Statement regarding the Supreme Court decision of May 17, 1954, in the school cases

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STATEMENT REGARDING THE SUPREME COURT DECISION OF MAY 17, 1954, IN THE SCHOOL CASES.

On May 17, 1954, the Supreme Court of the United States handed down a decision of far-reaching implications as to the future of constitutional government. The people of this nation cannot afford to ignore the threat posed by this decision to the rights of the States and the Congress.

The people established the Supreme Court to interpret the laws of the land on the basis of the Constitution. The Court departed from this principle in its decision on the school segregation cases. In that decision the Court said:

"We cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when Plessy vs. Ferguson was written. We must consider public education in the lights of its full development and its present place in American life throughout the nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws."

That statement proves the disregard of the Court for the historical background under which the Fourteenth Amendment was ratified as a part of the Constitution. Only by following the intent of the framers of the amendment and the people who ratified it could the Court hope to arrive at a constitutional decision. But, as the quotation shows, the Court did not follow the constitutional intent in the school cases. Instead the Court sought the opinions of modern-day sociologists and psychologists.

The Fourteenth Amendment, to which the Court made reference but clearly did not rely on, provides that:

"No State shall...deny to any person within its jurisdiction the equal protection of the laws."

The evidence presented to the Court in the school cases made clear that the 39th Congress, which framed this amendment in 1866, did not conceive of it as applying to public schools in the States and that Congress did not intend for the amendment to apply to the schools. The same Congress enacted legislation to provide for the operation of segregated schools in the District of Columbia.

Thirty-seven States comprised the Union in 1868 when the Fourteenth Amendment was ratified. Twenty-six of the 37 continued to operate segregated schools or re-established them. This is clear evidence the States did not understand the amendment to forbid
This evidence was well-documented in the briefs presented to the Court, yet the Court termed it "inconclusive."

Not only did the Court misuse the Fourteenth Amendment, it also ignored the specific words of the Tenth Amendment which provides that:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The Constitution does not mention education. Therefore, by authority contained in Article I of the Constitution and the Tenth Amendment, public education is a matter for the States and the people to control.

No matter that might come before the Court as did the school cases would have greater impact on the personal lives and rights of the people. Nevertheless, under the decision of the Court, parents would be deprived of the right to guide and regulate the lives of their own children.

Several of the States have now acted to interpose their objections to the decision of the Court in the school cases because of the clear violation of the Constitution by the Court. The Legislatures of these States have approved resolutions stating their intention to interpose the sovereignty of the States between the decision of the Court and the enforcement of its decree by the use of every lawful means at their disposal.

They call upon their sister States to join them in enacting similar resolutions. They also call upon the Congress to take appropriate steps to prevent the Court from such encroachment upon the rights of the States and usurpation of the powers of the Congress. Other States are in the process of enacting interposition resolutions.

We, the undersigned, consider the action which has been taken by the Court as violative of the Constitution and dangerous as a precedent. If the Court can legislate by judicial decree in the school cases, it follows that the Court could and likely would again exercise the same self-assumed power in other matters. This assumption of authority by the Court, if accepted by failure of the States to interpose their objections and acquiesced in by failure of the Congress to protect its constitutional powers, would have
the effect of creating an illegal method of amending the Constitution.

We have individually devoted a great deal of serious thought to
the matters here discussed since the Court handed down its decision
on May 17, 1954. Now, as a group, solemnly united in the determi-
nation to fight for the preservation of the Constitution under which
we hold office by will of the people, we are constrained to express
our views publicly on these matters we deem of vital importance to
the people of the United States.

We are impelled to make the following declaration:

1. We affirm our reliance on the Constitution as the funda-
mental law of the land.

2. We condemn the Supreme Court decision in the school cases
and the reasons given as a basis for the decision.

3. We decry the Court's encroachment onto the rights reserved
by the Constitution to the States.

4. We warn the people of the dangerous precedent which has
been set by the Court.

5. We commend the States which have approved resolutions of
interposition to use every lawful means of resistance against the
decision of the Court, and urge the other States to take similar
actions.

6. We cite to the Court the provisions of the Constitution
circumscribing the duties of the Court and remind the Court that the
Congress is granted authority by the Constitution to limit the
appellate jurisdiction of the Court.

7. We protest the usurpation of legislative power by the Court
and call upon our colleagues to join in serving notice on the Court
that the Congress will not tolerate Judicial invasion of the legis-
labative field which the Constitution reserves to the Congress and to
the States in proposing and ratifying amendments to the Constitution.

8. We urge our colleagues to join us in approving a resolution
to re-state the principle of "equal protection" embodied in the
Fourteenth Amendment so as to make clear to the Supreme Court that
equal protection is provided to all citizens where separate but
equal public facilities are maintained, even as the 39th Congress
which framed the Amendment provided for separate public schools
for the races in the District of Columbia.

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