

The original documents are located in Box 7, folder “Busing - Presidential Meetings (4)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

June 18, 1976

THE WHITE HOUSE

WASHINGTON

June 17, 1976

CABINET MEETING

Friday, June 18, 1976

11:00 a.m. (60 minutes)

The Cabinet Room

From: James E. Connor

I. BACKGROUND, PARTICIPANTS AND PRESS PLAN

1. Background: You last met with the Cabinet on April 14th when the agenda included briefings on the status of campaign activities, an economic and foreign policy update, and a briefing on the activities of the Congressional Budget Committees. This will be the first opportunity you have had to meet with the Cabinet as a whole since the end of the primaries. The agenda is attached at Tab A.

2. Participants: Attached at Tab B.

3. Press Plan: Announcement to the Press, Press Photo at Beginning of meeting, and David Kennerly Photo.

II. TALKING POINTS

1. It has been some time since we have had the opportunity to have a Cabinet meeting, but, of course, I have been doing a great deal of travelling, as have you all. I do want you all to know that I appreciate your efforts on my behalf in travelling and speaking throughout the country. I am confident we will be successful, first in Kansas City and then in November.

2. Now that the primaries are over, I thought we would all benefit from a discussion of the current political situation, our prospects and strategy and what we can expect from now until November. For that purpose, I have asked Rog Morton and Jim Baker to speak to us this morning. Rog, will you begin.

3. I'm sure you have all read numerous press stories over the past two weeks and are aware of the various meetings I have been



(2)

But an an in hollow is
essentially a complex
entirement grants

Ed - here find draft -
careful analysis of Court cases
own view is it is Court
reject Court arguments ~~and~~
propose to come + to what
present Court might work

Have contacted key law professors
? whether can

Paul Fink, what we've had,

Fink - ? ex. New U of Mich
approved in exponis - as &

Ugri - true to be new specific what
exponis what + based on to
new legal effects ..

Brown -

holding with outside groups on the subject of busing. I think it important that all Cabinet members be knowledgeable about my position on busing, and that you be aware of the details of the proposed legislation the Attorney General will be recommending to the Congress, so that you can be effective in speaking about this issue and taking questions once the proposal has been transmitted to the Congress. Ed (Levi), will you begin by outlining some of the details of the proposed legislation we will be recommending?

(Alternatively, you may wish to begin by stating your own views on the busing situation, and then asking the Attorney General to comment.)

3. I was shocked and outraged, as I am sure you all were, at the recent murders of Ambassador Meloy and Counsellor Waring in Lebanon. There is, of course, a very grave situation going on in Lebanon, and I have asked Secretary Kissinger and Brent Scowcroft to bring us up to date on developments there. Henry, will you begin.



P

cont - o see from here to
when need believe not
best aim to establish cont
rights of these over to
to - not best of
of quality, educt

since Nov - lev: . note
working quarter for better results
continue to push out in
work until in a well answer

explains - No I - seen were
upheld decision of court, that
is fair. So will not be composed
going to make certain that illegal
Acts will be reported - effects
of illegal acts be upheld; spirit
Regardless of own firm & name,
do what is right



I take as
 utmost
 care
 to
 do
 my
 duty
 as
 President
 of
 the
 United
 States
 of
 America

THE WHITE HOUSE
 WASHINGTON
 THE CABINET MEETING
 Friday, June 18, 1976
 11:00 a.m.
 The Cabinet Room

[Handwritten notes, partially illegible]

[Handwritten notes: "Wants... for an..."]

AGENDA

1.	Introduction	The President	5 minutes
2.	Discussion of Political Situation	Rog Morton Jim Baker	20 minutes
3.	Discussion of Busing	The President The Attorney General	20 minutes
4.	The situation in Lebanon	The Secretary of State Gen. Scowcroft	20 minutes

[Handwritten note: "I have this..."]



I have stay view on this issue,
 let me state them.

First, I am opinion to...
 up and...
 stand, after the law.

3d. On...
 I must not stop
 you. issue...
 now...
 in...

[Handwritten note: "I have the..."]

(3)

Legislature follows may an
would have filed in Boston

David

a) sum of lost

control - would

fixed costs was

very liberal

b) citizen's alliance helped
was help us out
by them - rather
than school boards.

c) Not a Swam
Commission = no staff

we are equally
help can only
a man
clear
start.

human use The support
and watch community in that

1) 600

2) ~~Man counted number.~~
as to whether it
should be discussed

ATTENDEES

Cabinet Meeting - June 18, 1976

The President

The Secretary of State, Henry Kissinger

The Attorney General, Edward Levi

The Secretary of the Interior, Thomas Kleppe

The Secretary of Commerce, Elliot Richardson

The Secretary of Health, Education & Welfare, David Mathews

The Secretary of Housing and Urban Development, Carla Hills

The Deputy Secretary of the Treasury George Dixon (for Secretary Simon who is speaking on the West Coast)

The Deputy Secretary of Defense, William Clements (for Secretary Rumsfeld who is abroad)

The Under Secretary of Agriculture, John Knebel (for Secretary Butz who is out of town on a speaking engagement)

The Under Secretary of Labor, Michael Moskow (for Secretary Usery who is attending funeral services for Clyd Webber, President of American Federation of Employees)

The Deputy Secretary of Transportation, John Barnum (for Secretary Coleman who is abroad)

The Special Representative for Trade Negotiations, Frederick Dent

The Counsellor to the President, Robert T. Hartmann

The Counsellor to the President, John O. Marsh, Jr.

The Deputy Director of Office of Management and Budget, Paul O'Neill (for James T. Lynn who is on a trip abroad)

The Deputy Counsel, Edward Schmults (for Mr. Buchen who is out of the city)

(Note: The Vice President is unable to attend because of a speech in North Carolina and Ambassador Scranton is unable to attend because of his trip to Africa.)

White House/Executive Office:

William Baroody

James Cannon

Richard Cheney

James Connor

James Cavanaugh

Max Friedersdorf

Alan Greenspan

Ron Nessen

Brent Scowcroft

Bill Seidman

Others:

Rogers C. B. Morton, PFC
James Baker, PFC
George Bush (for last item only)
Russell Train, EPA

(Frank Zarb is unable to attend because of his trip abroad and Mary Louise Smith will be attending a meeting in Iowa and will not be present)



1/29 -

1. Delegate
2. Pleas for Womans
3. General Election

Wm
Jul 17

Mini 4 ✓
Com 31 -

1/29

now 80 delegates added

split

down 36

N.W. 78

20
6

Letter
Mount
N on
Col
with

6-10
1

Others:
Rogers C. B. Morton, PFC
James Baker, PFC
George Bush (for last item only)
Russell Train, EPA
(Frank Zarb is unable to attend because of his trip abroad and Mary Louise Smith will be attending a meeting in Iowa and will not be present)

White House/Executive Office:
William Baroody
James Cannon
Richard Cheney
James Connor
James Cavanaugh
Max Friedberg
Alan Greenspan
Ron Nissen
Brent Scowcroft
Bill Seidman

June 18, 1976


THE WHITE HOUSE

WASHINGTON

June 18, 1976

MEETING WITH EDUCATIONAL LEADERS

Saturday, June ¹⁹~~20~~, 1976
11 a.m. (60 minutes)
The Cabinet Room

From: Jim Cannon 

I. PURPOSE

To discuss school desegregation with educational leaders.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: This is the fourth in a series of meetings with groups from outside the Administration who have varying views on the issue of school desegregation. This group includes three chief state school officers, two school district superintendents, two principals, a National Education Association officer, and Mrs. Murchison, who received the National Teacher of the Year Award at the White House recently. These people have had practical experience with desegregation problems at local levels, both primary and secondary.

B. Participants: See Tab A.

C. Press Plan: To be announced.

III. TALKING POINTS

1. We are here to talk about school desegregation and, in particular, the impact of court-ordered busing on our educational process.
2. Before going to the substance of the matter, however, I would like to make several things very clear. First, I recognize that a President, any President, has a fundamental responsibility to preserve, protect and defend the Constitution. I fully intend to do so. Second, I am also committed to seeing that every American child's right to a good education is realized. I think these two principles must guide our discussion.



3. It is my own view that some courts have gone too far in requiring massive student transfers simply to achieve racial balance. I think we need to do something about this.
4. I have, therefore, been working with the Attorney General and the Secretary of HEW to develop legislation which will better equip everyone, the schools, the communities, the courts and the Federal government, to deal with unlawful discrimination and to preserve the goal of quality education for all.
5. Each of you has thought a good deal about this matter, and I would greatly appreciate your suggestions.



PARTICIPANTS

JOHNSTON, (Dr.) William
Superintendent of Schools, Los Angeles, California.

JONES, Roland W.
Superintendent of Schools, Charlotte-Mecklenburg,
North Carolina.

McGUIRE, WILLARD H.
Vice President, NEA; formerly teacher in Minnesota.
(Was here for Q & A last week.)

MURCHISON, (Mrs.) Ruby
National Teacher of the Year, 1976; Fayetteville,
North Carolina.

PINERO, (Mrs.) Ursula
Principal, Rochester, New York.

PORTER, John W.
Superintendent of Public Instruction, Michigan.

RILES, Wilson C.
State Superintendent of Public Instruction, California.

SCHRECK, Robert
Principal, Lee High School, New Haven, Connecticut.

SHELTON, (Dr.) Raymond
Superintendent of Schools, Tampa, Florida.

HEW

Secretary F. David Mathews
William Taft, General Counsel
William Morrill, Assistant Secretary--Planning & Evaluation
Dr. Terrel Bell, Commissioner of Education
Dr. Joffre Whisenton, Special Assistant to the Secretary

Attorney General Edward H. Levi

John Calhoun
Jim Cannon
Jim Cavanaugh
Bob Goldwin
Paul O'Neill
Dick Parsons
Art Quern
Ed Schmults
David Lissy



file

THE WHITE HOUSE
WASHINGTON

Jim -

Sealf Whisentan
gave me this to
give to you.

It is the list
of participants for
Saturday's meeting.

Dick

RILES, Hon. Wilson C.
State Superintendent of Public Instruction
State Department of Education
721 Capitol Mall
Sacramento, California 95814 (Office Address)

4246 Warren Avenue
Sacramento, California (Home Address)

Office: AC 916 - 445-4338
Private Office: AC 916 - 445-5682
Home: AC 916 - 447-4577

A recognized leader in education. Has many districts in his State that
have or will soon face school desegregation moves.



PORTER, Hon. John W.
Superintendent of Public Instruction
State Department of Education
Lansing, Michigan 48902

Office: AC 517 - 373-3354

Home: AC 517 - 337-0909

Long interested in school desegregation and compensatory education.

Has many varied desegregation orders in districts in his State.

A forceful leader.



CANDOLI, Dr. I. Carl
Superintendent of Schools
Lansing, Michigan

Office: AC 517 - 485-8161
Home: AC 517 - 372-9227

Early efforts at desegregation were on a voluntary basis. The Board of Education was then recalled.

Since then, there have been two U.S. District Court Orders to desegregate..



KISHKUNAS, Dr. Louis J.
Superintendent of Schools
Denver, Colorado

Office: AC 303 - 266-2255

Denver is currently going through a school desegregation program under Federal Court Order. They have been very successful in doing it without violence or unusual difficulty.

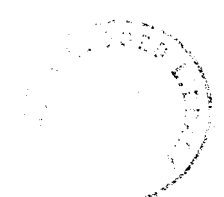


JOHNSTON, Dr. William
Superintendent of Schools
Los Angeles, California

Office: AC 213 - 625-6000

Los Angeles is the second largest school district in the United States. They may soon be facing a Court Order to desegregate, and they have recently negotiated a faculty desegregation plan with DHEW Office of Civil Rights.

Dr. Johnston is an outstanding administrator in gaining citizen support and consensus for education programs.



SHELTON, Dr. Raymond
Superintendent of Schools
Tampa-Hillsborough County
Tampa, Florida

Office: AC 813 - 223-2311 or 223-5121

In present post for 10 years. Formerly Assistant Superintendent, Omaha
Public Schools.

Has led a large school system and the community to a calm, successful
desegregation experience following a U.S. District Court Order.

See attached summary.

FORCED DESEGREGATION CAN WORK, TAMPA SAYS

Five years ago the Hillsborough County, Fla., school system, which includes Tampa, was ordered to desegregate completely the following fall. The 100,000-student district--the size of Rhode Island--carried out a massive desegregation plan with none of the trauma, divisiveness or hatred that has plagued other districts. The plan worked and it's still working. This was the message the community gave at a hearing before the U.S. Commission on Civil Rights last week in Tampa. The commission has already been to Boston and Denver and will hold a hearing in Louisville, Ky., in June. It will report its findings to the President and Congress in August.

Why did forced desegregation, heavily dependent on the yellow bus, work in this Southern community? School and community leaders told the commission that "teamwork and a feeling of participation by all" helped the schools avoid problems. Richard Greco, mayor when a federal court ordered desegregation, said, "There wasn't a hate-type situation in Tampa ever in my opinion." Supt. Raymond Shelton attributed the success to "anticipation and planning." The original suit against the district was filed in 1958 and, convinced that the U.S. Supreme Court would order desegregation in the 1971 Swann case, school officials began planning ahead. A committee of 150 citizens, always meeting in public, prepared a desegregation plan. "We got it all thrashed out before we got to court," Shelton said. Also, the school faculty was integrated a year before the court order.

The Hillsborough plan is based on "clustering." It set up 17 arrangements, with one black elementary school clustered with two to five predominantly white elementary schools. The black school became a sixth-grade center attended by students from all the cluster schools. Clustering and satellite zoning were used to integrate the 26 secondary schools, and the ratio was adjusted to the enrollment ratio--80% white and 20% black. All students who held school offices or any leadership position retained that in the integrated schools (the class president in a formerly all-black school became co-president at the new school). All secondary schools also were assigned a community relations specialist. The plan buses 23,000 students for desegregation purposes, out of 53,000 riding buses everyday, and school officials admit that the busing burden is heavier on black children. Although some black groups voiced objections to the commission, a black business leader said black families were willing "to bear the pain of the plan because it means better education for our children." And a white mother said that her child is learning to recognize people as people, regardless of race: "Without forced desegregation this might not have happened."

Supt. Shelton's Desegregation Success Story

- The court issued a strong order which "left no wiggling room."
- City and rural areas are in the same district; there was "nowhere to flee."
- The school board followed the law, without dividing the community, and local political leaders remained neutral.
- The plan was drawn up by the community and was supported by the media.
- School officials anticipated the court order and submitted an acceptable plan a month after it.
- There was a good instructional program at the end of the bus ride.
- The school system targeted federal desegregation aid at the "personal" side of helping those involved in the transition.
- Many county residents are Spanish-speaking and have been victims of prejudice. They were willing to give black students just consideration.
- The district had a respected team to head the effort--the white superintendent and a black administrator, who chaired the planning committee.
- "We were lucky."

REAGAN, Dr. Billy
Superintendent of Schools
Houston, Texas

Office: AC 713 - 623-5555

Dr. Reagan was appointed Superintendent of Schools in Houston in June 1974. He was a former Regional Commissioner in Kansas City, Missouri. Assistant Superintendent in San Antonio, Texas.

Under his leadership, Houston has developed a number of successful desegregated magnet schools.

His sister worked for Gerald Ford when he was House Majority Leader.



JONES, Mr. Roland W.
Superintendent of Schools
Charlotte-Mecklenburg Public Schools
P. O. Box 149
Charlotte, North Carolina 28201

Office: AC 704 - 372-8620

Has been in the above post for the past six years.

Site of renowned Swann Court Decision.

Desegregation about 70% - 30% across the board. Seems to be accepted in the district and citizens are working well together to make it work without trauma.

FREEMAN, Dr. John P.
Superintendent of Schools
Memphis, Tennessee

Office: AC 901 - 454-5444 or 454-5200

Has been in the above post for the past five years.

Well liked, strong local school leader. Knows the dynamics of school desegregation well.

Under Court Order. Did not apply for ESAA funds because they were unable to meet the compliance requirement of teacher desegregation.

In 1973, Court Order required busing 10,000 pupils. A later Court Order called for transfer of 30,000 pupils, after appeal.

On current Order for the past three years.



WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
Form	Executive Protective Service appointment form for meetings in the Roosevelt Room and Cabinet Room on June 19, 1976 (2 pages)	6/18/1976	C

File Location:

James M. Cannon Files, Box 7, "Busing - Presidential Meetings (4) (6/18/1976 - 6/22/1976)" / SMD/ 2/11/2015

RESTRICTION CODES

- (A) Closed by applicable Executive order governing access to national security information.
- (B) Closed by statute or by the agency which originated the document.
- (C) Closed in accordance with restrictions contained in the donor's deed of gift.

WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
Memo	Memo from David Lissy to Jim Cavanaugh regarding a Saturday Meeting with the President (2 pages) <i>Redacted copy is available.</i>	6/16/1976	C

File Location:

James M. Cannon Files, Box 7, "Busing - Presidential Meetings (4) (6/18/1976 - 6/22/1976)" / SMD/ 2/11/2015

RESTRICTION CODES

- (A) Closed by applicable Executive order governing access to national security information.
- (B) Closed by statute or by the agency which originated the document.
- (C) Closed in accordance with restrictions contained in the donor's deed of gift.

THE WHITE HOUSE
WASHINGTON

June 16, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: DAVID LISSY *DL*
SUBJECT: Saturday Meeting with the President

Status of invitations to the Saturday 11:00 AM meeting,
preceded by 10:00 AM with David Mathews.

- 6 John W. Porter -- ~~Tentative~~ Yes
Superintendent of Public Instruction
Michigan
DOB: 8/13/31
POB: Fort Wayne, Indiana
[REDACTED]
- 7 Wilson C. Riles -- ~~Tentative~~ Yes
State Superintendent of Public Instruction
California
DOB: June 27, 1917
POB: Alexandria, LA
[REDACTED]
- 1 Dr. William Johnston -- Accepts
Superintendent of Schools
Los Angeles, California
DOB: 3/12/26
POB: Los Angeles, California
[REDACTED]
- 2 Roland W. Jones -- Accepts
Superintendent of Schools
Charlotte-Mecklenburg (North Carolina)
DOB: 12/26/24
POB: Hancock, Mass.
[REDACTED]

Final Lists
Send to: Mathews (Whisenton)
Levi
Dave Pyhan, Bos. Globe (298-9170)



- 8 Robert Schreck -- Accepts
Principal, Lee High School
New Haven, Connecticut
DOB: 3/25/34
POB: New Haven, Connecticut
[REDACTED]
- 5 Mrs. Ursula Pinero -- Accepts
Principal
Rochester, New York
DOB: 7/2/35
POB: San Juan, Puerto Rico
[REDACTED]
- 3 Willard H. McGuire -- Accepts
Vice-President, NEA
Formerly teacher in Minnesota
(was here for Q & A last week)
DOB: 6/10/28
POB: Long Prairie, Minn.
[REDACTED]
- 4 Mrs. Ruby Murchison (~~not reached yet~~) *accepts*
Teacher
Fayetteville, North Carolina
(*National*) Teacher of the Year 1976
DOB: 4/9/32
POB: *Greene County, No. Carol.*
[REDACTED]
- 9 *Shelton, Dr. Raymond -- Yes*
Superintendent of Schools, Tampa, Fla.
DOB: 11/25/28
Powersville, Mo.
[REDACTED]



cc: Dick Parsons

HEW: Secretary F. David Mathews
William Taft, *General Counsel*
William Morrill, *Asst. Sec. - Planning & Evaluation*
Dr. Terrel Bell, *Commissioner of Education*
Dr. Joffre Whisenton, *Special Asst. to the sec.*

(Clear all above for parking - space available basis)

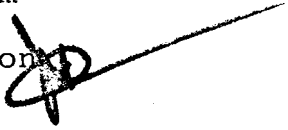
June 21, 1976

THE WHITE HOUSE

WASHINGTON

MEETING WITH MEMBERS OF CONGRESS

Monday, June 21, 1976
11 a.m. (30 minutes)
The Cabinet Room

From: Jim Cannon 

I. PURPOSE

To discuss school desegregation with members of Congress.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: This is the fifth in a series of meetings on the issue of school desegregation.

B. Participants: See Tab A.

C. Press Plan: To be announced. *Photo opportunity.*

III. TALKING POINTS

1. We are here to talk about school desegregation and, in particular, the impact of court-ordered busing on our educational process.
2. Before going to the substance of the matter, however, I would like to make several things very clear. First, I recognize that a President, any President, has a fundamental responsibility to preserve, protect and defend the Constitution. I fully intend to do so. Second, I am also committed to seeing that every American child's right to a good education is realized. I think these two principles must guide our discussion.
3. It is my own view that some courts have gone too far in requiring massive student transfers simply to achieve racial balance. I think we need to do something about this.
4. I have, therefore, been working with the Attorney General and the Secretary of HEW to develop legislation which will better equip everyone, the schools, the communities, the courts and the Federal government, to deal with unlawful discrimination and to preserve the goal of quality education for all.



5. Each of you has thought a good deal about this matter, and I would greatly appreciate your suggestions.

PARTICIPANTS

Senate

Senator Carl T. Curtis (Neb.)

Senator Robert P. Griffin (Mich.)

Senator Roman L. Hruska (Neb.)

Senator William V. Roth (Dela.)

House

Congressman Marvin L. Esch (Mich.)

Congressman Edward Hutchinson (Mich.)

Congressman John Y. McCollister (Nebraska)

Congressman Robert H. Michel (Illinois)

Congressman Albert H. Quie (Minn.)

Attorney General Edward H. Levi

Secretary F. David Mathews, HEW

Jim Cannon
Jim Cavanaugh
Max Friedersdorf
Jack Marsh
Paul O'Neill
Ed Schmults
Dick Parsons





THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

June 21, 1976

MEMORANDUM FOR: James M. Cannon
Executive Director
Domestic Council

FROM: William T. Coleman, Jr.

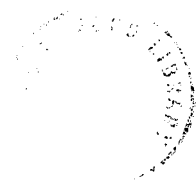
SUBJECT: Attorney General's
Desegregation Bill

Needless to say, I was disturbed to find out that at a Cabinet meeting called after I left the United States on government business there was a discussion of the Attorney General's proposed desegregation bill. I certainly would have liked to be present at the meeting.

I am enclosing herewith a memorandum which sets forth my position. Since I was not at the Cabinet meeting, I would like the memorandum to be delivered to President Ford and also circulated among the other members of the Cabinet. If for any reason this cannot be done, I would appreciate your letting me know. I assure you I will not do it independently.

Bill
William T. Coleman, Jr.

Enclosure





THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 21, 1976

MEMORANDUM FOR: James M. Cannon
Executive Director
Domestic Council

FROM: William T. Coleman, Jr.

SUBJECT: Attorney General's
Desegregation Bill

Needless to say, I was disturbed to find out that at a Cabinet meeting called after I left the United States on government business there was a discussion of the Attorney General's proposed desegregation bill. I certainly would have liked to be present at the meeting.

I am enclosing herewith a memorandum which sets forth my position. Since I was not at the Cabinet meeting, I would like the memorandum to be delivered to President Ford and also circulated among the other members of the Cabinet. If for any reason this cannot be done, I would appreciate your letting me know. I assure you I will not do it independently.

WTC
William T. Coleman, Jr.

Enclosure



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

June 21, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: William T. Coleman, Jr.

SUBJECT: Attorney General's Desegregation Bill

There is no level at which this bill can be condoned. Its submission has the potential for great mischief, in that it will raise false hopes in, and stiffen the resolve of, those who would violently or otherwise resist judicial desegregation orders. It also seeks to establish special rules for Blacks who especially need constitutional rights and this is particularly offensive because the Department of Justice is the leading contender for another rule of law when Blacks are not involved. In addition, I do not feel that what the bill seeks on a policy level to do is consistent with what I believe is the position of the Department of Health, Education, and Welfare. Finally, on a technical level, the bill, with all due respect, is confusing and clumsily drafted. If enacted, it will impose on litigators and trial judges unworkable standards and burdens of proof. It is unconstitutional in at least four respects.

I shall concentrate, however, on four major respects in which the bill seeks to roll back existing constitutional doctrine and on the fact that it will make one rule for Blacks and another for all other litigants.

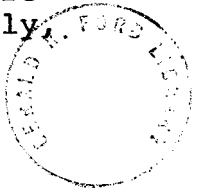
1. The bill would limit judicial relief to those "particular schools" whose racial composition has been affected by intentional discrimination, and within those schools, to the correction of only that amount of racial imbalance that can be shown to have resulted from such discrimination (p. 8). There are two problems with



this. The first, as anyone with an ounce of trial experience will recognize, is that it will pose impossible burdens on lawyers (for both sides) and courts alike. The apparent attempt to place the burden of going forward on the causal issue on the school board (p. 9) will not simplify matters -- the standard is unworkable in any event -- and in addition is entirely negated by the subsequent declaration that no presumption of causation is to be drawn from a combined showing of racial imbalance and intentional discrimination (pp. 9-10): if those two together don't make a case, obviously nothing can.

The second problem, of course, is that the bill in this respect importantly cuts back on constitutional holdings of the Supreme Court. The Court has indicated repeatedly that where a school district is shown to have engaged in intentional segregation, the constitutional mandate will not be satisfied until there is "a unitary system": for years the remedial focus has been on the system, not on the individual school, let alone on the mere correction within the individual school of that incremental amount of imbalance that can be shown to have resulted from unconstitutional motives. The point, as you know, was made entirely clear in Keyes v. School District No. 1, 413 U.S. 189 (1973), where the Court indicated that a showing of intentional segregation in one section of Denver supported a city-wide remedy. The Court had two strings to its bow in Keyes: first, the limited showing was enough to justify classifying the entire district as a dual, segregated one which had to be made unitary, and second, "common sense dictates the conclusion" that officials who intentionally segregate in one part of a school district are similarly motivated as regards their actions in other parts, even though the plaintiffs are not able directly to prove it elsewhere. This bill would deny that obvious common sense.

The bill does nod to the demands of reality and the Constitution when it relieves the focus on particular schools where such focus proves "not feasible" (p. 8). But this is only a nod, clearly insufficient in both respects. In the first place, there doubtless will be occasions on which judges will refuse to make a finding of infeasibility. Some judges are not too bright; others are less than wholly sensitive to racial segregation claims; and still others, quite understandably



will assume that the Attorney General and the Congress did not intend (no matter what common sense might suggest) the proviso to be universally applicable and will therefore seek at least some occasions on which to refrain from invoking it. But even assuming the proviso is widely or even universally invoked the findings that school-by-school causal breakdowns are "not feasible" become the order of the day, the practical and constitutional problems are not solved; such a finding serves only to remove the "particular school" limitation on relief. It does not purport to alter the more general limitation;^{1/} to the effect that correction must be made only to the extent that "the overall pattern of student concentration" throughout the district has been affected by intentional segregation (p. 8), and the incredible proof problems that more general limitation will entail. Nor, obviously -- because of the retention of the general limitation -- will this proviso, even assuming intelligent application, even begin to satisfy the demands of Keyes.

2. The bill would limit busing orders to three years, extendable under certain circumstances to five (pp. 11-12). No point to this, other than political expediency, is even hinted at: it is plainly arbitrary and will often fail to satisfy the constitutional requirement of a move to a unitary system. The Attorney General appears to regard busing as a criminal sentence rather than a remedy, with a single generation of students (of all races) being sacrificed as penance for the earlier misdeeds of the school board. The punishment having been thus served, things can revert to the status quo.

3. The bill would limit judicial relief to that racial segregation which is inflicted by school

1/In fact, the bill becomes entirely unintelligible at this point. Within a district, it makes no sense to speak of imbalance except insofar as the racial percentages in one school vary from those in another. The more sensible course would have been to relieve the general limitation -- to correction of only that incremental amount of imbalance that can be shown to have resulted from intentional segregation -- when it became infeasible. The Attorney General must have realized, however, that in the hands of an intelligent judge that would gut the bill entirely, and therefore settled on an unintelligible compromise.



officials (thereby excluding, for example, a case in which there has been intentional segregation by housing officials applying a law which requires racial housing segregation, which in turn has resulted in imbalanced schools.) This result is not apparent on a first reading of the bill,^{2/} but it is clear nonetheless, for two independent reasons. The first is that racial intent on the part of officials other than school officials must be proved "on the basis of evidence other than the effects of /their/ acts or knowledge of such effects alone . . ." (p. 6). Presumably, as regards nonschool officials (why the difference?) a virtual confession of racial intent (not just knowledge) is needed. Surely the Attorney General is aware of what that means: even Gomillion v. Lightfoot, 364 U.S. 339 (1960), perhaps the clearest case of nonexplicit but intentional racial separation in history, involved only an (unavoidable) inference from effect. Second, "unlawful discrimination" is defined as action which is "intended to discriminate against students on the basis of their race . . ." (p. 5, emphasis added). Obviously, an intent on the part of nonschool officials to discriminate against minority students will not be demonstrable.^{3/} What will be demonstrable, at most, is an intention to discriminate against minority persons generally: the effect specifically on students will be derivative.

4. The Department of Justice has been the most successful exponent of the theory in the Courts that

^{2/} Apparently officials other than school officials are subject to section 6 but not to section 5 (see p. 6). What that means is not clear, since the difference between sections 5 and 6 never entirely clarifies. But it doesn't matter, since, for the reasons discussed in the text, the acts of officials other than school officials are practically exempt from the entire bill in any event.

^{3/} There is an added problem here. Taken seriously, the definition resurrects Plessy v. Ferguson: one apparently has to show not simply an intention to segregate on the basis of race but rather an intention comparatively to disadvantage minority students.

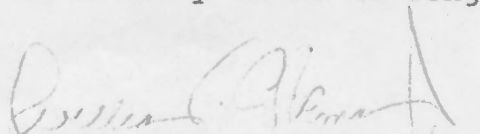


once it is proven that a corporation has violated the antitrust laws the remedy can involve parts of the business which were acquired in legal ways which did not violate the antitrust laws. See, e.g., United States v. United Shoe Machinery Corporation, 391 U.S. 244 (1968); United States v. U.S. Gypsum Co., 340 U.S. 76, 88 (1950); and United States v. Bausch & Lomb Optical Co., 321 U.S. 707, 724 (1944). The same rule applies in reapportionment cases and in unfair labor practices cases. In fact, the novel concept advanced in the bill would apply only to racial segregation cases. This is not only offensive to those who believe in the Constitution but itself is unconstitutional.

In at least four respects, therefore, the bill would roll back the existing demands of the Constitution. The Attorney General's theory, apparently, is that Congress can control the jurisdiction of federal courts and thereby deprive them of constitutional remedies they have been invoking (see p. 3). But it is one thing to deprive a court of jurisdiction over a class of cases entirely, and quite another to prescribe to it what it can and cannot decide and order in a case over which jurisdiction is otherwise preserved. See, e.g., United States v. Klein, 13 Wall. 128 (1872); H. Hart & H. Wechsler, Federal Courts 316 (2d ed. 1973). In particular, Congress' control over the jurisdiction of federal courts cannot constitutionally be invoked intentionally to deprive litigants of rights to which the courts have found them to be constitutionally entitled. See, e.g., Ely, Legislative and Administrative Motivation in Constitutional Law, 79 Yale L.J. 1205, 1307-08 (1970); P. Brest, Processes of Constitutional Decisionmaking, chap. 15 (1975). And even assuming it could get away with it, this Administration dedicated to restoring confidence in government, simply should not be attempting by statute to deny recognized constitutional rights.

Finally, the bill, if enacted, would destroy one of the high moments of U.S. history, namely how through the law the white majority recognized the legitimate demands of a discrete minority and under the leadership of courageous federal district judges brought about the changes which have helped this country to be no longer divided on racial grounds.




William T. Coleman, Jr.

P
meeting w/ Jerry Ladem 6/21/76

was very out the law

was at some time but

objects to get best quality

education

Key is see out medical issues,
but would modify it.

destitute illegal

non strict guidance to the
courts on the extent of

limits of their authority,

? not academic

has countries being -

not academic



Power of Congress to define
jurisdiction of lower courts
and authority, including
of lower courts

a) provide legal out of
to legal efforts be needed

b) what of legal out
shown be used by
educational system

c) one level out shown
higher education that
when it becomes
for judges to address
complete various
Balance — integration
as efforts



way

Integration yes -
quator no

Prison - 3 yr prison -
returned if necessary for
2 years on
court order -

If order in good faith
for 5 yrs - include -
except for probation, etc.

15 men over 65
50 - 100



way

Community is sure that it
controls its own situation

Amos — St. Luke's president
How much help some
not really available

Can't look for good
fruit

Can't make absolute about
bunney.

Nothing absolute about Court

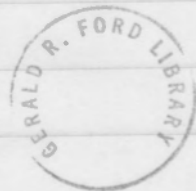
Heart of this matter is
community control —

would this be viewed as
another effort to temporize

Can't be solved by some

Justices

Propose of relief used for
before a witness, but
to reveal cause of



in tech of laws & actions

Constitutionally respectable"

From -

Weidner - excellent

~~Study~~

Roth - What constitutes
illegal acts

of activities - integration

through business per

Racial balance -



1953 - equal but separate -

1967 - how concerned the

of military systems

follow up - Bill Leary
presented considerations

2nd 3rd Judge - no 2nd
order intent -
now if appeal was

to require

new woman born

of Wilmington can hold,

End - comment P for intent
put things on table -

I don't think show a 199
has worked to require
2nd Amendment in last

2 years



We did pass House
Amendment to 5th -
vocational education
~~costs have~~ ~~own~~
should be trying to

How do get SC to clarify
that ~~the~~ remedial ~~other~~
than being an suitable

would like to see ~~law~~ ~~and~~
support it -

Removal of 500 - ~~Un~~ ~~useful~~ ~~legislation~~ -

New ~~jurisdiction~~ of lower courts

~~State~~ ~~Federal~~ ~~Corporation~~ -

One - like what I have -

Justice -

Both - want ~~to~~ ~~spell~~ ~~out~~
Mixed acts



establish a national policy:

→ 1. county action

2. ~~state~~

Hutchinson - Sami Congress

was prior to withdrawal

close of cover - NO ?

Whether Congress was

prior to start use of

a remedy. / OR

circumstance use of a remedy

steps were so far as proposed

now - Fed judge

→ subversive out of bounds

many



Curtis - delay w/ emotional
problem - Don't know what
can be expected

could please nobody

Mistrust of courts

Show it on kids for social
purposes.

Person coming from courts

Mountain 2-3 years until

~~7 - caught between them who
want a Court amendment~~

Should not let
ridiculous judges go
as far as seen
them go

Thoughtful - concerned

W₂ Collectors - way not be
reput Brin - but no



~~very~~

real possibilities -

Wm. opposed it as a
a beginning.

10% of money markets
40% of decisions

Govt to get flow out
of school systems -

P - Govt to not do

▷ make them

All jurisdictions

Quill - Wm - Co. Report

Quill - Part up

little Part of problem -

What is an illegal act
legitimate want as legis. Book

~~good Bill~~
~~good law~~

will go on bill -

Plausible, construction,
plausible remedy

P
Plausible
remedy

Bill - woman's version of
equity on issues

Order of records
woman's version
we women have made
in Burton case
Intro of legislation was
have some input on S.C.

Moved down line of Brief
to 5.1.

12/29

any case on appeal



June 22, 1976

THE WHITE HOUSE

WASHINGTON

June 22, 1976

MEETING WITH REPUBLICAN CONGRESSIONAL LEADERS

Wednesday, June 23, 1976

8:00-9:30 a.m. (90 minutes)

The Cabinet Room

From: Max L. Friedersdorf

M.L.F.

I. PURPOSE

To discuss with the Republican leaders the President's decision on school desegregation, the delegate situation and the Republican National Convention.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background:

1. The President has developed a legislative proposal pertaining to court-ordered busing and this proposal will be transmitted to the Congress shortly after the leadership meeting.
2. The Attorney General and the Secretary of Health, Education and Welfare, who assisted the President in developing the proposed legislation, will be in attendance.
3. The leaders are anxious to discuss the current political situation, i.e. delegates and the convention, and Rog Morton and Jim Baker will be present also.

B. Participants: See TAB A

C. Press Plan: Announce as a regular Republican leadership meeting - White House photographer only.

III. AGENDA

See TAB B

IV. TALKING POINTS

See TAB C



PARTICIPANTS

The President
The Vice President
The Attorney General
The Secretary of Health, Education

HOUSE

John Rhodes
Bob Michel
John Anderson
Sam Devine
Jack Edwards
Barber Conable
Lou Frey
Guy Vander Jagt
Jim Quillen
Ed Hutchinson
Marv Esch
Al Quie
John McCollister

SENATE

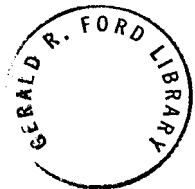
Hugh Scott
Bob Griffin
John Tower
Carl Curtis
Bob Stafford
Ted Stevens
Jack Javits
Roman Hruska
Bill Roth

STAFF

Bob Hartmann
Jack Marsh
Dick Cheney
Rog Morton
Brent Scowcroft
Max Friedersdorf
Bill Baroody
Phil Buchen
Jim Cannon
Jim Lynn
Ron Nessen
Bill Kendall
Charlie Leppert
Tom Loeffler
Joe Jenckes
Pat Rowland
Russ Rourke
Bob Wolthuis
Jim Cavanaugh
Jim Baker

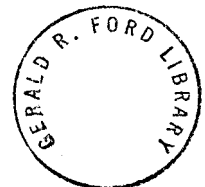
REGRETS

Sen. Brooke - out of town
Bill Seidman - out of the country
Alan Greenspan - out of the country



AGENDA

- 8:00-8:05 a.m.
(5 minutes) The President opens the meeting and introduces the subject of court-ordered busing.
- 8:05-8:15 a.m.
(10 minutes) The President calls upon Attorney General Levi and Secretary Mathews to discuss the Administration's proposed legislation dealing with court-ordered busing.
- 8:15-8:35 a.m.
(20 minutes) The President invites the leaders to comment on and discuss this proposal.
- 8:35-8:40 a.m.
(5 minutes) The President introduces the subject of the campaign.
- 8:40-8:55 a.m.
(15 minutes) The President calls upon Rog Morton and Jim Baker to discuss the current situation as to delegates and the convention.
- 8:55-9:25 a.m.
(30 minutes) The President asks the leaders to give their assessment of the political situation. (The President's Floor Manager, Bob Griffin, and Assistant Floor Manager, Bob Michel, will be in attendance.)
- 9:25-9:30 a.m.
(5 minutes) The President summarizes the discussion and concludes the meeting.



TALKING POINTS

1. We are here to talk about school desegregation and in particular the impact of court-ordered busing on our educational process.
2. Before going to the substance of the matter, however, I would like to make several things very clear. First, I recognize that a President, any President, has a fundamental responsibility to preserve, protect and defend the Constitution. I fully intend to do so. Second, I am also committed to seeing that every American child's right to a good education is realized. I think these two principles must guide our discussion.
3. It is my own view that some courts have gone too far in requiring massive student transfers simply to achieve racial balance. I think we need to do something about this.
4. I have, therefore, been working with the Attorney General and the Secretary of HEW to develop legislation which will better equip everyone, the schools, the communities, the courts and the Federal government, to deal with unlawful discrimination and to preserve the goal of quality education for all.
5. Ed Levi, would you please summarize for the group the decisions that we have made on the legislation.



THE WHITE HOUSE

WASHINGTON

June 22, 1976

Cancelled

CONGRESSIONAL MEETING ON BUSING

Thursday, June 24, 1976
11:00 a.m. (30 minutes)
The Oval Office

From: Jim Cannon

I. PURPOSE

To advise Congressional committee chairmen of your decision on busing.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: You wanted to meet with the chairmen of the key committees that will handle your busing legislation prior to sending your formal Message to Congress.

B. Participants: See list attached at Tab A.

C. Press Plan: To be announced. Photo opportunity.

III. TALKING POINTS

1. We are here to talk about school desegregation and the impact of court-ordered busing on our educational process.
2. Before going to the substance of the matter, however, I would like to make several things very clear. First, I recognize that a President, any President, has a fundamental responsibility to preserve, protect and defend the Constitution. I fully intend to do so. Second, I am also committed to seeing that every American child's right to a good education is realized. I think these two principles must guide our discussion.
3. It is my own view that some courts have gone too far in requiring massive student transfers simply to achieve racial balance. I think we need to do something about this.



4. I have been working with the Attorney General and the Secretary of HEW to develop legislation which will better equip everyone--the schools, the communities, the courts and the Federal government--to deal with unlawful discrimination and to preserve the goal of quality education for all.
5. Ed Levi, would you please summarize for the group the decisions that we have made on the legislation.



PARTICIPANTS

Congressman Peter W. Rodino Jr. (N. J.)

Congressman Carl D. Perkins (Ky.)

Attorney General Edward H. Levi

Secretary F. David Mathews, HEW

Jim Cannon

Max Friedersdorf

Jack Marsh

