

AMERICAN FRIENDS SERVICE COMMITTEE
160 North Fifteenth Street Philadelphia 2, Pennsylvania

MEMORANDUM

January 2, 1963

TO: Southern Interagency Conference

FROM: Jean Fairfax

SUBJECT: PRINCE EDWARD COUNTY, VIRGINIA: Recent Legal Developments

July 26, 1962. Federal District Judge Oren Lewis issued a memorandum opinion in which he stated that, "This court holds that the public schools of Prince Edward County may not be closed to avoid the effect of the law of the land as interpreted by the Supreme Court while the Commonwealth of Virginia permits other public schools to remain open at the expense of the taxpayers." He ordered the Prince Edward County School Board to submit by September a plan for admission of both high school and elementary students without regard to race or color. Judge Lewis did not issue a formal order.

September, 1962. The School Board submitted as its plan a proposal that it would follow the Pupil Placement Law and regulations of the Virginia Pupil Assignment Board. Judge Lewis said that this plan was not acceptable. He reiterated his July ruling but went on to say, "There is nothing that says the State of Virginia must maintain a public school system. My ruling was only that so long as it purports to do so, it must do so everywhere...the State of Virginia is a sovereign body, it may decide in its wisdom not to have any schools. As far as the federal courts are concerned, it would be within its prerogative."

October 10, 1962. Judge Lewis issued a formal order in the language of the July ruling but immediately stayed it to permit appeals to higher courts.

November, 1962. Negro attorneys filed appeals to the Fourth Circuit Court, asked for an expedited hearing, stated that Lewis' order lacks teeth and that he has refused effective relief although recognizing that none will be forthcoming unless compelled by the courts. Attorneys requested a court order, requiring the defendants (County Board of Supervisors, School Board, treasurer and school superintendent and state Board of Education and superintendent of public instruction) to "reopen and operate and maintain an effective public school system in Prince Edward County free of restrictions based upon race, no later than February 1, 1963."They said, "The open and flagrant defiance of orders of the court, by county appellees and their resolute and arrogant resistance to maintaining a public school system on a nondiscriminatory basis," joined "in by all state officials....may require the use of the contempt powers of this court or enforcement through restraining the State Board of Education from approving the payment of state funds for the support of public education anywhere in the state so long as public schools in Prince Edward County remain closed." Such an order, which would in effect close most of the public schools in Virginia, should be entered unless prompt assurances are received that schools will be open by February 1.

Attorneys for the State Board of Education and for the Prince Edward Board of Supervisors and the School Board have filed their appeals to the Circuit Court. They are appealing from court orders: (1) prohibiting tuition grants so long as schools are closed; (2) prohibiting tax credits for contributions to white segregated schools; (3) refusing to grant defendants' motion that court should abstain until state courts have disposed of constitutional issues; (4) refusing to grant defendants motion for dismissal of Negroes' suits; (5) barring closing of Prince Edward schools while other

public schools in the state are open.

The Fourth Circuit Court will hear these appeals January 9, 1963, in Alexandria.

December, 1962. On August 28 the Prince Edward School Board filed in the Circuit Court of the City of Richmond a complaint for a declaratory judgment. This new Prince Edward case was heard in December by Judge John Wingo Knowles. The School Board is seeking a ruling on whether the state of Virginia must operate local public schools when the local governing body refuses to appropriate funds for them. This litigation is a request for an interpretation of Section 129 of the Virginia constitution which states, "The General Assembly shall establish and maintain an efficient system of public free schools throughout the state."

December, 1962. The U. S. Department of Justice asked to be admitted as a friend of the court in the litigation before the Fourth Circuit Court.

JF:nt

Proposed Agenda, Southern Interagency Conference
Atlanta, Georgia - January 3-4, 1963

- I. Announcements and notices.
- II. Discussion of Southern Interagency Conference organization, membership policies, and related matters.
- III. Report on recent conference: The Ethical Demands of Integration.
- IV. Discussion of forthcoming National Conference on Religion and Race.
- V. Whither goest Alabama? -Norman Jimerson
- VI. The Oxford incident, its implications for the future. -Will Campbell
- VII. Other.

Georgia's burned churches

SCHEDULE

Thursday, January 3.

2:00 P.M. - Meeting begins. Bamboo Room, Waluhaje Hotel.
5:30 - Adjournment.
6:30 - Dinner.
7:30 - Evening session of meeting.
9:30 - Social hour.

Friday, January 4.

9:30 A.M. - Meeting begins.
12:00 Noon - Luncheon.
3:00 P.M. - Adjournment.

Note: Those staying overnight at the Waluhaje Thursday must check out by 3:00 P.M. Friday unless other arrangements are made.