

Injunction Against Board Is Denied

Judge Druffel Gives Opinion In School Case

Says Board Trying To Handle Problem In Building Project

Federal Judge John H. Druffel has denied an injunction sought by five mothers of Negro children to end segregation in Hillsboro's elementary school system.

The district judge took the action in a written opinion which he issued Friday. He had had the local case under advisement since Dec. 29 when the second major hearing on the matter was held in his court. He delayed preparing his opinion, however, until a court reporter had transcribed the records on that hearing.

Judge Druffel's opinion in the local case is the first specific decision in the matter of segregation in public schools since the U. S. Supreme Court returned its broad decree banning it last May.

The case was filed in the district court last September. Following a hearing Sept. 29, Judge Druffel continued the case until after the high court had spelled out how the desegregation would be carried out. The National Association for Advancement of Colored People, handling the case, appealed to the federal circuit court from the judge's continuance.

The circuit court on Dec. 10 ordered Judge Druffel to show cause why he should not make an immediate decision in the case, resulting in the second hearing on Dec. 29, 1954.

IN HIS WRITTEN opinion, Judge Druffel referred to the fact that the Hillsboro Board of Education is "officially on record as favoring complete integration" and has a construction program underway which will make it practical within two years and that an injunction granted now would seriously disrupt the existing school system.

The plaintiffs charged that Negro pupils were enrolled in Web-

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Injunction Against

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ster and Washington Schools, which had never before admitted Negro children. Several days later, the pupils were asked to attend the Lincoln School. The plaintiffs charged that the shift was made solely because of race. School board officials said that the changes resulted from rezoning school districts on a residential basis to prevent overcrowding.

In his opinion, Judge Druffel stated, "Without discussing the evidence in too minute detail, it fairly appears, and this court finds as a matter of fact, that the defendants, years ago, recognized that the policy of segregation of Negro children in Lincoln School was a violation of the Ohio law and adopted a program designed to completely integrate the elementary school pupils. This program called for the building of two modern schools and the discontinuance of Lincoln School."

OBSERVING THAT the Hillsboro High School has been integrated for some years, Judge Druffel then said the elementary school integration program hinged on the new schools, money for which was to be raised by bond issues. Voters failed to pass the bond issues three times but finally approved them in 1953. Construction work is to be completed in two years, the judge stated.

"The good faith and sincerity of the board of education and its superintendent of schools, Paul Upp, in their endeavor to overcome what they concede is temporary segregation, is amply supported by the record," Judge Druffel wrote.

The jurist asserted that an injunction would be disruptive to the Washington and Webster Schools because, in addition to the students directly involved in the case, there are 60 or so Negro students who would be entitled to the same consideration.

"Under the circumstances as disclosed by the evidence, we do not deem it our duty to interfere with the program of integration as outlined by the board and Mr. Upp," the district jurist wrote.

He then added: "The Ohio courts have long recognized that the boards of education," in their exercise of their powers... "have a wide discretion and that the courts will not interfere with that exercise of sound discretion in the absence of an abuse thereof."

Judge Druffel then went on to comment on actions of district courts themselves. He said that flexibility rather than rigidity had been a distinguishing quality of such courts of equity for hundreds of years.

"The qualities of mercy and practicality have made equity the instrument for nice adjustment and reconciliation between the public interest and private needs as well as between competing private claims. We do not believe that such a major departure from that long tradition as is here proposed should be lightly implied..."

Following Druffel's decision, NAACP special counsel Russell L. Carter announced in New York that his organization would await further action by the school board. There was no immediate word as to whether the decision would be appealed.