Next to the News
BY ALFRED MYDZERS

When the news dispatches of Friday said that Federal Judge Hoffman at Norfolk had held the Virginia Pupil Placement Law "unconstitutional on its face," first thoughts were that this knocked out Gov. Clement's pupil placement plan for Tennessee. But on reading Judge Hoffman's opinion, one finds that such is not the case.

Gov. Clement says: "I firmly believe our proposed laws to be constitutional." Whether they are constitutional or not, there is good reason to believe that Judge Hoffman decided the Norfolk issue on the grounds that Virginia's whole "defense in depth" showed that Virginia has no intention of permitting any integration in schools.

The Tennessee plan could be upheld for the simple reason that it is a sincere effort to solve local problems and is not complicated by any "defense in depth" which would be clearly intended as complete defiance of the Supreme Court ruling.

In his 12,000-word opinion Judge Hoffman reviewed the course taken by Virginia and said: "The pattern is plain. The Legislature has adopted procedures to defeat the Supreme Court decision." Part of that pattern is the Virginia Appropriations Act which says that "no public elementary or secondary schools in which white and colored children are mixed shall be entitled to or receive any funds from the State Treasury for operation..."

The intent of Gov. Clement's proposals is entirely different from that of Virginia's. Gov. Clement flatly said in his address to the Legislature: "I, for one, will not be a party to any action which would imperil or endanger the continued existence of our public schools."

Furthermore, Gov. Clement said: "We must recognize that any school system we may develop which is based upon a legal foundation of compulsory segregation will, when challenged, be held unconstitutional by either or both the state and federal courts."

By not favoring a drastic "defense in depth" of the Virginia type, Gov. Clement may have given his pupil placement proposal a chance to be held constitutional in the courts.

Judge Hoffman considered the entire Virginia plan in connection with his ruling on the pupil placement proposal. The Virginia school placement plan, in the first place, is put in the hands of a three-man state board instead of local boards of education as would the Clement plan. The Virginia placement plan would not consider the wishes of the pupils as would the Tennessee plan but would consider a number of factors which would permit long delays, such as "health, welfare, aptitudes and sociological, psychological and similar intangible social-scientific factors." Judge Hoffman interpreted these as merely devices to bar Negro pupils.

That Judge Hoffman was considering the intent of the whole Virginia plan was indicated when he said: "Manifestly, the governor of Virginia has suggested that there shall be no integration of races in the public schools, irrespective of how slight it may be."
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