School Hearing Is Continued

Judge Declines to Rule Until U. S. Supreme Court Makes Decision

Stating that any "decision at this time would be premature," U. S. District Judge John H. Druffel declined to act in the alleged school segregation case in Hillsboro, which has drawn nation-wide attention.

Druffel made this statement, which may set something of a national precedent, at the close of a two-hour hearing in his court in Cincinnati Wednesday, ending at about 1 P. M.

The stern-visaged but calm-speaking jurist ruled that the action brought in his court be continued until after the Supreme Court has established a formula for desegregation. Druffel's most pertinent comment, taken verbatim from the official court record, was as follows:

"The decision of the court here this morning is that this case will be continued until two weeks after final entry goes on in the Supreme Court to give the board of education of Hillsboro an opportunity to meet the requirements established by the Supreme Court."

Supreme Court hearings, with cases from several states, are to begin on Dec. 6. Reports from Washington indicate that final decrees may not be issued for months. Arguments there are to determine whether there will be immediate desegregation or "gradual adjustment." That court is asking interested attorneys to say whether it should give detailed instruction, appoint a special counsel to study and recommend methods or allow lower federal courts to devise detailed arrangements.

Cincinnati court attaches indicated that Druffel's ruling in this case was of the "contingency" type, awaiting this higher action.

The action Wednesday was interpreted by school officials here as a denial of the injunctions sought, leaving them free, temporarily, to carry out their program as they see fit.

—:—

THE NATIONAL Association for the Advancement of Colored People had asked both a temporary and permanent injunction against the local board for its alleged policy of segregation. Five local children and their mothers were listed as plaintiffs. The five mothers were present.

Attorneys for the NAACP included Russell L. Carter, former municipal judge in Dayton; James H. McGee, another Dayton attorney; Mrs. Constance B. Motley, New York City attorney and national assistant counsel for the NAACP. The latter assisted Thurgood Marshall, national NAACP attorney, in arguments before the Supreme Court early this year.

Druffel's complete statement, lasting about five minutes, came after brief argument between the bench and attorneys for the plaintiffs. The latter attempted to claim that the case here was different from others pending before the Supreme Court in that the colored children involved were enrolled and attended school for a week before the board took action; and that they had been voluntarily desegregated because they had attended the white schools for a time.

The judge said that he couldn't agree; that Lincoln School had existed since the Civil War and that the present suit comes under the same application as others before the higher court.

—:—

DRUFFEL went on to sum up what was interpreted as something of a vindication of the board's action in the matter. "It is not my job to tell this board of education and superintendent how to administer this system," the judge said, addressing most of his remarks directly to the plaintiffs.

Referring to the point brought

(CONTINUED ON PAGE 2)

—:— —:—

Appeal Planned In Court Case

Hillsboro Suit Will Go to Higher Court

Russell Carter, Dayton attorney for the NAACP, announced in that city Thursday morning that the Hillsboro case would be appealed. The appeal was to be filed in U. S. District Court at Cincinnati Thursday.

Carter said the necessary papers had been prepared and the group had intended filing them Wednesday afternoon but the district judge left after announcing his ruling in the controversy.

The appeal, Carter said, would go to the U. S. Court of Appeals, Sixth Circuit, which covers all of Ohio and sections of nearby states. Three judges, including Judge Florence Allen, former Ohio Supreme Court justice, of Cleveland, will "sit" at Cincinnati on the appeal.

—:—

CARTER said the appeal would be on the entire record of the hearing and an appeal "by law."

"You see, this judge didn't even say that segregation was illegal in Ohio. He said the Hillsboro superintendent had a right to operate

ATTORNEYS AND PLAINTIFFS in the Hillsboro court action in Cincinnati Wednesday are pictured here in this pre-hearing photo, taken by a WLW-T photographer. Left to right, front, Elsie Steward, Roxie Clemons, Zella May Cumberland, Gertrude Clemons; back row, Russell L. Carter, attorney, Norma Rawlins, Mrs. Constance B. Motley and James H. McGee, both attorneys.

School Hearing

(CONTINUED FROM FRONT PAGE)

out by City Solicitor James Hapner, who, through a happenstance in the testimony, appeared not only as the board's attorney but as a witness, that the building (Lincoln) had been damaged in a fire by a "character" charged with arson, the district judge said he felt that the superintendent (Paul L. Upp) had been honest and truthful in his statement of the board's plan for integration upon the completion of two new schools and the eventual abandonment of Lincoln, "the bone of contention."

—:—

THE SUPREME COURT, Druffel explained, has a "most complex problem" and "they are setting the pace for the lesser courts to follow." He went on to point out that "until they establish a formula to cover situations that prevail, in other boards," then he would take no action in the current suit. He said that the suit itself was "premature."

Prior to Druffel's continuance, which came rather suddenly before closing arguments and any direct testimony from Hillsboro, the plaintiffs had summoned four persons to the stand. During the proceedings, in an aside to Hapner, the jurist indicated that Hillsboro defendants would probably get a chance to testify directly later.

Appearing in consecutive order, following brief opening arguments, were Dr. R. F. Campbell, professor at Ohio State University; Marvel Wilkin, president of the Hillsboro board of education, and Upp, local superintendent. Hapner's appearance concluded the case. None of the plaintiffs, mothers of youngsters named as "infant plaintiffs" in the petition, were called.

—:—

CAMPBELL said he had been asked to make an impartial Hillsboro survey by the State Department of Education, whose request was lodged with the Bureau of Educational Research at OSU after Russell L. Carter, of Dayton, one of the three attorneys for the plaintiffs, had asked for it. The professor said he had visited here Monday and gave some enrollment data and observations. He said that the enrollment of colored pupils at Washington and Webster buildings would make them "crowded beyond desirable standards."

Under cross examination by Hapner, Campbell said that all three elementary schools are in poor condition but that "Lincoln is not inferior in physical properties" to the other buildings. This was one of the charges in the petition by the colored group.

Wilkin, under questioning by Carter, said the board has "no racial policy." The board president denied that the re-zoning was along racial lines, which was one of the main points the plaintiffs were attempting to prove. Asked why children of a white family (Evans) living only a few yards south of Lincoln School were not sent there, Wilkin replied that "we couldn't send all the children to the closest school." "If we did," he continued, "three-fourths of them would be in Webster School." Hapner's cross-examination brought out point that white teachers (art and music) teach at Lincoln.

—:—

UPP, who has served the local schools in various capacities for 32 years, the last 14 as superintendent, identified a map of the city, a letter sent to parents on the re-zoning action and a transfer slip for youngsters, all submitted as evidence by the plaintiffs.

The superintendent maintained that the re-zoning was along residential lines. He declined to draw on the map the zoning lines. He said they would not be exact in every detail. Druffel upheld the witness. It was at this point that Hapner's appearance as a later witness was foreordained, since he had sketched the zoning in the board's presence and with their suggested revisions and approval.

Druffel at this point took over the questioning. He asked Upp to explain the status of the two new buildings. The superintendent responded and then, uninterrupted, continued with a calm, detailed statement of the history of school facilities and policies here. In 1951, seventh and eighth grades at Lincoln were integrated in the high school, which has always had colored children. Before the vote on the bond issue in the fall of 1953, Upp said he stated in a public meeting, to a question posed by Mrs. Vernon Young, that colored children would be integrated upon completion of new buildings. At its August meeting of this year, the board went on record as favoring integration upon completion of the new buildings. Upp indicated that the situation was "inherited" and that there was no intent of segregation on the part of the board, as evidenced by this plan.

—:—

—:—

UPP PERHAPS summed up the board's feeling, in rebuttal to the point made frequently by the plaintiffs throughout the hearing that white children could be enrolled in Lincoln School to relieve the overcrowded conditions, when he stated:

"I have tried to take a sane, logical approach to this situation from the beginning. Knowing the spirit and temper of the community, I feel it would be unwise to assign white children there."

Hapner later, as a witness, underscored this statement, calling attention to the serious conditions that have developed in schools in other parts of the country on segregation and pointing out that an act of violence (burning) drew attention to the Hillsboro area originally.

—:—

HAPNER DREW the map for Carter—refusing to do it with a red pencil—showing the zoned areas. He also denied that the rezoning was along racial lines and pointed out school officials have discretionary powers, under state statutes, to assign pupils to various schools. Hapner, drawing praise later from all board members and superintendent, made a capable summation of the board's stand from the witness chair, particularly the part that Philip Partridge, although his name was not mentioned, played in the situation. The judge appeared to be surprised at learning of this incident since he personally asked Hapner some questions about the case. In his closing statement, Druffel made two direct references to it.

A crowd of about 50 persons, the bulk of them Negroes, attended the hearing. Virtually all Cincinnati newspapers, radio and television stations and wire services were represented. Pictures of the defendants and plaintiffs taken in the courtroom before the hearing were said to be the first ever permitted there. The judge himself declined saying he was "camera shy."

Prior to this, at Columbus Wednesday, Ohio's education director, R. M. Eyeman said that the local problem would disappear when the building program is completed. His statement came after a conference with Robert L. Rohe, state director of school finance. Both said it was "regrettable" that "people who were a little impatient" brought up the problem before the building program was finished. The state department has taken no direct action in the local situation, leaving it up to the local board.

is vital we use every means of stressing the need to drive safely on our streets and highways. Widespread use of this new traffic safety medium will bring the message Drive Safely to the attention of drivers at an important psycholog-