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ADDRESS

BY

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Last Monday, for the first time in the history of the Commonwealth of Virginia, Negro children -- some 21 in number -- walked through the open doors of public schools to sit down in the classroom with white children. This was not the first time that such an event has occurred in southern communities where segregation had long been traditional. Nonetheless, it was a milestone. For the State of Virginia had adopted legislation which had the avowed purpose of avoiding and preventing the very occurrence which was taking place. That legislation proceeded from an untenable premise -- that somehow it was possible, consistently with the law as declared by the Supreme Court of the United States, to continue a policy of racial separation in the public schools. The entry of the 21 pupils -- an event marked by dignity and courage on the part of the Negro children and by understanding and restraint on the part of the white pupils - signalled the end of a chapter. This is not to suggest that there are not continuing and very difficult problems to be met, both in Virginia and elsewhere -- problems which will call for profound wisdom and understanding on the part of all Americans, whether they live in the north or south.

This was the end of a chapter in one state -- the end of efforts at resistance by all legal means. It was particularly significant because, as we well know, Virginia has had a long and proud history. It was in the finest tradition of a democracy cradled in Virginia that its people

this week accepted peaceably a drastic change in their way of life. It was difficult for them, for many were not at all convinced that our Constitution and our democratic ideals call for this change. Yet it is to their great credit that their faith in a government of laws prevailed over all such doubts and hesitations.

Before attempting to consider some of the remaining problems in this complex area, let me restate the essential holding of the Supreme Court in its decision, handed down in 1954, in the case of Brown v. Board of Education. In the welter of discussion which has surrounded the school desegregation decisions, it is easy to lose sight of the precise proposition involved.

The Brown case holds in essence that a state's denial of admission to public schools upon the ground of race is inherently discriminatory and hence constitutes a denial of "the equal protection of the laws" guaranteed by the Fourteenth Amendment. The case neither holds nor suggests that the matter of public education has ceased to be the primary responsibility of the states. Nor does it attempt to prescribe the means and the manner by which the communities and the states are to bring the operation of their public school systems into compliance with the vital and fundamental principle of equality under the law. Indeed, the Supreme Court was at pains to point out that federal district courts, in the exercise of their equity powers, are to take full account of local factors in order to permit the necessary adjustments to be made in an orderly and systematic manner.

In other words, each state remains completely free, as it has always been, to work out in its own way the details of its public school system. The court merely held that a state violates the Constitution of the United States when it denies a Negro child who is otherwise qualified for admission to a particular public school, and who seeks admission, the right to enter that school.

Last October, this principle was unanimously reaffirmed by a differently constituted Supreme Court in the case of Aaron v. Cooper. That opinion further emphasized that "the constitutional rights of children not to be discriminated against in school admission on grounds of race or color *** can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation whether attempted 'ingeniously or ingenuously'."

A logical sequel was the decision, two weeks ago, by the three-judge United States District Court in what has been called the Norfolk case. That was a suit instituted on behalf of white Norfolk children who had been shut out of the public schools in consequence of Virginia's school-closing laws. The court ruled that it was unconstitutional for a state to close schools on a selective basis, that is, to close down only those schools in which it has been ordered that Negro children be admitted while continuing to operate other schools not subject to a similar order.

On the very same day that the Norfolk case was decided in a federal court, the State Supreme Court of Appeals reached a decision of far-reaching importance. That court decided, as you know, that Virginia's school-closing and related laws could not be squared with the requirement of the Virginia Constitution that the "General Assembly shall establish and maintain an efficient system of public free schools throughout the State." This decision underscores the importance which our people have attached, and which, indeed, a democratic people can scarcely fail to attach, to the general availability of public schooling. If the Norfolk case makes clear that if a state is to operate a public school system at all it must do so in compliance with the requirements of the United States Constitution, the Virginia case highlights what an indispensable place the institution of the public school has come to occupy. It seems difficult to believe that responsible men and women, deliberately weighing the consequences for children, for parents and for the community at large, would voluntarily choose a course leading to abandonment of their public schools.

I would point out that the start which has now been made in Virginia took place without the necessity of any intervention by the Executive Branch of the federal government. In making this observation, I do not mean to imply that we view our functions passively or that we will fail to exercise

those responsibilities which are properly ours. Not everybody realizes what those responsibilities are. Recently a group of foreign students who spoke to me about the school issue told me how strange it seemed to them that there were so many legal problems. One of them said to me that in his country the government, through the Minister of Education, would simply issue a blanket decree. Ours, of course, is a federal system, and the separate roles of the federal government and of the states must be respected. This does not mean inaction on the part of either. It does mean that each must proceed within its proper sphere, and with understanding and self-restraint.

Let me attempt to draw some lines. The Department of Justice does not institute proceedings to alter the practices followed in the countless school systems throughout the country. Moreover, if a private suit is filed on behalf of individual children who allege that they have suffered discrimination at the hands of the state, and if this contention is sustained in the courts, we regard the matter of formulating an appropriate remedial plan as the primary responsibility of the local authorities and of the local court.

However, if a federal court enters a decree and there should thereafter be defiance of that decree or a substantial interference with its execution, it does, in our view, become the duty of the Department of Justice to act. In such circumstances we shall take all appropriate

steps to vindicate the court's authority--for example, through the institution of contempt proceedings.

A troublesome problem arises when a campaign of interference is initiated by extremists in the community who are not directly under the court's order and, accordingly, are not subject to the contempt power. This might take the form of organized threats of violence or the gathering of a mob. To strengthen the federal government's ability to deter such occurrences, the President has proposed to Congress the enactment of legislation which would make it a federal crime for persons to seek to obstruct the carrying out of a federal court's decree duly entered in a school desegregation case. This would correct a deficiency in the present law, though I have every hope that we will rarely, if ever, find it necessary to invoke such authority. I cannot overemphasize the point that if, as in Virginia, state and local authorities stand ready to maintain law and order within the community there need be no occasion for the federal government to act in order to support and insure the carrying out of court decrees.

Apart from enforcement proceedings, we have participated in a number of cases in which it appeared that we might provide assistance or aid in the establishment of guiding principles. Brown v. Board of Education and Aaron v. Cooper, to which I referred earlier, are examples. In both of these cases the United States,

at the request of the court, appeared as a friend of the court.

There are forms of assistance other than legal which can be rendered. I invite your attention to the President's recent proposal that Congress enact a statute under which the federal government might make grants-in-aid in order to assist the states and localities in shouldering certain additional costs attendant upon the transition to desegregated school systems. The measure would also authorize the United States Commissioner of Education to provide technical assistance and to initiate or participate in conferences designed to solve the educational problems involved.

As the President has stressed, progress depends not on laws alone, but on building a better understanding. The leaders of all of our great religious faiths have been prominent in that most important endeavor. As was stated by the Catholic bishops of America last November:

> "The heart of the race question is moral and religious. It concerns the rights of man and our attitude toward our fellow man. If our attitude is governed by the great Christian law of love of neighbor and respect for his rights, then we can work out harmoniously the techniques for making legal, educational, economic, and social adjustments."

As recently as last fall, there was still a substantial body of opinion in certain areas of the country which held tenaciously to the view that the Supreme Court's decision might be permanently nullified. The

negative attitudes which then prevailed gave every reason for grave concern. Today, there is a much wider acceptance of the realities--a growing recognition that intransigent resistance can lead but ultimately to the destruction of public schooling in the area concerned. By the same token, there is increased awareness that the problems of adjustment, though they are real, and in some areas extremely difficult, are not insuperable. Our nation in its short history has solved many grave problems, and if all persons concerned act with reason and understanding the problems in this field will seem less serious.

True, there is some talk of communities falling back upon the expedient of private schooling. No one should forget that it has taken a century to bring our public school systems to their present state of development. Even so, we are still faced today with the dual necessity of expanding existing school facilities and raising academic standards. Is it not self-delusion to suppose that if a state or community abandons its public school system there will be any available or adequate substitute?

Where, then, do we stand today? There is cause for encouragement, for believing that reason and wisdom are coming to the fore. Voices of moderation are being heard in many quarters, and with greater frequency and clarity. Many people who have been adamant up to this point are beginning to listen. These are signs

that more thoughtful and reasoned progress is in prospect.

Obviously, imposed solutions are much less satisfactory than voluntary ones. That which is imposed tends to accentuate tensions; it may leave a residue of resentment -- resentment both on the part of those who feel that too much is being required too soon and on the part of those who feel that too little is being done too slowly.

We have seen, on the other hand, that where the individual citizens and the responsible officials have frankly faced the facts and have proceeded in good faith to formulate their own plans and to go forward with them, confusion and disorder have been largely avoided and substantial progress has been made.

While our attention has been recently focused on efforts which have been made in relation to our public school systems, we should not lose sight of the fact that the same lesson is persuasively demonstrated by the experience of the parochial schools. How many people realize, for example, that the parochial schools in the State of Virginia were integrated before the Supreme Court handed down its first School decision in 1954? That was accomplished by careful planning and through the exercise of moral leadership. It was done quietly and effectively, without turmoil and without fanfare.

What is the conclusion to be reached from these comments? It is this. The time has come, I believe, for the states and communities concerned to think soberly and wisely about the future. The

alternatives--assuming as we must that the abandonment of public schools is not feasible--are these: (1) voluntary compliance, on the basis of considered plans prepared by local people and worked out to meet local needs and conditions; or (2) a period of dogged resistance initiated for purposes of delay and resulting in increased tensions, with compliance finally coming pursuant to court orders and on a more or less haphazard basis depending on when and where lawsuits are started.

Plainly, it is in the best interests of all concerned that communities not wait until there are lawsuits and court decrees. Every community should begin to plan and develop for itself a program best suited to its own needs. The leaders of community life should encourage this forehanded and affirmative approach. In this, clergymen, teachers, professional people, Parent Teachers Associations, school boards, civic associations, can all make their influence felt.

Obviously all of the problems cannot be solved today or tomorrow. What is important is that the communities go about the business of meeting them -- that they become engaged in the process of translating the constitutional principle into a working principle.

We must proceed with wisdom and with understanding, with patience and with determination. We must not fail, for the ultimate goal is a cherished one -- to achieve full respect for the lawful rights of all Americans.