[*Time Allowed*]

We thought, and still think, that this Court's mandate made it clear that before a more specific date should be fixed and before any orders or judgments should be entered to require compliance with the judgment directed in that mandate, the school authorities should be accorded a reasonable further opportunity promptly to meet their primary responsibility in the premises, and then if the plaintiffs, or others similarly situated, should claim that the school authorities have failed in any respect to perform their duty, there should be a full and fair hearing in which evidence may be offered by any and all parties, and further that the Court should retain jurisdiction to require compliance with its judgment.

The judgment of the district court is therefore reversed and the cause remanded with directions to enter a judgment in accordance with the mandate of this Court issued on September 7, 1957 and in accordance with this opinion, and to retain jurisdiction for such further hearings and proceedings and the entry of such orders and judgments as may be necessary or appropriate to require compliance with such judgment. In view of the reversal on appeal, the petition for mandamus is not necessary and leave to file said petition is denied.

REVERSED WITH DIRECTIONS. LEAVE TO FILE PETITION FOR MANDAMUS DENIED.

EDUCATION
Public Schools—Virginia

Theodore Thomas DeFEBIO, an infant, et al. v. the COUNTY SCHOOL BOARD OF FAIRFAX COUNTY, et al.

Supreme Court of Appeals of Virginia, December 2, 1957, 100 S.E. 2d 760 (1957).

SUMMARY: The white mother of school-age children in Fairfax County, Virginia, brought a petition for a writ of mandamus in the Virginia Supreme Court of Appeals to require county school officials to readmit her children to public schools in the county without requiring the filing of an "application for placement of pupil" (see 2 Race Rel. L. Rep. 1042). Upon establishing residence in the county, the children had been provisionally admitted to schools but were excluded when the mother refused to file the form required by the state Pupil Placement Act (see 1 Race Rel. L. Rep. 1109). The petition contended the Pupil Placement Act to be unconstitutional under both the state and federal constitutions. The court refused to grant the petition, holding that the act was within the constitutional powers of the state legislature and that the plaintiffs did not allege that the act deprived them of the equal protection of the laws guaranteed by the Fourteenth Amendment and thus had no standing to challenge the act on that ground. [Compare *Adkins v. School Board of Newport News*, 2 Race Rel. L. Rep. 46 (D.C. E.D. Va. 1957); and *Calloway v. Farley*, 2 Race Rel. L. Rep. 1121 (D.C. E.D. Va. 1957)].

HUDGINS, Chief Justice.

PETITION FOR WRIT OF MANDAMUS

On January 19, 1957, Theo T. DeFebio and her two children, Theodore Thomas DeFebio, 14 years of age, and Dominick Nicholas DeFebio, 9 years of age, became residents of Fairfax County, Virginia. Subsequently, on the request of the mother, her two sons were permitted by local school authorities to attend, on a temporary basis subject to being officially assigned by the Pupil Placement Board, public schools in Fairfax county. The older son was admitted to the Mount Vernon High School and the other son to the Hollin Hall Elementary School. Despite repeated requests made by the school authorities, Mrs. DeFebio refused to execute and file for her sons "application for placement of pupil" forms as required by Chapter 70, Acts of

Assembly, Extra Session (1956), Code, §§ 22-232.1, et seq. Because of this refusal permission for the two children to attend the named schools was withdrawn.

Thereafter, Mrs. DeFebio and her two sons filed in this Court a petition for a writ of mandamus praying that the County School Board of Fairfax County, the Division Superintendent of Schools of Fairfax County, the Principals of Mount Vernon High School and Hollin Hall Elementary School of Fairfax County, the President and Members of the State Board of Education and the Superintendent of Public Instruction be compelled to reinstate the two children in the schools, notwithstanding Mrs. DeFebio's refusal to execute the application for placement of pupil.

[*State Constitution*]

Petitioners contend that § 133 of the Virginia Constitution vests the power of enrollment or placement of pupils in public schools exclusively in local school boards, and that the legislature is thereby prohibited from vesting such power in the Pupil Placement Board or any other body.

The legislature functions under no grant of power. It is the supreme law making body of the Commonwealth, and has the inherent power to enact any law not in conflict with, or prohibited by, the State or Federal Constitutions. Section 133 of the Virginia Constitution, while vesting "supervision" of public schools in local school boards, does not define the powers and duties involved in that supervision. The general power to supervise does not necessarily include the right to designate the individuals over whom supervision is to be exercised. If the legislature deems it advisable to vest the power of enrollment or placement of pupils in an authority other than the local school boards, it may do so without depriving such local school boards of any express or implied constitutional power of supervision.

[*Fourteenth Amendment*]

Petitioners' second contention is that their rights under the Fourteenth Amendment to the Constitution of the United States are infringed by the requirement that the parent execute and file the application for placement of pupil forms. In support of this contention, they cite numerous federal cases on integration of public schools, including Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873, 38 A.L.R. 2d 1180, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083; Atkins v. School Board of Newport News, 148 F.Supp. 430, aff'd, 4 Cir., ____F.2d____, cert. den., ____U. S.____, ____S.Ct.____, ____L.Ed.____.

None of these authorities is relevant to, or determinative of, the issue presented by the facts in this case. Petitioners are members of the Caucasian race, and the mother desires her children to attend schools in which only the members of that race are enrolled. The issue here is quite narrow. It involves no broad constitutional question of racial discrimination. The only issue presented is whether, as a prerequisite to the admission of her children to the public schools, Mrs. DeFebio may be required to execute an application in which the only information sought is: (1) Name, address, date of birth, sex, condition of health, physical or mental disabilities, and particular aptitudes of the child; (2) name and address of school the child last attended, his grade and years in school, and (3) name and location of any school in Virginia in which any other child of applicant is enrolled.

[*No Violation of Rights*]

There is nothing in such requirement that violates any of petitioners' constitutional or other legal rights. Indeed, the information sought could have been required by the school authorities without a specific act of the General Assembly. There is nothing in the record tending to show that the enforcement of the statute as to the petitioners will result in the children being denied admission to any school which they may be entitled to attend, or that they will thereby be required to attend any school to which they should not be admitted.

It is a fundamental principle of constitutional law, firmly supported by both Federal and State authorities, that a person who challenges the constitutionality of a state statute has the burden of proving that he himself has been injured or is threatened with injury by its enforcement. In

other words, a person whose rights are not infringed by enforcement of a state statute can not successfully attack its constitutionality. It avails him nothing to point out that some other person might conceivably be discriminated against. "One who would strike down a state statute as obnoxious to the Federal Constitution must show that the alleged unconstitutional feature injures him." Premier-Pabst Sales Co. v. Grosscup, 298 U.S. 226, 227, 56 S.Ct. 754, 755, 80 L.Ed. 1155; Barrows v. Jackson, 346 U.S. 249, 73 S.Ct. 1031, 97 L.Ed. 1586; Morgan v. Commonwealth, 168 Va. 731, 191 S.E. 791, 111 A.L.R. 62; Grosso v. Commonwealth, 177 Va. 830, 13 S.E.2d 285; Bailey v. Anderson, 182 Va. 70, 27 S.E.2d 914; Avery v. Beale, 195 Va. 690, 80 S.E.2d 584; 11 Am. Jur., Constitutional Law, § 111 et seq., p. 748 et seq.; 16 C.J.S., Constitutional Law, § 76 et seq., p. 226 et seq.

For the reasons stated the writ of mandamus must be denied.

Writ denied.

GOVERNMENTAL FACILITIES
Golf Courses—Florida

City of FORT LAUDERDALE v. Joseph H. MOORHEAD et al.

United States Court of Appeals, Fifth Circuit, November 1, 1957, 248 F.2d 544.

SUMMARY: Negroes in Fort Lauderdale, Florida, applied for permission to use the municipal golf course. Upon the denial of their application by the city authorities they instituted an action in federal district court asking for an injunction to require their admission to the golf course without regard to race or color. After hearing the court issued a permanent injunction against the city authorities. The court stated that possible financial loss to the city was no basis for denying constitutional rights and ordered the admission of Negroes to the city golf course on the same basis as white persons. 152 F.Supp. 131, 2 Race Rel. L. Rep. 409 (S.D. Fla. 1957). On appeal the Court of Appeals, Fifth Circuit, affirmed.

Before RIVES, TUTTLE and BROWN, Circuit Judges.

PER CURIAM.

The claimed procedural errors we find too unsubstantial to warrant discussion. The findings of fact are full and complete and the conclusions of law are amply supported by the authorities cited. We agree with the learned district court. The judgment, 152 F.Supp. 131, is therefore

Affirmed.

GOVERNMENTAL FACILITIES
Police Boys Clubs—District of Columbia

Welker C. MITCHELL, an infant, by Margaret U. Mitchell, mother and next friend, et al. v. BOYS CLUB OF METROPOLITAN POLICE, D. C., a corporation, et al.

United States District Court, District of Columbia, November 27, 1957, 157 F. Supp. 101.

SUMMARY: A Negro boy brought an action in the federal district court for the District of Columbia against the District of Columbia Police Boys Club and members of the Board of Commissioners of the District. The action sought admission to a Boys Club on a racially non-segregated basis or, in the alternative, an injunction against contributions by the District of Columbia to the Boys Club. The plaintiff maintained that contributions of buildings and personnel to the Boys Club constituted the Club an agency of the District of Columbia so that a policy of racial segregation in operating the Club was in violation of the Fifth Amend-