

Supreme Court of the United States

Griffin v. County School Board of Prince Edward County (Va.)

Decided May 25, 1964.

377 U.S. 218

Mr. Justice Black delivered the opinion of the Court.

This litigation began in 1951 when a group of Negro school children living in Prince Edward County, Virginia, filed a complaint in the United States District Court for the Eastern District of Virginia alleging that they had been denied admission to public schools attended by white children and charging that Virginia laws requiring such school segregation denied complainants the equal protection of the laws in violation of the Fourteenth Amendment. On May 17, 1954, ten years ago, we held that the Virginia segregation laws did deny equal protection. *Brown v. Board of Education*, 347 U.S. 483 (1954). On May 31, 1955, after reargument on the nature of relief, we remanded this case, along with others heard with it, to the District Courts to enter such orders as "necessary and proper to admit [complainants] to public schools on a racially nondiscriminatory basis with all deliberate speed . . ." *Brown v. Board of Education*, 349 U.S. 294, 301 (1955).

Efforts to desegregate Prince Edward County's schools met with resistance....

In June 1959, the United States Court of Appeals for the Fourth Circuit directed the Federal District Court (1) to enjoin discriminatory practices in Prince Edward County schools, (2) to require the County School Board to take "immediate steps" toward admitting students without regard to race to the white high school "in the school term beginning September 1959," and (3) to require the Board to make plans for admissions to elementary schools without regard to race. Having as early as 1956 resolved that they would not operate public schools "wherein white and colored children are taught together," the Supervisors of Prince Edward County refused to levy any school taxes for the 1959-1960 school year, explaining that they were "confronted with a court decree which requires the admission of white and colored children to all the schools of the county without regard to race or color." As a result, the county's public schools did not reopen in the fall of 1959 and have remained closed ever since, although the public schools of every other county in Virginia have continued to operate under laws governing the State's public school system and to draw funds provided by the State for that purpose. A private group, the Prince Edward School Foundation, was formed to operate private schools for white children in Prince Edward County and, having built its own school plant, has been in operation ever since the closing of the public schools. An offer to set up private schools for colored children in the county was rejected, the Negroes of Prince Edward preferring to continue the legal battle for desegregated public schools, and colored children were without formal education from 1959 to 1963, when federal, state, and county authorities cooperated to have classes conducted for Negroes and whites in school buildings owned by the county. During the 1959-1960 school year the Foundation's schools for white children were supported entirely by private contributions, but in 1960 the General Assembly adopted a new tuition grant program making every child, regardless of race, eligible for tuition grants of \$125 or \$150 to attend a nonsectarian private school or a public school outside his locality, and also authorizing localities to provide their own grants. The Prince Edward Board of Supervisors then passed an ordinance providing tuition grants of \$100, so that each child attending the Prince Edward School Foundation's schools received a total of \$225 if in elementary school or \$250 if in high school. In the 1960-1961 session the major source of financial support for the Foundation was in the indirect form of these state and county tuition grants, paid to children attending Foundation schools. At the same time,

the County Board of Supervisors passed an ordinance allowing property tax credits up to 25% for contributions to any "nonprofit, nonsectarian private school" in the county.

In 1961 petitioners here filed a supplemental complaint, adding new parties and seeking to enjoin the respondents from refusing to operate an efficient system of public free schools in Prince Edward County and to enjoin payment of public funds to help support private schools which excluded students on account of race.....

For reasons to be stated, we agree with the District Court that, under the circumstances here, closing the Prince Edward County schools while public schools in all the other counties of Virginia were being maintained denied the petitioners and the class of Negro students they represent the equal protection of the laws guaranteed by the Fourteenth Amendment....

II.

....[W]e cannot accept the Virginia court's holding...that closing the county's public schools under the circumstances of the case did not deny the colored school children of Prince Edward County equal protection of the laws guaranteed by the Federal Constitution.

Since 1959, all Virginia counties have had the benefits of public schools but one: Prince Edward. However, there is no rule that counties, as counties, must be treated alike; the Equal Protection Clause relates to equal protection of the laws "between persons as such rather than between areas."

Virginia law, as here applied, unquestionably treats the school children of Prince Edward differently from the way it treats the school children of all other Virginia counties. Prince Edward children must go to a private school or none at all; all other Virginia children can go to public schools. Closing Prince Edward's schools bears more heavily on Negro children in Prince Edward County since white children there have accredited private schools which they can attend, while colored children until very recently have had no available private schools, and even the school they now attend is a temporary expedient. Apart from this expedient, the result is that Prince Edward County school children, if they go to school in their own county, must go to racially segregated schools which, although designated as private, are beneficiaries of county and state support....

In the present case could not be clearer that Prince Edward's public schools were closed and private schools operated in their place with state and county assistance, for one reason, and one reason only: to ensure, through measures taken by the county and the State, that white and colored children in Prince Edward County would not, under any circumstances, go to the same school. Whatever nonracial grounds might support a State's allowing a county to abandon public schools, the object must be a constitutional one, and grounds of race and opposition to desegregation do not qualify as constitutional....

Accordingly, we agree with the District Court that closing the Prince Edward schools and meanwhile contributing to the support of the private segregated white schools that took their place denied petitioners the equal protection of the laws.

III.

We come now to the question of the kind of decree necessary and appropriate to put an end to the racial discrimination practiced against these petitioners under authority of the Virginia laws. That relief needs to be quick and effective. The parties defendant are the Board of Supervisors, School

Board, Treasurer, and Division Superintendent of Schools of Prince Edward County, and the State Board of Education and the State Superintendent of Education. All of these have duties which relate directly or indirectly to the financing, supervision, or operation of the schools in Prince Edward County. The Board of Supervisors has the special responsibility to levy local taxes to operate public schools or to aid children attending the private schools now functioning there for white children. The District Court enjoined the county officials from paying county tuition grants or giving tax exemptions and from processing applications for state tuition grants so long as the county's public schools remained closed. We have no doubt of the power of the court to give this relief to enforce the discontinuance of the county's racially discriminatory practices... The injunction against paying tuition grants and giving tax credits while public schools remain closed is appropriate and necessary since those grants and tax credits have been essential parts of the county's program, successful thus far, to deprive petitioners of the same advantages of a public school education enjoyed by children in every other part of Virginia. For the same reasons the District Court may, if necessary to prevent further racial discrimination, require the Supervisors to exercise the power that is theirs to levy taxes to raise funds adequate to reopen, operate, and maintain without racial discrimination a public school system in Prince Edward County like that operated in other counties in Virginia.

The District Court held 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." At the same time the court gave notice that it would later consider an order to accomplish this purpose if the public schools were not reopened by September 7, 1962. That day has long passed, and the schools are still closed. On remand, therefore, the court may find it necessary to consider further such an order. An order of this kind is within the court's power if required to assure these petitioners that their constitutional rights will no longer be denied them. *The time for mere "deliberate speed" has run out, and that phrase can no longer justify denying these Prince Edward County school children their constitutional rights to an education equal to that afforded by the public schools in the other parts of Virginia.*

The judgment of the Court of Appeals is reversed, the judgment of the District Court is affirmed, and the cause is remanded to the District Court with directions to enter a decree which will guarantee that these petitioners will get the kind of education that is given in the State's public schools. And, if it becomes necessary to add new parties to accomplish this end, the District Court is free to do so.

It is so ordered.

Mr. Justice Clark and Mr. Justice Harlan disagree with the holding that the federal courts are empowered to order the reopening of the public schools in Prince Edward County, but otherwise join in the Court's opinion.

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