IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

No. 4

SPOTTSWOOD THOMAS BOLLING, ET AL., *Petitioners,*

v.

C. MELVIN SHARPE, ET AL., *Respondents.*

MOTION OF THE FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA FOR PERMISSION TO FILE BRIEF AS AMICUS CURIAE

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To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The undersigned counsel for and on behalf of the Federation of Citizens Associations of the District of Columbia (hereinafter referred to as the Federation), respectfully move this Honorable Court for permission to file the accompanying brief as amicus curiae.

The Federation is a corporate organization; one of its purposes, as stated in its Charter, is to obtain the expression of the general public sentiment upon matters of special interest to all citizens of the District of Columbia

and to secure and make effective their united actions. The Federation consists of duly elected delegates from fifty-seven neighborhood citizens associations, the territorial jurisdictions of which cover almost all of the District of Columbia. The membership of the individual associations is composed of white persons who are, to a large extent, parents of school children affected by the Court's decision of May 17, 1954 and by the plan of the Board of Education. In the aggregate the members and their children number many thousands. The matters embraced in Questions 4 and 5 propounded by the Court have been discussed and considered extensively at meetings of the fifty-seven associations and the Federation.

The reasons for the Federation's desire to submit the brief as amicus curiae, which is tendered herewith, are as follows:

1. For many years the Federation has concurred with the Board of Education and has supported it in the maintenance of a dual public school system in accordance with the pertinent Acts of Congress. The Court's decision of May 17, 1954 declared in effect that such dual system is unconstitutional. So far as the Federation has been able to learn, the Board of Education has accepted the Court's decision and has determined to eliminate segregation, without awaiting the further decision and decree of the Court and without obtaining legislation from Congress to replace the Acts of Congress under which the Board theretofore acted, which the Court has held unconstitutional. The Federation does not oppose desegregation but holds that the plan which the Board of Education has adopted involves unnecessary speed of action and many hardships upon the school children, in violation of their rights as citizens, which rights the Court apparently has fully recognized in its opinion in this case and the opinion in the four related cases. Several provisions and requirements of the plan are in reality legislation which, it is believed, the Board has no authority to promulgate. In

doing this, the Board of Education is making a calculated attempt to circumvent the exclusive right, power and duty of Congress to deal with this problem by legislation.

2. Because of local conditions in the District of Columbia, the Federation desires to suggest and urge that the terms of the decree to be entered by the Court should adequately protect the rights of *all* children of school age, and assure that no child of either color will be compelled, under penalty, to attend any specified school where the students of his own color constitute a disproportionate small minority. Also, the parents should be protected from the fines and/or imprisonments provided by the District of Columbia Code in that connection.

3. From all available information, the Federation understands that the petitioners, as well as the respondents, expect to take the general position in their final briefs, that integration of the District public schools is substantially an accomplished fact, and that the pending questions propounded by the Court are moot, or practically so. True, a plan of integrating the public schools was put into effect within a short time after May 17, 1954, and the plan has progressed to the point where the major part of it is in effect. In its brief, the Federation desires to call the Court's attention to some of the mandatory and compulsory requirements which constitute a part of that plan. Those compulsory provisions, it is believed, are most unreasonable and, in the light of the Court's opinion, they appear to be of doubtful validity to say the least. The Court has recognized and has emphasized the damaging effect upon colored school children which is produced by compulsory segregation of them. That proposition, like most others in life, has two sides. It is the desire of the Federation to deal briefly with the other side and to demonstrate why the terms of the decree should adequately protect children of *all* races against unnecessary damag-

ing effects which will certainly arise as the result of compulsory integration if it be applied without any flexibility. As indicated previously, the Federation believes that coverage of this matter in the briefs of the petitioners and respondents is not contemplated. The importance of the matter would indicate a desirability for the Court to receive suggestions such as the Federation's brief will attempt to present.

The Federation respectfully and emphatically desires to point out to this Honorable Court that the case of the District of Columbia schools, as it stands, is defective through absence of a proper, not to say indispensable, party. One group of citizens is learnedly and expertly represented by counsel. The group of which the Federation is representative is thus far without a voice of its own. The Board of Education and its worthy counsel, of necessity, cannot speak the views of this group, as they necessarily differ in some vital respects from those common to all. Without the Federation this Court will not hear the voice of this great body of citizens of the District of Columbia.

Respectfully submitted,

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