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Virginia School Ruling Seen As Blow to States' Rights

By David Lawrence

WASHINGTON, Apr. 27. — President Kennedy may have dealt a fatal blow to the movement to obtain money from the Federal government to subsidize public schools. He has just demanded that the legislature of a sovereign state—Virginia—be compelled to take punitive action against a single county for failing to open its schools or else abandon the whole public-school system throughout the state. In view of this development, will Congress now take a chance and appropriate money that gives a bureau in Washington potential power over the operation of the public schools throughout the United States?

To tell a state how it must appropriate its funds, how it shall set up its own system of education, and what steps it must take to satisfy the Federal government's demands is unprecedented in American history. Yet this, in effect, is the authority sought by the Department of Justice, with the approval of the President, in applying to a Federal court for an order against the State of Virginia.

The step is far-reaching. It could mean that in the future the Federal government could even tell a state it must have a uniform system of government applying to every county or city. It so happens that the State of Virginia permits its counties and independent cities to adopt, as they choose, various forms of executive management or control by boards of supervisors elected by the people. But, under the theory just applied by the United States Department of Justice, the counties and municipalities would not be permitted to have their own forms of local government, but would have to adopt a system uniform throughout the state. If any county or city deviated, it would be in danger of being compelled to accept an order of the Federal government in Washington served upon the state through the courts.

14th Amendment Doctrine

This doctrine is, of course, based upon the concept of the Fourteenth Amendment, which the Supreme Court of the United States proclaimed in its "desegregation" decisions in 1954. The point was made then that "equal protection of the laws" means equal application of state laws to children attending public schools.

But there is nothing in the Fourteenth Amendment or anywhere else in the Constitution which says that the Federal government may tell a state it cannot provide funds to keep its public schools open in 97 counties and 32 independent cities because a single county happens to close such schools.

This is an obvious form of punitive action that can readily be repeated by an executive order directing any state which accepts Federal funds to operate all its schools according to standards laid down by a Federal bureau.

For months now, the lobbyists

for Federal aid to education and the politicians who hope to get votes through promised increases in teachers' salaries have been denying that any form of Federal control of education would be involved in current proposals for financial aid to state schools. But now it turns out that, without any specific right granted through existing law, an executive order could be issued—or a court decree sought by direct intervention of the Federal government—telling a state how to run its educational system.

Grants Stopped

The Federal government is demanding not only that a state re-open public schools in a particular county but that it shall stop state and county tuition grants for the use of parents who send their children to private schools and cease to pay from state funds for the "maintenance and operation of public schools anywhere in Virginia" as long as the public schools in one county are closed.

This can only mean that the Federal government now feels it can interfere in any tuition grants, fellowships, scholarships or other forms of aid if it doesn't like the way the states operate such educational programs. It is certainly something novel for the Federal government to tell state legislatures how to spend their money.

It will be contended that the Supreme Court has not as yet ruled on the new demand of the Department of Justice for dictatorial powers over education in the states. But it may be taken for granted that the lawyers at the department have blazed a new trail and probably have found new devices satisfactory to them whereby the end will justify the means.

If the Federal government can tell the State of Virginia that it cannot provide funds for its public schools unless it makes every county and city conform to a pattern approved by the Federal government, then constitutional government, as it has been known since the founding of the republic, will indeed have vanished. Government by executive order or court decree will have supplanted acts of Congress and the laws of fifty state legislatures.

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