

EDITORIALS

East Carroll Voter Case

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Emotions which naturally arise concerning desegregation, and court orders and decisions involving it, often blind people to the fact that federal judges are bound by both federal statute and higher court decisions and that they cannot stray from these. Too often people imagine that a federal judge can at his own discretion or be led by his own personal feelings in any and all matters.

One example of this is failure at times to recognize that, judicially, school desegregation is simply a fact; that under proper and legal procedures a Federal District Judge has no alternative to issuing a desegregation order in response to a proper petition for it. Such a judge does have certain discretion as to instituting and carrying out the order. But he cannot go beyond or behind the United States Supreme Court decision of 1954 and its Rule of 1955, or the subsequent explanatory and upholding decisions in the federal judiciary since then.

As of now, there are only two recourses from a federal court school desegregation order: One is token — placement law — integration which is integration but can be made to function very slowly. The other is establishment of private schools, but they must be genuinely private in every way — in ownership, operation, property they use, and completely devoid of any direct state support to them for their functioning. As of now, state grants-in-aid to students have not been overruled by any federal court (nor have they been upheld directly), but decisions have been handed down at the Federal District Court level that public schools must be operated in the same School District with private schools if students of the latter are to receive state grants.

Another example of misunderstanding is found in the recent East Carroll Parish voter registration case here in Louisiana. Some people seem to think that Federal District Judge Edwin F. Hunter, Jr., came to Monroe and opened a registration office and registered a certain number of Negroes who had been denied registration by the East Carroll Parish Registrar. Judge Hunter actually did not preside at a registration office and he did not register anybody. What he did was this:

As required by federal law, Judge Hunter heard petitions from individuals who claimed that they illegally had been denied registration. As required by federal law,

he conducted a court hearing to determine if their qualifications met registration requirements of Louisiana State law.

The petitioners, were, for example, required to take the oath of allegiance to the State of Louisiana, as required by Louisiana Law. They were given 12 questions to answer, each question based on qualifications set forth in Louisiana state law. Wrong answers for more than four questions meant that the person had "flunked" and thus was not qualified under Louisiana state law to register.

Each petitioner was required to write the preamble to the federal Constitution and to do so in an intelligible way.

Each petitioner was required to fill out a regular Louisiana registration application identical to applications supplied to all other persons, white or Negro.

In the end, Judge Hunter found that 26 of the petitioners were qualified under Louisiana law to register and he so certified. He did not register them himself; that function rests with the Registrar. But, of course, failure to register the qualified petitioners would have placed the refusing official or officials in contempt of court.

In all of this, Judge Hunter had absolutely no discretion whatever. He was bound by federal law to receive petitions and examine the petitioners and determine if they met state qualifications for voting — and he did that, no more. Judge Hunter summarized the East Carroll situation correctly and adeptly in this final paragraph in the memorandum he wrote concerning his decision, capitalization by Judge Hunter himself.

"I am convinced that the overwhelming majority of the white citizens of East Carroll Parish regard as an absolute necessity that the ballot be maintained exclusively for the white race. These people sincerely believe this status cannot be destroyed without subjecting their parish to grave difficulty. They accordingly have felt bound by every consideration of interest and duty to defend that system. **BUT THIS SYSTEM CANNOT BE LEGALLY DEFENDED.**"

Judge Hunter fully recognized the feelings of the people of East Carroll Parish. But, as he stated, "this system cannot be legally defended." As a federal judge he was bound to comply with federal laws enacted by Congress specifically defining his duties in such cases and leaving him no discretion whatever in carrying out those duties.