

RESOLUTION RELATING TO PUBLIC SCHOOL POWER
IN VIRGINIA, ITS GOVERNMENT AND ITS PEOPLE

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WHEREAS, on May 17, 1954, in a case involving a Virginia county school board, The Supreme Court of the United States of America declared that racial discrimination in public education is violative of the Constitution of the United States of America and that separation of the races as alleged in that case was per se discrimination; and

WHEREAS, on May 31, 1955, said Court rendered its so-called implementation decision in relation to the aforesaid case, remanded the cause to the District Court and, in its May 31, 1955, opinion, incorporated by reference said Supreme Court's opinion of May 17, 1954, and declared: "All provisions of Federal, state or local law requiring or permitting such discrimination must yield to this principle"; and

WHEREAS, in an order entered by the District Court to which the aforementioned cause was remanded by said Supreme Court on May 31, 1955, the District Court, on July 18, 1955, adjudged, ordered, declared and decreed:

"That insofar as they direct that white and colored persons, solely on account of their race or color, shall not be taught in the same schools, neither said section 140, Constitution of Virginia of 1902, as amended, nor said section 22-221, Code of Virginia of 1950, as amended, shall be enforced by the defendants, because the provisions of said sections are in violation of the clauses of the Fourteenth Amendment to the Constitution of the United States forbidding any State to deny to any person within its jurisdiction the equal protection of the laws"; and

WHEREAS, section 140 in Article IX of the Virginia Constitution specifically provides:

"White and colored children shall not be taught in the same school"; and

WHEREAS, the Tenth Amendment to the Constitution of the United States of America specifically provides and, hence, expressly recognizes, that certain powers are "reserved" to "the States respectively, OR TO THE PEOPLE"; and

WHEREAS, public school power is one of the powers so reserved; and

WHEREAS, the question as to whether, insofar as Virginia is concerned, the public school power so reserved is in the State of Virginia or is in the people thereof is not essentially a Federal question but is essentially a State question within the competency of the Supreme Court of Appeals of Virginia to determine upon its proper consideration of the Virginia Constitution, State Government and the State and the nature and extent of the powers thereof, and the powers (and the nature and extent of the powers) in the people of Virginia as distinct from the State or its Government; and

WHEREAS, it is inconceivable that the people of Virginia would have vested any public school power in the State or in the State Government except subject to the condition that no such power could be exercised (and, therefore, would automatically return to the people of Virginia) in case said Section 140 could not be observed; and

WHEREAS, in view of the foregoing Federal court opinions, decisions and orders, it is perfectly apparent that said section 140 cannot be observed.

WHEREAS, on May 17, 1954, in a case involving a Virginia County School Board, The Supreme Court of the United States of America declared that racial discrimination in public education is violative of the Constitution of the United States of America and that separation of the races as alleged in that case was per se discrimination; and

WHEREAS, on May 31, 1955, said Court rendered its so-called implementation decision in relation to the aforesaid case, remanded the cause to the District Court and, in its May 31, 1955, opinion, incorporated by reference said Supreme Court's opinion of May 17, 1954, and declared: "All provisions of Federal, state or local law requiring or permitting such discrimination must yield to this principle"; and

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WHEREAS, it is inconceivable that the people of Virginia would have vested any public school power in the State or in the State Government except subject to the condition that no such power could be exercised (and, therefore, would automatically return to the people of Virginia) in case said Section 140 could not be observed; and

WHEREAS, in view of the foregoing Federal court opinions, decisions and orders, it is perfectly apparent that said section 140 cannot be observed.

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX CITIZENS COUNCIL OF VIRGINIA AS FOLLOWS:

1. The Council asserts that the people of Virginia have never given to the State or State Government any power to finance, tax or issue bonds for, establish, operate or maintain any public school or schools on an integrated basis with respect to white and colored children, or to apply for, accept or utilize any Federal aid for any such integrated public school or schools.

2. The Council further asserts that no political subdivision or other agency or public body of the State has any authority whatsoever to finance, tax or issue bonds for, establish, operate or maintain any public school or schools on an integrated basis with respect to white and colored children, and that the State is completely without authority to vest any such power in any such political subdivision, agency or public body, since the people of Virginia have never parted with this "reserved" power.

3. The Council further asserts that all public school power has automatically returned to the people of Virginia and that neither the State, State Government nor any political subdivision of the State now has any legal authority whatsoever to finance, tax or issue bonds for, establish, operate or maintain any public schools, or to apply for, accept or utilize any Federal aid for public schools.

4. The Council further asserts that at no time has the State Government or any county, city, town, or political subdivision of the State, including any school board, had any authority under State law to accept or contract for or assure that it would utilize any Federal financial aid for construction of public schools, under and in accordance with existing Federal laws, under regulations, policies and requirements, including, particularly, Federal wage laws, and the labor standards regulations of the Secretary of Labor, United States Department of Labor.

5. The President of the Council is hereby authorized to transmit a copy of this Resolution to the Governor of Virginia, the Attorney General of Virginia, each member of the General Assembly, each member of the Supreme Court of Appeals of Virginia and circuit court judge of the State, each Commonwealth Attorney, each member of the U. S. Congress from Virginia, all members of the U. S. Congress who signed or agreed to the recent so-called "Manifesto" concerning States rights, such other public officials as he may desire, to all Citizens' Councils, and to such other persons as he may deem appropriate.