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gation must proceed and by which lower courts might judge the efforts of local school boards toward compliance with the May 17 and May 31 rulings. Not having done this, what did the Court do? What language did it use?

Re-Affirmation of Principle

May 17, 1954 decision re-affirmed. "These cases were decided on May 17, 1954. The opinions of that date, declaring the fundamental principle that racial discrimination in public education is unconstitutional, are incorporated herein by reference."

Last year's opinion, as we all know, declared: "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." On May 31 the Court said simply, as an introduction to its opinion, that this principle stands and that everything in the May 31 opinion hangs upon it; that the items in the May 31 opinion must be considered at all times and under all circumstances in the light of the clear principle in the 1954 opinion. The Court refers to the 1954 "constitutional principles" a total of six times in its May 31 opinion, once as "governing constitutional principles."

All school segregation laws are invalid: "All provisions of Federal, state or local law requiring or permitting such discrimination must yield to this principle."

This means that all laws, local, state and federal, requiring or permitting racial segregation in the public schools are now null and void, and that no school or other public official or body is bound by such laws.

Good Faith Required

Local school authorities responsible: "School authorities have the primary responsibility for elucidating, assessing, and solving these problems" (of "full implementation of these constitutional principles").

This means just what it says. It means further that it is right and proper for citizens and community groups to begin the campaign for desegregation with the local school authorities.

Good faith required: "... courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles."

The Court is saying here that alleged good faith in carrying out the "governing" constitutional principle of non-segregation can be brought before a court for determination and need not rest upon mere assertion by school authorities or newspapers or politicians or others.

Interest of the plaintiffs: "At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a non-discriminatory

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basis."

Plaintiffs have a right (as set forth in the May 17, 1954, decision) to admission to public schools on a non-discriminatory basis "as soon as practicable." The latter phrase must be taken to mean with only such delay as may be permitted by the lower courts in the context of language elsewhere in the May 31 opinion.

Must Start Promptly

Obstacles to be eliminated: "To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in the May 17, 1954, decision."

When the Court says, as it does here, that to protect the right of the plaintiffs "may call for elimination of a variety of obstacles" it must be taken to mean that the Court in effect is ordering that such obstacles be removed. By the strongest inference it means that pleas of the existence of such obstacles cannot be considered valid reasons for denying plaintiffs their rights. The defendants are duty bound, if such obstacles exist, to remove them, whatever their nature.

Must start promptly: "While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling."

Here the Court says that even while the lower courts may give due weight to the public interest (of the community at large) and to private considerations (the rights of the plaintiffs) the courts "will require" a "prompt and reasonable start toward full compliance with our May 17, 1954 ruling." "Will require" is strong, definite, positive language in legal terms, a directive which no lawyer or judge misunderstands or underestimates.

Burden Upon Defendants

Disagreement no basis for failure to comply: "Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them."

Very simply this means that just because individual citizens, officials, or groups do not like or do not agree with the May 17, 1954, opinion they may not ignore, evade or defy it. That is, they may not do so in court in a final determination, no matter how much they talk or write about it in disagreement outside of a courtroom showdown.

Burden upon the defendants: "Once such a start has been made, the courts

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may find that additional time may be necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good-faith compliance at the earliest possible date."

It should be noted that only after a start has been made will a request for additional time be considered. Here, as in other phases under the jurisdiction of the courts, we have the privilege of challenging such requests for time in the courts, forcing a hearing and a determination. We need not depend upon the mere assertion of a school official that more time is necessary.

Administrative Problems

Problems to be considered by courts: "To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel ..."

Non-Racial school districts: "... Revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a non-racial basis ..."

Revision of local laws: "... and revision of local laws and regulations which may be necessary in solving the foregoing problems."

In all its pleadings before the courts, the NAACP has granted that allowance should be made for the solving of administrative problems, but it has insisted that diligent attention to solving these would not require a prolonged period. In its section on administrative problems the Court enumerates those which the courts may consider. The time alleged to be required is subject to the burden-of-proof stipulation in the opinion. The nature of the solution of each problem is subject to the "good faith" and "constitutional principles" stipulations. All proposals are subject to challenges in the courts.

It is significant that whereas the Court merely enumerates other administrative problems, it deals in some detail with the possible revision of school districts and attendance areas, in effect saying these should be made "into compact units to achieve a system of determining admission to the public schools on a non-racial basis." This would seem to mean that both school officials and the lower courts are warned against attempting the gerrymandering of school districts through use of wandering boundary lines for the purpose of insuring racial schools.

In referring specifically to the revision of local laws and regulations hitherto requiring racial segregation in the schools, it would appear that the Court, not content with repeated citations of the "constitutional principles" involved, or

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with its declaration that all laws must yield to these principles, has pressed the point once more upon school officials and the lower courts. It says plainly that in solving administrative problems no local law or regulation may bar the transition to a non-segregated school system.

Adequacy of Plan

Adequacy of plans: "They (the courts) will also consider the adequacy of any plans the defendants may propose to meet the problems and to effectuate a transition to a racially non-discriminatory school system."

After listing administrative problems that may be considered by the courts, the Court includes these and every other item in any plan for transition in this one sentence on adequacy. The test is whether a plan of a given school district satisfies the principle laid down in the May 17, 1954, decision. Here again all such plans are subject to challenge in the courts and the school authorities have the burden of proving adequacy.

Courts retain jurisdiction: "During this period of transition, the courts will retain jurisdiction of these cases."

Until the transition is complete the cases remain in the courts, subject at all times to its hearings and judgments on matters raised. No new actions need be commenced and no old ground re-covered in fresh proceedings.

The May 31 opinion, technically, applies only to the cases before the Court, but as a matter of fact the ruling rendered will be the pattern for all such cases as may be brought in the future.

In the overwhelming majority of instances it can be expected that compliance without legal action will be the rule, perhaps grudgingly and reluctantly in some areas, but compliance, nevertheless.

Legal Weapons Now in Hand

Armed with the powers embodied in the language of the Court's opinion, we look confidently toward the future. We stand ready with qualified experts in public education and community organization to cooperate with any and all school boards willing to work toward desegregation.

We always realized that there are those who would defy the ruling and others who would drag their feet no matter what language the Supreme Court used. We now have the weapons to make them accept the highest court's affirmation of true American principles. This we shall do. We shall not rest until we have ended second-class education for all Americans.