

ADDRESS
OF
J. LINDSAY ALMOND, JR.
GOVERNOR

TO THE
GENERAL ASSEMBLY
EXTRA SESSION
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ADDRESS

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J. LINDSAY ALMOND, JR.

GOVERNOR

Mr. Speaker, Mr. President, Members of the General Assembly:

I am not aware of any crisis in the history of Virginia more grave nor any emergency creating a more impelling necessity for the convening of the representatives of our people. Only under the impact of a situation fraught with consequences so direly weighted against the peace, happiness and welfare of the citizens of this Commonwealth would I, with such short notice, have exercised the constitutional prerogative which brings you here with personal sacrifice and inconvenience.

It is with prayerful reverence that I approach the responsibility of the task of addressing you, realizing that in so doing I speak to all of the people of the greatest of sovereign states—a State embattled and beleaguered, fighting with honor, nobility of purpose, and fidelity to principle—and at times, it seems, fighting alone—to defend, restore and preserve the rights of every state federated into the sisterhood of states under our constitutional system of government.

Encompassed by the iron will or arrogated power, buffeted upon the storms of an uneven contest, pierced with the daggers of political expediency and battered by the unholy alliance of a conspiracy to destroy the Constitution, Virginia, true to the faith of the founding fathers and refusing to desecrate her heritage, must never recede in this struggle to preserve her rights nor suffer her voice to be stifled in the councils of the nation.

On the highest plane of honor and dedication to fundamental principles, buttressed by sound and vital constitutional precepts, Virginia has done more than any other state in the Union to impress upon the hearts and minds of the American people that her struggle is theirs, and that it is for the common cause of the restoration of government by law and not by men that she fights and will continue to fight.

The obligation and responsibility for carrying our common cause to the nation is not alone yours and mine. It devolves with heavy hand upon each and every member of the Congress of the United States who believes in the restoration of the principle of the balance of powers and the exercise by the states of those rights reserved by them under the Constitution, and which have never been delegated, forfeited or surrendered to the Federal Government.

It is not enough for gentlemen to cry unto you and me "Don't give up the Ship," "Stop them." "It must not happen," or "It can be prevented." If any of them knows the way through the dark maze of judicial aberration and constitutional exploitation, I call upon them to shed the light for which Virginia stands in dire need in this her dark and agonizing hour. No fair minded person would be so

unreasonable as to seek to hold me responsible for failure to exercise powers which the State is powerless to bestow.

VIRGINIA'S EFFORTS

I trust that the bounds of propriety will permit what I believe to be a necessary but brief review of this long, hard struggle in defense of Virginia's rights and our efforts to save our public school system from that chaos, confusion and disruption which will preclude it from effectively administering the processes of education for all of our children. In one capacity or another, I have been actively and officially identified with this fight since 1953. At all times our defense was predicated on the Constitution of the United States and the unbroken line of established apposite precedents woven into the concept and fabric of the Constitution as an integral part of the supreme law of the land. I witnessed personally the fury of the pressures, political, ideological, sociological and otherwise, which beat down upon the court. I saw the court ignore the Constitution, cast aside all precedent, federal and state, and judically legislate the ideology of a foreign socialist into the Constitution, outside of the record, with no opportunity for a hearing or cross-examination. I took part in the effort to impress upon the court the certain ruin of public education which would inevitably follow in the wake of its decision. I have witnessed your great efforts consistent with Virginia's honor and within the framework of law, as you conceived it to be, to maintain Virginia's rights and save her public school system. I have kept in close touch, and counseled and advised, with the present Attorney General as he has poured the brilliance of his genius, his courage, and his great resourcefulness as a lawyer into the defense of the enactments which you placed upon the statute books of Virginia. Battling with his back to the wall in court for as many as ninety days in the last year, no Attorney General could have worked harder, nor done more than he has done to uphold and defend the laws of this State. I deem this statement pertinent and relevant to the occasion, in view of the unwarranted criticisms in recent days that all has not been done that could have been done in defense of the way of life we cherish.

Under the constitutional mandate that the Governor take care that the laws be faithfully executed, I have applied the laws of Virginia relating to this matter and the Attorney General has defended them to the last ounce of their vitality.

I report as a fact, and not in a spirit of criticism, that the laws enacted to prevent the mixing of the races in our public schools and to provide educational aid to those in areas where schools have been closed, have been stricken down by a Federal Court, and by the Supreme Court of Appeals of Virginia. The imminence of the peril to our people of the crisis thus engendered challenges the loyalty and dedication of our hearts and minds, and the prompt application of our talents and efforts, to the very best we can give in the service of Virginia.

There are those who insist that I invoke the police power of this State to prevent the opening of the closed schools on an integrated basis or to close them when opened on such a basis.

The General Assembly has pledged that it would resist unwarranted federal encroachment with honor and within the framework of law. I have repeated that pledge to the people. It is as solemn and sacred now as when it was made.

The police power of this State cannot be invoked by the Governor, nor can the General Assembly validly instruct or direct him to use it, on an arbitrary basis. The police power cannot be asserted to thwart or override the decree of a court of competent jurisdiction, State or Federal. If the necessity arises, I can and will invoke the police power to protect the safety and good order of the community, to restore order and protect life and property.

There are those who insist that I seek authority from the General Assembly to padlock and police any school threatened with the imminence of integration. The Assembly cannot confer such authority. I am willing to serve in durance vile with those who give the advice if it will accomplish the desired purpose. I know of nothing more futile than a penal sentence that contributes to nothing but the ridiculous. It has long been the law, and recently reaffirmed, that action under an unconstitutional statute is not action by the State protected by the immunity of the Eleventh Amendment to the United States Constitution. It should be clearly understood that the Governor, the Attorney General, and any other officer of the State, is as amenable to suit as any other citizen when he seeks to perform an unlawful act, or to do an unconstitutional thing under the guise and cloak that it is an act of the State and not of the individual.

PUPIL PLACEMENT ACT

Contrary to the opinion of some, I cannot conceive how the Pupil Placement Act can be asserted either as a buffer or bulwark between the overriding and superior power of the Federal Government and the operation of a segregated school. That which the State itself is powerless to do it cannot confer upon an administrative agency. The State cannot confer upon any agency the authority to re-examine or readjust rights finally determined and adjudicated. In the cases already finally adjudicated, the pupils were before the court which determined their rights and in effect made the assignments. The court cannot relieve itself of the onus of actually making the assignment through the expedient of coercing the school board. The Pupil Placement Board is powerless to reassign effectively children from schools in which they have been placed by the Federal Court. As distasteful as it is, that fact must be faced as a reality.

ASSIGNMENT PLAN

It has been asserted in political debate and in the halls of this Assembly that the North Carolina and Alabama assignment plans form the basis of the solution of our problem. If integration is the solution, then like the school system of the District of Columbia they are models. Any assignment plan administered in conformity with federal edicts is a conduit through which to channel an ever-increasing stream of Negro children into white schools. No assignment plan, however devised or whatever the criteria, can be used to exclude a Negro child from a white school on the basis of race. Such a plan places into the hands of the NAACP the power to measure the degree and the tempo of mixing the races in the public schools. With or without the formality of an assignment plan, local school boards possess the authority to apply any rational nondiscriminatory criteria relating to admission except that of race. The assignment plan theory embraces the philosophy and

concept of integration. Otherwise it would be proscribed both by the Federal Courts and the NAACP.

Experience elsewhere has confirmed the conviction of our people that enforced mixing of the races contrary to the expressed will of the overwhelming majority will destroy public education in Virginia. In many of our political subdivisions, the people will not elect governing boards to tax them and appropriate funds for a system which they cannot use. While there may be differences in the degrees of intensity of feeling in different areas, the fixed conviction pervades the entire State. The people are sincere and honest in their convictions. They realize that the ruthless hand of federal power under the driving urge of a minority pressure group has deprived them of their voice in molding the character and in the education of their children. They are rooted in the belief that the right to associate carries with it the right not to associate. They will not have their children subjected by the force of federal power to that which they are convinced is inimical to their welfare, and which was thrust upon them without any regard for their rights. No public school system can survive when isolated from the support of the people whose substance and devotion are its life's blood.

Those who have brought this calamity upon us and themselves were repeatedly warned. Armed with federal decree and sanction, they have pushed their Pyrrhic victory to the brink of disaster.

The time has arrived to take a new, thorough, and long look at the situation which confronts us. Our children will be educated, and educated effectively. There is no longer any hope for many thousands of them to be educated in public schools. For these children, whose welfare cannot be neglected, we must begin now to lay the groundwork for a transition to other methods as effective or better than those which have served until the hammer of federal intervention fell with devastating force.

In the arguments before the Supreme Court of the United States, we were frequently reminded that we had a segregated system enforced by a compulsory attendance law. In 1956 we amended the statute to provide that "No child shall be required to enroll in or attend any school wherein both white and colored children are enrolled."

To leave the statute in its present form would render it amenable to attack and expose other legislation to its alleged virus. I recommend the outright repeal of this statute.

AID TO EDUCATION

It is imperative that you give immediate consideration to the matter of grants in aid of education.

I shall submit for your consideration an amendment to the 1958 Appropriation Act to provide for:

(1) The payment of tuition grants, (a) to pupils in localities where there are inadequate public schools available; (b) to pupils whose welfare would be best served if they attended a school other than the public school which they would normally attend; and (c) to pupils whose parents, guardians or custodians object, upon grounds deemed valid and reasonable by the State Board of Education, to

their attendance at the public school to which they have been or would be assigned;

(2) the restoration of the provisions and wordage of the items relating to public education found in the 1956 Appropriation Act, before any amendments were made thereto, together with those changes adopted by the 1958 Session of the General Assembly which had no relation to the maintenance of the separation of the races in the public schools; and

(3) to provide for the continued payment of the State's share of the salaries of teachers and other school employees where there has been a material loss in average daily attendance.

The financing of these grants by the State presents no problem for the payment of tuition grants for the biennium 1958-1960. An adequate appropriation can be made out of the general fund of the State treasury without substantial risk of creating a deficit for the current biennium; and I recommend that this appropriation be made immediately.

At the end of each biennium there are always unexpended sums of appropriations of such nature that they revert to the general fund. The current biennium will be no exception. The total amount of these reversions varies from biennium to biennium. The average for the past five biennia has been approximately \$7,560,000.

Although it is by no means clear that this average will be reached at the end of the current biennium, it is noted that projects in the capital outlay program let to contract during the biennium 1956-1958 and completed in the current biennium have required an expenditure of \$1,500,000 less than the appropriations therefor. This sum is now available for appropriation. Moreover, an additional amount of \$500,000 has been saved so far during the current fiscal year on capital projects let to contract at figures less than the appropriations therefor.

In addition to the above-described \$2,000,000 there is Item 484 in the current general appropriations act "For meeting public school contingencies," a sum sufficient, estimated at \$250,000, for the first year and \$250,000 for the second year. No part of this appropriation has been spent, and the estimated \$250,000 for each year can be included in an appropriation specifically for tuition grants.

These specific sums are exclusive of expected miscellaneous unexpended amounts at the end of the current biennium that would revert to the general fund, and based on past experience the total of these will be several million dollars.

I am also recommending an amendment to Chapter 58 of the Acts of Assembly, Special Session of 1956, §§22-115.10 through 22-115.19 of the Code of Virginia, relating to the payment of tuition grants by counties, cities, and towns to make the methods and conditions for the payment of tuition grants by the counties, cities and towns correspond to those contained in the recommended amendment to the Appropriation Act.

I desire to here state and reemphasize a statement I made to the people of Virginia on January 20, 1959.

PRIVATE INSTRUCTION

No parent or guardian is under any legal compulsion from any source to send a child to a racially mixed school. In certain areas affected by adverse federal decrees the people have responded magnificently to the emergency created through

the closing of schools. Thousands of our children have adjusted to the situation. The processes of education are being admirably and effectively administered. The hardships and sacrifices have constituted a challenge to overcome obstacles with the result that fundamentally sound educational progress is being made without chaos or undue confusion.

Amid the agony of these trying days I have been heartened and inspired by the profound spirit of dedication and determination of these citizens and their children, as well as the teachers, who have comported themselves so as to reflect immeasurable credit on the highest qualities of patriotic citizenship.

To prevent the pyramiding of chaos, confusion and disruption, I urgently request that private instruction now obtaining, and wherever it may become necessary, continue and go forward without interruption. I urge the wholehearted co-operation of all concerned to this end. It is my firm belief that to break the chain of continuity in the administering of private instruction and the consequent confusion of a transition which may invoke conditions justifying its termination would be productive of incalculable harm.

MAINTENANCE OF ORDER

I know you share my deep concern relative to violence or threats of violence designed to intimidate or to endanger the security of life, limb or property. Whatever may ensue as a result of this crisis, law and order must prevail to the end that the good name and honor of Virginia be not defamed.

With fairness and impartiality to all, I am determined to keep the peace and good order. This is a State function and responsibility. I know of nothing for which to thank the Federal Government during this struggle to preserve our rights except to keep out of our local problems which it has created.

I recommend the strengthening of our laws relating to this subject.

COMMISSION ON EDUCATION

I have previously stated my purpose to appoint a commission composed of members of the General Assembly. The delay has been occasioned by the urgency of the situation which has caused you to convene. It is utterly impossible for the Assembly to give the consideration which the situation demands in the absence of the formulation of a thorough, carefully and legally devised program. The various and difficult facets of such a program must be soundly co-ordinated and correlated. Virginia must elect to cast defense of her rights and her cherished institutions on a plateau of her own choosing. With your co-operation I have confidence that it can and will be done consistent with honor and within the framework of law that will withstand the attacks of those crazed by power and armed with the edicts of the federal judiciary.

Some of the matters that I would submit for consideration by the commission would relate, among other things, to the following:

(1) Repeal of laws that have been finally adjudged to be unconstitutional or have proven ineffective. We must strengthen our position as we prepare for the future by removing from our statutes that which those who oppose our way of life have used as a virus to contaminate the whole.

(2) It may be well in the light of unfolding revelations to take a more thorough look at the status of our compulsory attendance laws.

(3) Procedures for valid bona fide sales of school properties where such properties become surplus by withdrawal of children therefrom.

(4) Modification of statutes providing for liens on buildings and lands where Literary Fund loans obtain.

(5) Complete study and revision of tuition grant statutes; whether they should be paid by the State, and what proportion, if any, should be shared by the localities.

(6) Revision of laws relating to pupils transferring from schools of one political subdivision to another, and tuition payments under such circumstances.

(7) A careful evaluation of the three-school system and pupil preference plan.

(8) Revision of statutes relating to the transportation of children to schools.

(9) A more thorough study relating to the teaching profession as to retirement, sick leave and tenure.

(10) Careful study relating to the revision of our tax structure, the long range impact of tuition grants, and the imposition of a sales tax.

(11) Careful study of an amendment to section 129 of our Constitution.

It is obvious to me that a most deliberate and painstaking study must be given to such a program if we are to avert chaos in Virginia.

I most respectfully and earnestly recommend that the Assembly not undertake at this time to deal with the complexities involved in the formulation of the program outlined. I recommend that the Assembly promptly enact the emergency measures which I shall submit, and then stand in recess to receive further recommendations following the study and report by the commission. I shall urge the commission to act with that dispatch commensurate with the importance of the problems to confront it and the exigencies of the situation.

If for any reason the Assembly deems it impractical or inadvisable to follow this suggestion, I would be disposed to consider another call into extra session to receive further recommendations following the findings and report of the commission.

REASON FOR CALL

There is another matter to which it pains me to refer. Candor and justice compel the reference.

It has been charged that the call of this session was issued as a result of pressure from pro-segregationists; that I have surrendered the reins of the State Government, and that I had repeatedly stated that I would not issue the call until I had "an effective plan to meet the crisis which will face Virginia next week."

The facts are as follows: I issue this call under the force of the urgency of the crisis pyramided by recent judicial decisions. I have repeatedly stated that I did not possess the power and knew of none that could be evolved that would enable Virginia to overthrow or negate the overriding power of the Federal Government. I stated this to every member of the General Assembly with whom I had the honor

to confer. I made the same statement to others vitally and deeply concerned. The call was in response to my own convictions as to the proper thing to do and on the recommendations of many whose views do not coincide on the issues involved. No one has taken over the Executive branch of the State Government.

CONCLUSION

In this struggle Virginia has been subjected to pressures more relentless, brutish and formidable than that applied to any other state. She has preserved her system of public schools longer than any state where the issue has been pressed. She has not surrendered and she does not surrender now. Her fight to enjoy every right inherent in her sovereignty and reserved to her under the Constitution will continue with never diminishing faith and confidence in the righteousness of her cause and the hope of ultimate vindication.

I pledged to the people of Virginia that I would resist with every resource at my command that which I know to be wrong and would destroy every rational semblance of effective public education in Virginia. I have kept that pledge and you have kept it. Only those Virginians whose hearts are not in the fray give up in adversity. To the strong, a battle lost is but a challenge to redouble effort, energy and devotion to scale the heights of worthy achievement.

No one could be more sensitive than I to the tensions of the moment. Only God knows the surge of emotion within me striving for mastery. Only my love for Virginia and the Pillar of the Almighty sustain me in this hour.

How fortunate for Virginia that the highest attributes of gentlewomen and gentlemen pervade this Assembly. On great issues statesmen divide, but never allow the firmness of conviction or the heat of debate to do violence to the commonwealth . . .

"These are the times that try men's souls. The summer soldier and the sunshine patriot will in this crisis shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered. Yet, we have this consolation with us, that the harder the conflict, the more glorious the triumph." (Thomas Paine—1776)