker, children of the late Mrs. Henrietta Shoultz Peters, a sister, $216.36 each;

Richard Dathan, Robert Walker, Mrs. Laura McDaniel and Mrs. Janie Goldsborough, children of the late Mrs. Maggie Shoultz Walker, a sister $259.64 each;

Miss Fannie Shoultz, William, Charles and Albert Shoultz, children of the late Wm. Shoultz, a brother, $259.64 each.

Police hold man on narcotics count

Charged with illegal possession of 19 capsules of heroin, Clarence P. Bishop, 29, of the 1800 block W. Lanvale st., was ordered in $3,000 for the action of the grand jury, following a hearing Wednesday in Northwestern police court.

Narcotics squad officers testified that a three man raiding party headed by Sgt. Joseph Carroll was admitted to the house on Nov. 30 by Bishop, after they rang the bell.

It was charged that a search of Bishop's bedroom turned up 19 capsules of heroin in the pocket of a coat.

Bishop entered a not guilty plea.

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