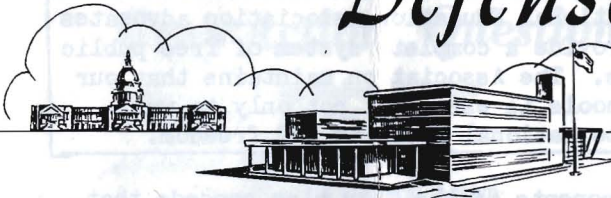


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DEMOCRACY'S DEFENSE THROUGH EDUCATION

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VIRGINIA WEIGHS REPORT OF GOVERNOR'S COMMISSION

Other States Watch Fate Of Gray Proposals

Will Virginia change its constitution to allow public money for private school tuition? On January 9, Virginia will vote on this question.

On November 12, the Virginia Commission on Public Schools, appointed by Governor Thomas B. Stanley and chaired by Garland Gray, made its report public. The so-called Gray Report recommends that "no child be required to attend an integrated school." To achieve this, the report calls for "tuition grants and other educational payments" for youngsters who choose to go to the private schools envisioned but not provided for in the report.

The first step in the Commission's recommendations was taken when Governor Stanley on November 14 called a special session of the General Assembly to meet November 30. On December 2, the legislature approved 93 to 5 the calling of a special referendum within 60 days to decide whether a limited constitutional convention will be convened. The referendum is set for January 9.

The business of the convention, if called, will be to amend Section 141 of the state constitution. Only through such action can public funds be used for tuition, institutional fees, and other expenses of students who may desire to attend private schools rather than integrated public schools.

The Platform of the National Education Association advocates that each state should provide a complete system of free public schools from public funds. The Association maintains that our system of free public schools is essential not only to well-being and happiness but to national security and freedom.

Both proponents and opponents of the Gray plan concede that, if the convention is called, the amendment will be adopted. Citizens of Virginia have only the January 9 opportunity to express their views. After the referendum, the matter is out of the voter's hands.

Opponents of the Gray Report provisions claim that the provisions would open the door for a private, tax-supported school system in addition to the present two (Negro and white), that the costs of education would rise unnecessarily, that the proposals are an illegal evasion of a decision by the U. S. Supreme Court, and that the governor and legislature acted in haste.

Advocates of the referendum assert that the Gray Commission had more than a year in which to deliberate, that quick action is needed to meet an urgent situation, that the referendum will give the people a voice in this matter, that the new law, if passed, may never be invoked, and that a vote by the people is the most democratic solution to the school crisis.

What will be the effect of the Gray proposals, if enacted, on the free public schools? This is a question of grave concern to the voters of Virginia. Citizens of other states also watch Virginia's action with grave concern.

In an effort to assist in understanding some of the problems raised by the Gray proposals, and with the permission of the Washington Post and Times Herald, the Defense Bulletin republishes here questions and answers in a series by Robert E. Baker, staff reporter for the Post, Times Herald. It is anticipated that Mr. Baker's series will continue until January 9, the date of the referendum.

Issued by the NATIONAL COMMISSION FOR THE DEFENSE OF DEMOCRACY THROUGH EDUCATION, National Education Association, 1201 Sixteenth Street, N. W., Washington 6, D. C., Richard Barnes Kennan, secretary; Lucile Ellison, editor.

Purposes of the Commission:

(1) to give the public more understanding of the importance of education for all of our people; (2) to defend the cause of education against unjust attacks and to investigate charges involving teachers, schools, educational methods, and procedures; (3) to work for the educational conditions essential for the perpetuation of our democracy.

Gray Action Questions Discussed

By Robert E. Baker
Staff Reporter

December 11, 1955

The Virginia General Assembly must continue to operate a public school system throughout the state—regardless of the Jan. 9 referendum results and no matter how a locality decides to treat its schools.

Generally, proponents and opponents agree on that. Section 129 of the State Constitution states:

"The General Assembly shall establish and maintain an efficient system of public free schools throughout the state."

This article will deal with a big question: If the Gray Commission program goes into effect, to what extent must the State maintain a public school system under Section 129?

First, it is well to see how the Gray Commission believes its program would work to preserve its goal that no pupil need attend a mixed school against his parents' wishes.

The Commission's answer is in two parts:

1. Local school boards would have broad assignment powers. In assigning pupils to particular schools, the boards would consider the welfare of each child and the welfare of the school's student body as a whole, availability of facilities and transportation, health and aptitude.

Children now in school automatically would be assigned to the same school, unless they could show convincingly why they should be assigned elsewhere.

2. Tuition grants would be made available for private schooling in certain cases: to those children who are assigned to a mixed school and whose parents object, and to those children living in a community

where public schools are abolished.

School boards would be expected to exert every effort to make use of the assignment plan before tuition grants. If a child objects to being assigned to a mixed school, he could be assigned to another school which was not integrated. Only where there was no such school would the objecting parents be eligible for the grants.

These grants would be limited to nonsectarian private schools. In amount, the grants would be limited to the average cost of educating a child in the public schools in the particular community.

Take Arlington, for example. The per pupil cost there is \$341, made up of \$234 from local sources and \$107 from the state contribution. The tuition grant in Arlington would be limited to \$341. If the private school tuition was \$500, the parent would have to make up the \$159 difference.

The cost of public education and the amount of state contribution varies greatly in Virginia. That means the amount of the tuition grant would vary greatly.

In Alexandria, the cost of public education is \$281 a student, with \$77 from the state and \$184 local. Fairfax County's cost is \$239—\$109 state and \$130 local. Falls Church's cost is \$303—\$106 state and \$197 local.

Prince Edward County, one of the 20 "deep South" counties of Virginia where Negroes comprise a large part of the population, is directly involved in the United States Supreme Court's decision abolishing racial segregation in public schools.

Prince Edwards per pupil cost of education is \$185. The

county puts up \$96 of this, the state \$89—which is just about the state-wide average.

If Prince Edward County, as the Board of Supervisors have announced, abolished its public school system, it still would have to levy a tax for an "educational fund" in order to receive State funds.

The Gray Commission program contemplates a provision requiring the locality to raise its share of the total tuition grants—or else it will get no State share. This is according to Attorney General J. Lindsay Almond Jr.

Suppose Prince Edward refused to appropriate any money for education at all? It wouldn't be eligible for any tuition grant money. Parents of white children could use the money they ordinarily would pay in taxes, plus any additional needed, to send their children to private schools.

Negroes pay only 15 per cent of the taxes in Prince Edward. It would be difficult for them to educate their children if there were no public schools and no tuition grants.

That brings in Section 129 of the State Constitution. State Sen. Charles R. Fenwick of Arlington, a member of the Gray Commission, and Delegate Kathryn Stone of Arlington, an opponent of the Gray program, agree the state would then have to go into Prince Edward County and operate a public school system.

Without a local contribution, the state would have to pay the entire cost, which means the taxpayers throughout the state would bear the cost. If many counties were to refuse to allocate funds for public schools, the state's burden could be considerable.

Delegate Omer L. Hirst of Fairfax, saw this possibility and tried to overcome it on the floor of the House of Delegates at its special session recently. His plan was to make

the tuition grants available only in those counties which continued to operate a public school system.

It was soundly defeated.

So it is generally agreed upon that, to comply with Section 129, the State would have to step in with a public school system wherever 1) the locality abolishes the public school system, and 2) that locality also refuses to appropriate any money for tuition grants.

One dissent has been heard. Henry T. Wickham, Gray Commission counsel, has been quoted as saying he does not think Section 129 would require the State to step in under these conditions. He said the State might meet the requirements of Section 129 simply by making its share of money available to the localities.

State operation of the schools raises questions not answerable now. For example, what would the State use for buildings?

Almond envisions a regional public school system to be maintained by the State: a public school for several counties. Fenwick sees the possibility of leasing abandoned school buildings or, if not, the construction of new ones.

Opponents of the Gray Commission program claim the idea of state operation of schools in localities which refuse appropriations for local operation means a heavy expense for the taxpayers in all sections, besides a weakening of the public school system generally.

Why should northern Virginians pay for public schools in other localities which refuse to pay, they ask.

Replies the Gray Commission: We hope the counties which abolish their public school systems and refuse to appropriate any funds will be few. But we realize it may well happen. The additional cost to taxpayers for the state operation of schools in these instances is a price that must be paid if we are to have a public school system everywhere in the state.

December 12, 1955

Question: Could a locality integrate its schools if it wished?

Answer: Yes, but there is more to it than that.

There is nothing in the Gray Commission's program which would prevent a community from integrating its schools immediately.

Such an action would be unlikely. The parent of any child assigned to an integrated school then would be eligible for tuition grants to be used for private schooling. Quick integration could mean wholesale withdrawals and possible serious disruption of the public school system.

The Gray Commission program is designed to permit operation of an integrated school system on a segregated basis. Its pupil assignment plan is designed to keep schools segregated as long as possible.

School boards already have one method of lessening the impact of integration. They can determine the schools which pupils in a certain district shall attend. Many Virginia communities have well-defined Negro neighborhoods and schools within them.

That is the case in Norfolk, generally. That city has a 30 per cent Negro population. But Fairfax County, with a 6 per cent Negro population, has one big Negro neighborhood with general scattering of the other members of the race. Thus the problem of administering the pupil assignment plan and geographical districting could be more difficult in Fairfax than Norfolk.

The Gray Commission sees its program as an attempt to meet all eventualities: integration in some areas, maintaining the status quo in others, aboli-

tion of public schools entirely in still others.

Opponents see this flexibility as certain to weaken the public school system. Proponents see it as the only way to meet the different problems in various sections of the state.

December 13, 1955

Question: Could students now attending private schools take advantage of the tuition grant plan?

Answer: No, in the opinion of the Gray Commission. Reasons one Commission member, State Sen. Charles R. Fenwick of Arlington:

Tuition grants will go only to those pupils whose parents object to their assignment from a segregated public school to an integrated public school. A pupil now in private school would face no such assignment.

Withdrawal of a pupil from a private school for the specific purpose of receiving a grant-in-aid would be a "breach of faith," maintains the Commission, and the pupil would not be eligible.

Question: Once eligible for a tuition grant, would a pupil receive the grant year after year?


Answer: No, according to the Gray Commission. Each year, every pupil would come up for reassignment by the local school board. This includes those in the public school system and those receiving tuition grants.

Suppose a pupil is assigned to an integrated school in September, 1956. He objects and receives a tuition grant for private schooling. In September, 1957, he comes up again for assignment and then is assigned to a segregated public school. He would not be eligible for a tuition grant to continue his private schooling.

Transfer students would face the same situation. Suppose a child in Arlington County is assigned to an integrated school in September, 1956, objects and

receives a tuition grant for private schooling. His family moves to Norfolk. In September, 1957, the Norfolk School Board assigns him to a segregated public school. He then would not be eligible for a tuition grant.

December 14, 1955

 Question: Could a locality lease or sell its public school buildings to private schools? Who would supervise the private schools?

Answer: It is unlikely many, if any, public school buildings could be turned over to private schools, at least in the near future.

Laws now provide for the leasing or selling of public school buildings—provided they are no longer needed. This would be hard to show in most localities. The Circuit Court would have to certify the buildings were not needed or would not interfere with the public school system before they could be leased or sold.

But there is a bigger hurdle than that—a Federal court decision in Virginia's seashore parks case. The court ruled Virginia could not lease public parks to a private operator for segregated operation. The leased parks would have to be integrated, the court said.

State legal authorities believe that would hold true for schools, too: if localities lease public school buildings for private schooling, then the private schools must be operated on an integrated basis.

Some authorities believe the same reasoning would apply in the case of public school buildings sold to private schools, but this is an unresolved question now.

The Gray Commission believes getting private school facilities is strictly the responsibility of the people of each individual community. The state's responsibility in this effort would end with the giving of the tuition grant.


Private schools could rent quarters in homes, churches and other structures or new buildings could be built. Existing nonsectarian private schools could be used, of course.

As for supervision of the private schools, this also would be left largely to the people of the community. A question-and-answer paper prepared by Gov. Thomas E. Stanley for the use of legislators in campaigning for the program states:

"Supervision and standards would be the results of the dictates of the parents whose children are enrolled therein."

Opponents of the program have criticized these aspects of the private school proposal. Senator-elect Armistead L. Boothe, of Alexandria, for example, said the proposal was "almost certain to create a hodge-podge of education and invite fly-by-night operators."

December 15, 1955

 Question: Would it be possible for students to obtain tuition grants to sectarian schools?

Answer: Absolutely not, says the Gray Commission. Don't be too certain about that, say some opponents.

Proponents point out the contemplated constitutional amendment, upon which Virginians will vote on Jan. 9, specifically limits tuition grants to nonsectarian private schools.

They point to Sections 16, 58 and 67 of the Virginia Constitution which provide for religious freedom and prohibit appropriations to churches or sectarian institutions, and to the First Amendment of the Federal Constitution.

The State Supreme Court of Appeals ruled last month educational grants to sectarian schools would violate all these provisions.

Yet, some opponents, including many clergymen, have expressed the fear that the tuition grant plan could break down the clear separation of church and state. State Senator-elect Armistead L. Boothe of Alexandria, who opposes the

tuition grant plan, uses this reasoning, for example:

Virginia's Constitution now makes a clear-cut distinction between public schools on the one hand, and all private schools on the other. No public funds can now go to private schools of any kind.

If Section 141 of the State Constitution is amended by a vote of the people on Jan. 9, this distinction would be altered. Then you would have a dividing line between public and nonsectarian private schools on the one hand and sectarian private schools on the other.

There will be pressure brought to bridge this remaining dividing line, Boothe said.

He continues his arguments by questioning just what is a sectarian school. Those controlled by a church certainly are. Episcopal High School in Alexandria, he said, is not controlled by the church, although bishops are on the governing board. Woodberry Forest School in Orange, Va., is not controlled by the church, but does have an Episcopal chaplain. Students of any faith are admitted, he said.

If the bishops were removed from the EHS board and the chaplain removed from Woodberry Forest, would these schools then become nonsectarian, he asks.

No, replies State Sen. Charles R. Fenwick of Arlington, a Gray Commission member. If any question arose as to whether a school was sectarian or nonsectarian, it could be settled in a test case, he said.

December 16, 1955

Question: How would the Gray Commission program affect the Federal aid program in Virginia?

Answer: The Commission has not examined this question in much detail, according to Attorney General J. Lindsay Almond Jr.

But he believes that, as long as a school district operates a

public school system, its eligibility for Federal school aid to Federally impacted areas would not be affected. Authorities of the Federal Government's Office of Education, who are watching the developments in Virginia carefully and unofficially, agree.

Virginia localities have received \$63 million for construction and maintenance from the Federal Government since 1951. The lion's share has gone to the

Portsmouth-Norfolk area and Northern Virginia, sprinkled with Federal installations.

Some of this money has gone to the "Deep South" counties of the state, however, where Negroes form a larger part of the population. Some of these counties have indicated they might abolish the public school system to avoid enforced integration.

Two such counties are Nottoway and James City. If the public schools there were abolished, naturally they would be ineligible for future Federal aid.

Abandoning existing school buildings built with Federal money raises questions the Office of Education is now studying. For one thing, when localities apply for this Federal aid, they affirm they have the right to maintain the particular public school for 20 years. Does this mean they must maintain the school or face legal action by the Federal Government? The Office of Education also is studying what action, if any, they would take if a locality attempted to sell or otherwise turn over the Federally-financed school to private use.

But as long as the school district operates a public school system, its eligibility for Federal money likely will remain unaffected by the Gray Commission program. Any future aid would be given on the same basis as previously—according to the number of students enrolled whose parents are connected with a Federal activity.

December 18, 1955

Question: What are the implications of the Gray Commis-

sion program for public school teachers?

Answer: Teachers now are assigned to their schools by the local superintendent. Under the Gray Commission program, they would be assigned by the school board. This is designed to protect those teachers, who might object to teaching in an integrated school, from being assigned to such a school.

No changes in the status of teachers remaining in the public school system are contemplated. However, the Gray Commission sees the possibility of public school systems being abolished in some localities and, in others, the withdrawal of pupils from the public system. Proposed tuition grants would be used for private schooling.

Where the public schools are abolished, the public school teachers, of course, would have no jobs. However, the private schools, expected to take over education in these communities, could employ them.

The interim period might well be disturbing to the unemployed teachers. Some places, like Prince Edward County, an educational corporation, set up by parents for private education, could guarantee the teachers employment.

If a teacher now in the public schools goes into private schooling as a result of the Gray Commission program, either because the public schools are abolished or because withdrawals from the public schools make her services unneeded, these facts hold true:

1. The teacher's status in the state retirement program would remain unchanged, as long as the school was non-sectarian and was formed after the Gray Commission legislation goes into effect. Teachers now in private schools would not be eligible for participation in the state retirement program.

2. There would be no guarantee by the state that the

teacher would get a job in a private school. The salary she would receive would be the result of negotiations with the private school, no matter what the teacher received in the public school system.

3. The teacher's tenure likewise would be a matter between the private school and the teacher. So would such matters as certification, academic freedom and control of the teachers.

4. Public school teachers are under the Social Security program. If a teacher enters a private school, which is operated for a profit, she would be covered, just as in any other business, according to the Social Security Administration. If she enters a nonprofit private school, she would not be eligible.

If she enters a non-private public school, she would not be covered by Social Security unless two conditions are met: the employer waives exemptions from Social Security taxes, and two-thirds of the teachers request coverage.

State Sen. Charles R. Fenwick of Arlington, a Gray Commission member, said the withdrawal of pupils from the public school system for private schooling would not necessarily mean a loss of public school teachers.

He uses this example:

The state's contributions to localities for education are based on so-called teacher units of 30 pupils to a teacher in elementary schools and 23 pupils to a teacher in high schools. If a community has a higher pupil-teacher ratio, it gets less state money. Since many areas have crowded classrooms, the withdrawal of pupils plus the keeping of the public school teachers would enable the community to get more state money, comparatively, Fenwick said. This would be an incentive to keep public school teachers on the job, he said.