

THE FORMULATION OF CIVIL-RIGHTS POLICY
REGARDING DESEGREGATION AND BUSING
DURING PRESIDENT NIXON'S TERM IN OFFICE

BY

ERIC P. KITTAY

PROFESSOR KALMAN AND PROFESSOR LINDEMANN
HISTORY 195H HONORS THESIS
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INTRODUCTION

While popularly associated with the Watergate scandal, President Richard M. Nixon has also been regarded as one of the United States' most brilliant foreign policy strategists. Among his achievements, Nixon re-opened diplomatic relations with China and created an atmosphere and a policy of detente with the Soviet Union. While historians have concentrated on the domestic scandals and on the foreign policy breakthroughs, few writers have focused upon his civil-rights policy and the resulting school desegregation controversy which occurred during his presidency. In order to understand the path of Richard Nixon's civil-rights policy, his ability to implement it and the results which followed, four historical periods are important.

The first period spans the 1952 presidential election, when Nixon became the vice president, and concludes with the 1968 Republican national convention, when he became the Republican candidate for president. Much civil-rights legislation was enacted during these years. Interpretations of the Supreme Court motivated the executive branch to develop a policy concerning desegregation enforcement. Important not only as historical and legal background to the policies of the Nixon administration, the period marks a beginning of

Nixon's national political career as a front-runner.

As vice president, Nixon had aided civil-rights advocates by stopping attempted filibusters in Congress. What motivated Nixon to help the civil-rights movement? How did his actions influence future administration appointees? What happened to his image? Was he merely trying to enlarge his constituency or did he actually want to help the less fortunate? Most scholars agree that Nixon's Quaker upbringing influenced his later thinking. However, Francis Rourke believes that Nixon was motivated partly by political pressure and partly by his personality. (Osgood, p.80)

The second period lasted from the 1968 Republican convention in August until the 1968 presidential election. Through these few months, Nixon, on the campaign trail, made speeches, attended rallies and met with advisors. In the South, Nixon stressed the need for law and order. Moreover, he established himself as a conservative who opposed forced desegregation. In other areas, Nixon spoke about law and order and how rights for minorities had been granted but not implemented. Though he maintained a close relationship with conservatives who opposed the civil-rights movement, he also appeared friendly to civil-rights supporters.

To many, Nixon established an image suggesting that,

as president, he would help blacks. Through his speeches, liberal Republicans solidified support for Nixon while hoping he would follow through with civil-rights activism. Did Nixon's campaign strategy reinforce a false image? Was Nixon solely trying to become elected or did he want to help the blacks achieve equality? Jonathan Schell believes that Nixon intended to fool critics with rhetoric and later deceive supporters with actions. (Schell, p.43)

The third period began with Nixon's election to the presidency in November, 1968 and lasted until February, 1970. After he entered the White House, Nixon appointed his cabinet, which in turn appointed under-secretaries and staff members. Departments were composed mainly of staunch Republicans who believed enough civil-rights legislation had been passed, and did not want to change implementation strategies. These individuals believed that they had precedent for inaction through the words and by the actions of the President. An example of such inaction can be found within the Justice Department, headed by Secretary John F. Mitchell.

On the other hand, Robert Finch, Secretary of The Department of Health, Education and Welfare (H.E.W.), aligned himself with the progressive Nixon, basing his understanding on Mr. Nixon's actions as a congressman, as vice president and as a presidential candidate. Finch

appointed people dedicated to helping the underprivileged. Appointees such as Leon Panetta and Jack Veneman developed policy which greatly contrasted with thinking and actions being taken elsewhere in the government. The liberal proponents became characterized by conservatives, who desired little or no change, as carrying policy too far and too fast.

Nixon made changes within the government. First, he replaced the retiring Chief Justice of the United States. Then, the crusaders, such as Leon Panetta, were replaced by people who would implement the law more slowly. Why did Nixon pursue the course he did? Why did he allow two departments to develop so differently and why did he reorganize the department whose policy he eventually followed? Why did he replace the people who suggested the policy? According to Garry Wills, Nixon enjoyed his privacy and made decisions based on "his temperament and conditioning." (Wills, p.103) Apparently, Nixon did not believe the people in H.E.W. could implement his policies properly.

The fourth and final period of President Nixon's civil-rights program began in February, 1970 when Nixon announced a change in the administration's desegregation policy and lasted until President Nixon resigned from office on August 9, 1974. During these four years, Nixon,

following the pronouncements of the Supreme Court and many lower courts, took action to end de jure segregation. At the same time, however, he attempted to preserve the distinction between de jure and de facto segregation. De Jure segregation, more prominent in the South, resulted from deliberate discriminatory laws or acts while de facto segregation resulted from more subtle forms of discrimination such as found in housing patterns.

In March, 1970, Nixon addressed Congress and formally declared his position concerning desegregation and the course desegregation should follow in the future. Why did Nixon shift positions? What caused him to guide the South through desegregation while opposing efforts to desegregate the North? Was he motivated by good will or by political fortune? According to Reichley, Nixon pursued what he perceived as a middle road mainly for political gain. (Reichley, p.204)

Two months later, Nixon replaced another retiring Supreme Court justice. When the Supreme Court ruled in favor of forced busing in April, 1971, President Nixon attempted to have congressional allies pass anti-busing legislation. When this attempt stalled in Congress, President Nixon drafted two anti-busing bills and sent them to Congress. Again, Nixon's attempt to end mandatory busing failed as both bills died in committee. In the

midst of losing the busing battle, Nixon replaced two more retiring Supreme Court justices. Two years later, the Supreme Court again addressed the busing issue. The Supreme Court, ruling five to four, decided against busing as a form of integration. Nixon and his followers won. Thereafter, Nixon became embroiled in Watergate and other controversies leading eventually to his resignation.

FROM VICE PRESIDENT TO PRESIDENTIAL CANDIDATE

In his quest to become President of the United States, the speeches of Richard M. Nixon presented a contradictory path concerning civil-rights issues. Although he had promised to do more for black people than any former President, Nixon also committed himself to reverse the trend toward forced busing as a method of school desegregation. Once elected, President Nixon formulated policies which attempted to serve one group without breaking promises to any of his various other constituencies. The legal background, the nature of various lobby groups and the theoretical persuasions that would influence both Nixon and his advisors solidified from November, 1952 to August, 1968.

Between 1952 and 1960 Vice President Nixon had supported liberal positions regarding civil-rights issues. As presiding officer of the Senate, he was instrumental in limiting numerous filibusters created to block enactment of civil-rights legislation. Harry Dent, a member of Nixon's White House staff, wrote that Mr. Nixon did his homework, listened to the wishes of leaders, saw how people in power dealt with the populace and knew whom and what to support. Dent suggested that Nixon's "antennae never missed a single beat of common sense political rhythm until he became

engulfed in Watergate." (Dent, p.77)

In 1954, the Supreme Court decision Brown v. Board of Education of Topeka recognized, but did not enforce, equal rights for blacks in the field of public education.

In that historic ruling, the Court gave legal sanction to two fundamental truths--that separation by law establishes schools that are inherently unequal, and that a promise of equality before the law cannot be squared with use of the law to establish two classes of people, one black and one white. (Nixon Statement Setting Forth Administration Policies as quoted in Weekly Compilation of Presidential Documents (WCPD) March 24, 1970, p.425)

Although the Supreme Court concerned itself primarily with pupil assignments, the decree also applied to teacher assignments and school facilities as a whole. In 1955, following further argument about Brown, the Supreme Court addressed questions regarding the timing of compliance in the Brown II decision. The Court ruled compliance must be achieved "with all deliberate speed" incorporating "a prompt and reasonable start" in achieving full compliance "at the earliest practicable date." (Brown II 349 U.S. 294) The Brown II decision was significant because it created a timetable for desegregation. It was also significant in that the Court began to be viewed as the institution which would bring blacks back into American society on an equal level with whites.

Southern white leaders used freedom-of-choice plans to slow the progress of desegregation. These plans allowed

all pupils to choose their own public schools. Though the legally ending segregation, they had the effect of change, maintaining the status quo. (Schwartz, p.58) In many southern school districts, blacks and whites enrolled in all-black or all-white schools. By giving the families of these children the freedom to choose which school to attend, district superintendents achieved the goal of keeping most students in their original school. White students remained at neighborhood schools because parents did not want to send their children to institutions regarded as inferior. Because black parents feared sending their children away from the neighborhood, and thereby into a hostile environment, they prevented their children from attending white majority schools. Inequality still existed though it appeared that a simple solution for change was available.

Such inequality took two forms which have been referred to as de jure and de facto. Mainly in the South, de jure, or deliberate inequality, resulted from state-imposed laws or acts by school officials. In other areas of the country, de facto systems, those resulting from subtle forms of discrimination such as housing patterns, were more prominent. Inequality was especially visible in the South, where existing "Jim Crow" laws inhibited blacks from gaining both equal education and a

power foothold in the political system. Supporters of the equality movement had to deal with laws preventing change, with people who are afraid to change and with people who defiantly fought their demands. In communities with black majorities, some whites worried about a backlash effect while others feared that change would be the end not only for the South, but for America. Kennedy would fulfill his

promise. In the late 1950's, blacks wanted to exercise the freedom that was won during the American Revolution and later specifically granted by the Thirteenth Amendment. Blacks believed slavery had ended, and that citizenship rights had been extended to them. Blacks also believed that the Fourteenth Amendment had prohibited states from depriving individual citizens of their rights. Impatient with the status quo, four black organizations [The National Association for the Advancement of Colored People (N.A.A.C.P.), the Urban League, the Southern Christian Leadership Conference (S.C.L.C.) and the Congress of Racial Equality (C.O.R.E.)], organized for change. Leaders, such as Martin Luther King Jr., lobbied peacefully.

President Eisenhower proposed legislation to help desegregation efforts, yet opposition leaders attacked his policies. "Congress had balked at attempts in 1956 and in 1959 to have it authorize technical assistance to desegregating school districts." (Panetta, L. and Gall, P.,

p.29) During the late 1950's and the early 1960's, Nixon listened to the various voices speaking about civil-rights issues. He attempted to use the information to attract more members of the American electorate into the Republican Party by selective commentaries, including speeches regarding civil rights. Looking to the future, however, black leaders hoped that John F. Kennedy would fulfill his promise and swiftly help blacks with one stroke of his pen. Although Kennedy received thousands of pens in the mail from across the country, he proposed civil-rights legislation only after the strife between southern blacks and southern whites neared crisis.

The lack of tangible progress, however, sent a message that an alternative to peaceful demonstration was confrontation. It became clear to leaders within the black community that a black had to sit in the front of a bus, take the first step into a restaurant, and/or enroll in a segregated public school. Whites throughout the country, especially in the South, simply would not grant equality without a fight.

In the early 1960s, news circulated around the United States about black people challenging restaurants for service, challenging local governments for access to the vote and vocalizing demands to the federal government for the same opportunities afforded whites. In 1963 a

civil-rights demonstration in Washington, D.C. numbered a quarter million people. The demonstrators demands for justice and equality sounded simple and correct to supporters, yet the ideas, and the changes themselves, found resistance nationwide.

Over time, the perceived lack of progress, acceptance and/or implementation of the legislation and court requirements allowed more radical individuals such as Stokely Carmichael and Malcolm X to rise to power and obtain a willing support group. These new leaders brought the history of non-change to their constituents. They noted that during the 1950's and early 1960's the civil-rights movement progressed slowly and allowed politicians to skirt civil-rights issues. Government officials had made promises that became lost in the rush of other issues including the cold war and the military involvement in Korea.

The next period of U.S. history saw greater change. The presidential years of Lyndon Johnson have been recorded as the most productive ones for civil-rights legislation. As President, Johnson skillfully guided some of Kennedy's bills through Congress. He also lobbied hard for other civil-rights legislation. One southern senator remarked "We put up a tough fight, but we were going to lose because President Johnson was just putting too much

pressure on us.'" (Panetta, L. and Gall, P., p.31)

Congress passed the Civil Rights Act of 1964. Title VI of the Act forbade discrimination in public accommodations and allowed the federal government to withhold federal grants and contracts from violators.

Title VII of the Act forbade discrimination by employers and empowered the Justice Department to sue violators.

Another clause of the Civil Rights Act of 1964 said:

nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

Though strengthening desegregation enforcement agencies, Congress limited the methods departments could use to plan desegregation. Specifically, the Act did not authorize busing. The same year, Congress ratified the Twenty-Fourth Amendment which ended the use of poll taxes in national elections while the Supreme Court ruled "The time for mere 'deliberate speed' has run out, and that phrase can no longer justify denying these ... children their constitutional rights. (Griffin v. County School Board, 377 U.S. 218)

The following year, Congress continued to pass civil-rights legislation. The Voting Rights Act of 1965

sent federal registrars to southern states in order to protect minority voting rights. To enforce the Act, the registrars were empowered to impound ballots so as to assure fair elections. "Within the first eight months after its implementation, 300,000 new black voters were registered." (Lineberry, p.561) The same year, however, riots in the black ghettos of Watts, Philadelphia and Detroit were stimulated by a sense that change was occurring too slowly.

Nixon had supported Johnson's Civil Rights Act of 1964, empowering the Department of Health, Education and Welfare (H.E.W.) to suspend federal funding to school districts not legally desegregating. Nixon also had supported the authorization to the Justice Department to prepare and to bring legal suits against these districts. Nixon appeared consistent in his desire for growth in the civil-rights arena. He opposed conservative attempts to install segregationist planks within the Republican platforms of the southern states. (Reichley, pps.175-177) His actions during the Johnson administration not only strengthened Nixon's position as a future presidential candidate, but showed that he understood the national desire to help the less fortunate. Moreover, he added a sense of stability to the Republican Party by standardizing the national platform during a tumultuous period.

The late 1960's were times of deep political unrest within the United States. The war in Vietnam, already the longest in American history, continued to divide the nation bitterly. Inflation began to increase at an alarming rate for the first time since the Truman administration. (Reichley, p.1) These events formed a climate which could have allowed the attention of the country to move away from the civil-rights issues, but that did not occur.

The Supreme Court, in its May 1968 decision of Green v. County School Board of New Kent County, ruled that freedom-of-choice plans not producing "a unitary system in which racial discrimination would be eliminated root and branch" must end. Districts must "come forward with a plan that ... promises realistically to work now." (Green v. County School Board, 391 U.S. 438-439) Though most administration officials interpreted the decision to mean that desegregation must be completed immediately, some officials interpreted the decision as stating desegregation plans should begin immediately.

Within the Department of Health, Education and Welfare, terminal dates for funding to school districts not already in contact with H.E.W. were set at September, 1969 or September, 1970. The 1970 date applied to black majority districts that were hampered by practical and physical limitations. The Supreme Court continued to be

viewed as the institution which would bring blacks into American society on an equal level with whites.

On college and university campuses, however, the growth of a "counterculture" reflected a belief of many students that traditional American values and institutions were repressive, corrupt and boring. These individuals searched for an issue with which they could become involved. The counterculture questioned the U.S. involvement in Vietnam, and opposed all forms of "the establishment." These students, as did many other Americans, began to view the future with a mixture of apprehension and bewilderment. (Reichley, p.1) Ironically, as the presidential nominating conventions approached, many looked to government for leadership. Nixon, taking advantage of the dissention within the Democratic Party, attempted to portray himself as the person who would cure the countries problems.

The front-runners for the Republican nomination for President in 1968 were California Governor Ronald Reagan, New York Governor Nelson Rockefeller and Ex-Vice President Richard Nixon. With Reagan in the conservative role and Rockefeller as a liberal, strategists attempted to portray Nixon as a moderate. Like most politicians, Nixon geared speeches toward the gathering he addressed. Because of his past political record in regard to many issues, Nixon was

able to support more positions and make more plausible promises than those running against him.

According to Harry Dent, the Democratic Party had mistreated the southern constituency for too long.

The national Democratic party had overplayed its hand with the South by 1967. It had moved so far left that loyal southern politicians no longer found it possible to camouflage these conditions and hold the majority of southern voters in line.

Conservative Democrats in Dixie, the most loyal group the national party had ever had, were fed up, weary of being taken for granted. They were ready to play a major role in electing a Republican President in a mass desertion. (Dent, p.73)

With President Johnson retiring from political life and an assassin's bullet ending the life of Robert Kennedy, the new group of votes meant not only that the Republicans would have more votes in the national election, but that the most likely Democratic candidates were Eugene McCarthy, George McGovern and Hubert Humphrey. Mule-drawn wagons led the South would play a vital role in nominating the Republican presidential candidate.

Though the southern voting block favored conservative Governor Ronald Reagan, they voted for Richard Nixon for two reasons. First, polls indicated that Reagan could not win the 1968 presidential election. Second, at the Republican national convention, southerners Harry Dent and Strom Thurmond instilled fear among the delegates that if Nixon were not given the Republican nomination on the first ballot, the more liberal candidate--Nelson Rockefeller--would be able to win the nomination. To southerners, the scenario seemed logical because even with the South, Reagan did not have enough votes to win the

nomination on the first ballot.

If the South did not vote for Nixon as a block, southern votes would be split between Reagan and Nixon while Rockefeller gathered defections, the majority and the nomination. A key phrase used by Dent and Thurmond when speaking with southern delegates was "'A vote for Reagan is a vote for Rockefeller.'" (Dent, p.87) Nixon won the nomination.

After Nixon won the Republican nomination, the country watched the Democratic national convention in Chicago. With President Johnson retiring from political life and an assassin's bullet ending the life of Robert Kennedy, the most likely Democratic candidates were Eugene McCarthy, George McGovern and Hubert Humphrey. Mule-drawn wagons led by blacks from the Poor People's Campaign, thousands of anti-war demonstrators and the Youth International Party led by Abbey Hoffman gathered outside the convention halls to protest the Democratic platform. Also outside were twelve thousand members of Chicago's police force and twelve thousand National Guard and army troops armed with rifles, bazookas and flamethrowers.

With much of the nation tuned into the convention, the Chicago police force, under Mayor Daley's shoot-to-kill directive, aggressively entered the crowd.

On Michigan Avenue, in front of the Conrad Hilton Hotel, they attacked, wading into ranks of demonstrators, reporter and TV camera operators.

Throughout the nation, viewers watched as club-swinging police beat protesters to the ground. When onlookers rushed to shield the injured, they too were clubbed. (Norton, p.945)

The diverse groups attending and protesting the Democratic convention coupled with the police-incited riot symbolized not only the dissension within the Democratic Party but within the country. After watching the Democratic convention, many Democrats became apathetic. Many blacks supported Humphrey who had been vice president under Johnson and had a good civil-rights record. Some decided not to vote while others saw a more stable future with the Republican candidate Richard M. Nixon.

Between 1952 and 1968 the Supreme Court moved from its position that desegregation plans be created in the South to ruling that implementation of such plans begin immediately. Similarly, civil-rights groups lobbied both local and national government to enforce the Court-ordered laws. Reacting to the Court and to the protests, southern whites looked for a solution to the desegregation problem. What the southerners found was Richard M. Nixon.

Nixon went from the vice presidency to private life and then to the presidency. His long path to the White House allowed him to visit many people who offered him a variety of ideas on how the nation should be governed. In the South, Nixon found that conservative supporters desired a return to traditional society. Nixon, agreeing with

southerners, suggested that if supported and elected, he would create an orderly society. Throughout the 1968 presidential race, Nixon continued to campaign across the country.

FROM CANDIDATE TO PRESIDENT

As a candidate for the presidential nomination, Mr. Nixon made his way to all fifty states in order to garner support for his campaign. Nixon, a long time believer in freedom-of-choice plans, said he did not agree with the Supreme Court's ruling in Green. In a television interview on WBTV in Charlotte, North Carolina, Nixon said:

with regard to freedom of choice, I would have to look at each one of the states involved to see whether actually it was a true freedom of choice. If it were, I would tend to favor that. I tend to look with, I would say, great concern, whenever I see the courts attempting to become in effect, local school boards. I think the decision in the local areas should be made primarily by people who are more familiar with those problems. (Evans Jr., and Novak, R., p.140)

When asked if the withholding of funds by H.E.W. under Mr. Title VI of the Civil Rights Act of 1964 was "a valid weapon," Nixon criticized H.E.W. for using "the power of the Federal Treasury to withhold funds In my view, that kind of activity should be very scrupulously examined and in many cases rescinded." (Evans Jr., and Novak, R., p.141)

One week later, at a press conference in Anaheim,

California, Nixon was asked, in reference to his television interview, if elected President would he ask Congress to rescind Title VI of the 1964 Civil Rights Act. Nixon answered. Some blacks expressed their hostility by rioting

'Certainly not ... I said that where a freedom-of-choice plan was subterfuge for segregation, then, of course, that violates not only Brown vs. Board of Education but it also violates the mandate of Congress and funds should be withheld.' (Evans, Jr. and Novak, R., p.141)

Nixon's remarks in Anaheim, directly contradicted his remarks in Charlotte. Nixon's practice of telling the people what he believed they wanted to hear confused not only the general electorate but the Republican leaders.

Mr. Nixon began building greater support within the Republican party. Two theories have been forwarded as to why Nixon earned more public support in the South. First, many southern Republicans began to trust Mr. Nixon as the person best qualified to bring conservatism back to a party that had been dominated for twenty years by moderates and liberals. Second, while some southerners did not trust Mr. Nixon, viewing him as "Tricky Dick," they saw him as the only man who could unite the party and as the only one who could win the presidential election in 1968. (Reichley, p.176) For whichever reason, Mr. Nixon gained strong support within the southern United States.

The civil-rights revolution provided a vehicle for visibility, for promise of change and for a return to

idealism. Though securing substantial progress for black Americans through legislative victories and Court decisions, many remained unsatisfied with the pace of progress. Some blacks expressed their hostility by rioting in major cities. The public militance among these blacks produced reactions of fear and resentment among many whites. Some reacted by supporting presidential candidate George Wallace, the avowedly racist former governor of Alabama, in 1968.

While Wallace managed to win five deep southern states, Nixon took six southern states and most western and mid-western states because of his appeal to the white middle-class people. It is within this context that Richard M. Nixon entered office as the thirty-seventh President of the United States and from this point that he would have to make sense of the disparate views within the country. In addition, he would have to decide what path civil-rights would take in the future.

Prior to being the Republican presidential candidate, Nixon's campaign had emphasized the need for southern support. During the three months between the Republican convention and his election, Nixon traveled to every corner of the nation. In his travels, Nixon encountered voters who supported his candidacy for a number of varied, and sometimes contradictory, reasons. Though he learned more

about his national constituency, Nixon's ideas did not change. He still wanted to bring conservatism back to the country. In order to accomplish this task, Nixon surrounded himself with people who could make and implement the necessary policies of the future.

PRESIDENT- THE NIXON TRANSITION

During the transition period, President-elect Nixon introduced his choices for cabinet posts, mostly political unknowns, and he assured the populace "These are strong men, they're compassionate men, they're good men. I don't want a Cabinet of yes-men." (Schell, p.24) Because the Civil Rights Act of 1964 placed responsibility for enforcing desegregation on the Department of Justice and H.E.W., John Mitchell, the Attorney General, and Robert H. Finch, the Secretary of H.E.W., were vital participants in the ensuing civil-rights movement.

John Mitchell, architect of Mr. Nixon's presidential campaign, adopted an approach to the South dubbed "the southern strategy." He expected to be helpful to Mr. Nixon's white southern constituency by changing the application of the Supreme Court's decisions and thereby keeping constituents happy. Mitchell catered to the desires of the white South. He believed that the South had been treated unequally compared with the rest of the

country, where segregation was also prominent but not criticized. (Panetta, L. and Gall, P., pps.98-99) Mitchell's belief was certainly true in 1968 because decisions handed down by the Supreme Court had only addressed de jure segregation, which was prominent in the South. Had the Supreme Court delivered orders concerning de facto segregation, Attorney General Mitchell would have been able to apply the law equally. Instead, he wanted to slow enforcement of desegregation in the South by not bringing suit against all non-complying school districts.

Contrasting the wishes of the Attorney General was Robert Finch, the newly appointed Secretary of H.E.W. Finch, understanding the Supreme Court's decision concerning de jure discrimination, wanted to bring suits against southern districts with this form of discrimination. Finch, in addition to being the youngest member of the Cabinet, often was viewed by the administration as the most progressive. Finch wanted to help all citizens equally.

Finch, rather than draw on any competing ethical or moral view, seems usually to have relied on the pragmatic argument that the administration should balance concern for its southern white supporters with awareness of the growing role being played by minority groups in national politics. (Reichley, p.180)

Finch was a liberal Republican who viewed all people as deserving equal treatment under the law and who wanted to

incorporate as many of those people as possible in his political party. Within his department, Finch gathered an army of liberal supporters who would help him in his task.

By the time of his inaugural address in 1968, the implementation of Mr. Nixon's civil-rights policy concerning desegregation had become headed toward a collision course. Finch at H.E.W. wanted to catapult the implementation of law and court rulings by halting school funds thereby pressuring districts to begin the desegregation process. Within the Department of Justice, Mitchell lobbied to slow the desegregation process by bringing suits against non-complying school districts. Mitchell understood that individual court cases would be lengthy and delay enforcement. Moreover, he believed that southern hostility toward desegregation would shift from the administration to the courts since the courts ultimately would make the final decisions about desegregation.

In his 1968 inaugural address, President Nixon told the nation that he would not ask for any further civil-rights legislation. "The laws have caught up with our consciences." What the nation needed, he said, was "to give life to what is in the law." (Dommel, p.158) Nixon meant funds needed to be appropriated to help the proper people enforce the laws that existed. Mr. Nixon did not

say how he wanted his staff to enforce the law. He allowed his Cabinet members to move their separate ways.

Ruby Martin, the head of the Office of Civil Rights (O.C.R.) at H.E.W. was a liberal holdover from the Johnson administration. Though she resigned almost immediately after Nixon took office, her resignation did not take effect until March 7, 1969. Panetta described Martin as "A strong operator in school desegregation for a long time, she had no illusions about the eagerness of holdout school districts to comply without strong sanctions as an alternative." (Panetta, L., and Gall, P., p.53) While maintaining her job, she remained an active role model for many within the department.

Leon Panetta, a fairly progressive Republican who wanted to do all he could for the disadvantaged, was also employed at H.E.W. He remembered how Mr. Nixon had stopped filibuster attempts in Congress as the vice president. He also believed that President Nixon wished for a liberal civil-rights policy. Previously, Mr. Nixon appeared friendly to civil-rights advocates. In fact, Panetta agreed to join the government based on his belief that the appointment of Finch suggested a liberal, forward-moving policy towards civil rights. On the other hand, L. Patrick Gray came aboard H.E.W. as the Executive Assistant to the Secretary. He was a conservative who believed that Nixon

wanted to slow down civil-rights enforcement. (Panetta, L. and Gall, P., p.65)

Though Nixon was not solely elected by the southern states, he needed to demonstrate to the southern constituency that he heard their wishes. He correctly believed that he might not have reached the presidency had he not been supported by the South, both in the Republican convention and in the national election. President Nixon owed much to the South and he was to pay it back in civil-rights legislation that originally slowed and/or stopped implementation and later helped the South through desegregation.

Within a few days after the inauguration, a crisis arose that demanded action. A group of five school districts, one in North Carolina, two in South Carolina and two in Mississippi, had not integrated racially. The law indicated how they should lose their federal funding. Liberals, such as Panetta, recommended funding be removed immediately. Others, such as Gray and Dent, favored the slow erosion of the laws so that dual school systems could continue to operate as they had in the past. (Dent, p.127)

The decision was viewed as a compromise. H.E.W. withheld funding for sixty days while the school systems created legitimate desegregation plans. When these plans received approval at H.E.W., the monies would be released.

The government also sent a team of advisors from the Justice Department and the Department of Health, Education and Welfare to aid districts in making the necessary arrangements. Therefore the districts would not lose the money and could make interim arrangements. For example, if a district lost funds for school lunches, H.E.W. could have the Department of Agriculture release emergency funds for a limited time. According to Dent, "the behind-the-scene struggle was now underway between the hard and soft approaches within the Administration." (Dent, p.127)

H.E.W. pursued the hard line of cutting funding while the Justice Department pushed for the soft line of extending cutoff dates.

In a private meeting with President Nixon, Roy Wilkins, Executive Director of the N.A.A.C.P., "expressed his dismay at the decision by Secretary Finch ... fearing that it might represent a concession on the part of the Administration to Southern pressures" (Papers of the Nixon White House (PNWH), memo dated 2/7/69, p.1) Wilkins disagreed with the school desegregation decision because he favored strict enforcement of the law. He applauded, however, Nixon's answer, at the previous days press conference, that freedom-of-choice plans failing to desegregate a district were unsatisfactory. Wilkins also expressed concern that the Voting Rights Act of 1965 would

be weakened. His attitude in February, similar to many civil-rights leaders, was to give Nixon a chance. (PNWH, memo dated 2/7/69, pps.1-2)

Within a matter of days, seven other school systems found themselves in the same position as the previous five. On February 13, 1969, Finch released a statement about how the seven districts would be handled. Four systems resolved the problem as did the first five. Three had their funds cut without a grace period, while suits were brought against them. This decision came after Panetta lobbied other members of H.E.W. and Secretary Finch for a show of strength. Finch decided that it was important to make a stand. He persuaded Nixon that by taking action other districts would be stimulated to desegregate in order to avoid losing their federal funding. Instead, there was a mixed reaction.

Mr. John Gardner of the Urban Coalition, speaking to the Council of Urban Affairs (C.U.A.) about civil-rights enforcement, said "he felt H.E.W. has been out in front and that other departments must perform more aggressively."

(PNWH, Minutes of the CUA, 2/16/69, p.7) Roy Wilkins viewed Finch's action as good and hoped the decision would reflect the administration's future policy. During the first few weeks of President Nixon's honeymoon with the presidency, Finch and his followers at

H.E.W. had successfully implemented the law concerning desegregation by withholding federal funds and forcing districts to negotiate. Staff members at H.E.W. also had shown they would be tough with southern districts not conforming to the law. Republican leaders in the South were in an uproar. They wanted to slow the process of desegregation, not propel it. The southern leadership prepared to enter the conflict.

Immediately after the announcement, the southern Republican leaders flew to Washington and met with President Nixon. Apparently in response to the increasing pressure of southern Republican leaders, Nixon began pressured Finch to find a solution to the desegregation controversy that did not force the South into compliance. Also in response to the meeting, more and more conservative appointments were made by the administration. In the Justice Department, Jerris Leonard was named as Assistant Attorney General for Civil Rights. At H.E.W., Robert Mardian, a Republican who had supported Goldwater in the 1964 presidential campaign, was appointed as General Counsel in order to calm southern worries.

Though Panetta wrote that Mardian was quickly isolated within H.E.W., (Panetta, L. and Gall, P., p.95) Dent claims that Mardian wrote policy releases concerning desegregation for President Nixon. (Dent, p.121) Both Panetta and Dent

were correct. In H.E.W., Mardian became isolated from the Finch who ultimately made decisions. Mardian, however, had connections to the people who advised President Nixon. He was therefore asked to help write drafts for the President.

Mardian represented the communication problem between H.E.W. and the President. Although most H.E.W. employees did not favor Mardian's conservative ideas, his ideas entered official administration drafts which Finch and Panetta reviewed prior to release. Finch and Panetta attempted to change these drafts in order to reflect the H.E.W. position. Though Nixon and his advisors did not agree with the position, they often rewrote the releases with vague language so as to please conservatives and H.E.W. The infiltration of H.E.W. by conservative appointees was noticeable. Finch, caught between his own civil-rights appointees at H.E.W. on the left and the administration on the right, became confused. Adding to Finch's confusion was the lack of tangible evidence that he was helping black students by pursuing his policy of cutting district funds.

Both black and white students suffered when funds were cut by H.E.W. because every school within such districts lost federal funding. In most cases, white southerners controlled the administration of funds within a district. Practice caused the black schools to lose funding first.

The individuals sent South to help formulate plans with the non-complying school districts found themselves hurting blacks presently in order to help blacks in the future. Since both black and white schools lost funding, critics of H.E.W. argued that students lost their right to education. Something had to change.

While the Nixon Administration dealt with these issues, it also had to fill positions related to the civil-rights struggle. In February of 1969 John G. Veneman, a former state assemblyman in California, was brought in as Under Secretary of the H.E.W. James Farmer, the former head of C.O.R.E. and leading civil-rights activist was named Assistant Secretary at H.E.W. The addition of these liberal individuals to the Nixon administration offered proof to civil-rights activists that Nixon wanted to help blacks. By the same month, many southern districts had become legally desegregated. According to Panetta, only eleven percent of the southern school districts were not in compliance with law. (Panetta, L. and Gall, P., p.91) These districts were the toughest districts to desegregate because they belonged to the larger cities and included their surrounding suburbs. In these areas, not only were the schools segregated, but the school and housing patterns meant that children would need to be bused

great distances in order to achieve racial integration.

(U.S. News and World Report, March 16, 1970, pps.30-33) At a meeting of the southern Republican chairmen the same month, Leon Panetta was asked what course integration was to take in the future. Panetta responded that:

Well, because the remaining eleven percent are so difficult, H.E.W. is attempting to reestablish communications with these districts, to sit down with the school officials to work these problems out, to provide what technical assistance may be necessary, and to do all we can to achieve voluntary compliance. We want to start bending over backwards to help them meet the law... (Panetta, L. and Gall, P., pps.91-92)

Bob Calloway from Georgia interrupted:

The law ... the law, listen here, Nixon promised the South he would change the law, change the Supreme Court, and change this whole integration business. The time has come for Nixon to bite the bullet, with real changes and none of this communicating bullshit. (Panetta, L. and Gall, P., p.92)

As represented by Calloway, southerners did not want to communicate with those bringing change, they wanted the President to stop changes from occurring. Peter Flanigan, a newly announced White House assistant, said "'the entire policy of school desegregation was being reviewed. Things will change.'" (Panetta, L. and Gall, P., p.92) After the meeting, Panetta agonized over the idea that President Nixon might be reversing the policies of H.E.W. Returning to his office, Panetta discussed the meeting with Veneman who said "'All we can do is keep fighting. We'll win a few

and lose a few, but with Bob (Finch) we should be able to keep the administration on the right track.'" (Panetta, L. and Gall, P., p.93)

As the political pressure mounted late in February, 1969, Attorney General Mitchell and Secretary Finch agreed to meet in order to better formulate a civil-rights policy. Also attending the meeting were Leon Panetta and Jerris Leonard. At this meeting, Mitchell asked why so few cases had been brought against northern segregated districts. When Leonard explained the difficulty with de facto cases, Mitchell replied that he wanted to get more information about the entire desegregation issue before attempting to create a policy. Nothing was accomplished at the meeting except postponement of an eventual jointly approved policy because neither Finch nor Mitchell had suggested anything. (Panetta, L. and Gall, P., p.100) The significance of this meeting was that it showed how displeased Mitchell was with H.E.W.'s desegregation policy.

Possibly because of pressure from the administration, however, Finch made the first move toward a joint department policy. In an interview with U.S. News and World Report released March 10, 1969, Finch explained in conservative terms that the goal of the administration with regard to desegregation was to promote educational standards for both blacks and whites. In the interview,

Finch was extremely vague. When asked "Mr. Secretary, are you determined, under the law, to get the schools of this country fully integrated", " Finch avoided the direct answer and responded that he was looking for methods of compliance in the South. To every question asked pertaining to desegregation, Finch did not hesitate to point out the legal loopholes in the Supreme Court's ruling in the field. For example, he said that separate but equal schools could exist. (U.S. News and World Report, March 10, p.35) Dent wrote, "Finch would talk tough with the liberals and soft with the other crowd. The interview was so good I sent 55,000 copies South." (Dent, p.128) Finch's interview sent shock waves through H.E.W.

Meetings between members of H.E.W. and southern school districts were suddenly cancelled because southerners wanted to see the new policy before creating a plan for compliance according to the old one. Large numbers of letters requesting direct negotiations with Secretary Finch arrived. Apparently, southern leaders believed Finch had defected and they in turn would receive a better deal with him than with H.E.W. regulars. At the same time, members of H.E.W. wanted to know why Finch had softened his position. In the middle of this crisis, Panetta was dispatched to the second meeting of the southern Republican chairmen.

As he entered the meeting he overheard Harry Dent say that "the Voting Rights Act looks like it's coming along pretty good so that the monkey will be off the backs of the South, and we got Mardian now at H.E.W. and that should take care of the school thing." (Panetta, L. and Gall, P., p.106) At the meeting, Panetta was asked to explain the new policy that Finch had alluded to in his interview with U.S. News and World Report. Caught off guard, Panetta responded that no new policy would be created, because such actions would only further confuse the current situation. Though the southern delegation was unhappy with what Panetta said, they were now willing to wait for an official administration policy. Though disgusted about both his situation and the on-going strife within H.E.W., Panetta continued to fight while others quit. (Panetta, L. and Gall, P., p.108)

On March 7, 1969 Ruby Martin's resignation as the Director of the Office of Civil Rights (O.C.R.) took effect. The position remained unfilled for three weeks while civil-rights groups placed tremendous pressure upon Finch to quickly replace Martin with another black. A Congressional probe looking into claims that both the Pentagon and the Department of Transportation were contracting with companies not following Federal equal employment standards only added momentum to the call for a new director. Then, Clifford Alexander, chairman of the Equal Employment Opportunity Commission and one of the few black appointees, was fired for allegedly "harassing" private businesses. (Panetta, L. and Gall, P., p.123)

On March 24, 1969, President Nixon released a statement setting forth administration policies concerning the desegregation of America's elementary and secondary schools. The seventeen page release contained mainly historical data but did proclaim that the administration wanted to enforce the law. Though Nixon said he would propose an additional one and one half billion dollars in order to help schools desegregate, he did not guide Justice or H.E.W. as to how to enforce the law. As in the past, H.E.W. and the Justice Department pursued separate policies toward desegregation enforcement. In May, Congress voted against allocating such money to schools. Liberals did not

want to reward districts for delaying enforcement of the law and conservatives did not want to move forward with desegregation. The Justice Department and H.E.W. continued to pursue separate policies. As a crisis approached, Leon Panetta took the job as director of O.C.R. while maintaining his status as a special assistant to Secretary Finch. (Evans Jr. and Novak, p.143)

Beginning his new job on March 31, 1969, Panetta wanted to pursue the same hard line toward desegregation that he had advised Finch in the past. Finch came under heavy pressure from the White House to ease the approaching deadlines and help white southern districts as much as possible. Similarly, John Mitchell and Jerris Leonard maintained that H.E.W.'s policy of restricting funds prior to federal court decisions was detrimental to the administration. Instead, they wanted the Justice Department to bring lawsuits against noncomplying school districts and let courts decide when and how each district should desegregate. This course of action, they argued, would allow courts to take any blame for desegregation and thereby ease the pressure on the administration. When a court ordered desegregation, then, if a school district did not comply, funds could be withheld.

Panetta did not agree with this plan. He argued that thousands of school districts had already created

desegregation plans under the assumption that they would lose their funding at the beginning of the school year in September, 1969. By changing policy, Panetta believed it would "not only encourage the recalcitrant districts but undermine the efforts of those that have complied." (Reichley interview with Panetta as cited in Reichley, p.183) Finch decided that another, more clearly worded, administration policy needed to be created soon in order to allow H.E.W. and Justice to administer the law collectively.

Nixon chose Leonard Garment to mediate the dispute between Justice and H.E.W. Garment shared many of Panetta's liberal views. After immersing himself in the conflict and studying the various legal papers, Garment discovered that the fund cutting approach by H.E.W. had served to create distrust and hostility among southern school districts. Agreeing with the Justice Department, Garment began to draft the administration's policy. (Evans Jr. and Novak, p.130)

While final drafts of the administration's position were being completed, Chief Justice Earl Warren announced his retirement. Earl Warren had become a symbol of liberalism within the United States as the Court, under his leadership, had expanded rights for minorities and suspected criminals. By replacing Earl Warren with his

conservative appointee Warren Burger, Nixon sent a message to the country and specifically to the South that his program to reinstate conservatism had started.

As the summer approached, heated debate between Justice and H.E.W. employees continued. Meeting with the President in the Oval Room, West Wing of the White House, Republican Senators Howard Baker and John Tower said

that the difficulties of Secretary Finch in the South are due not to ill-advised policies or actions by the Secretary, but rather to deliberate undermining of the Secretary's efforts by subordinate H.E.W. functionaries in the regional activities of the Department. (PNWH, May 10, 1969 p.1)

Baker and Tower believed that Finch had turned to the right. They did not realize that he had been pressured by President Nixon on a single issue. In H.E.W., staff members had been supervised by Under Secretary Veneman, while Finch fought for his appointment of John Knowles as medical chief. After a heated debate, Knowles was rejected by the administration and Finch was forced to choose another person for the job. Upset about Knowles and not wanting to lose two battles in a row, Finch began to press for strict enforcement of funding restrictions. The Knowles affair caused Finch to lobby harder for strict enforcement of H.E.W. guidelines. Finch attempted to lobby President Nixon personally. He went to the White House, where drafts of the

administration statement were being reviewed for release. Meeting with the President, Finch presented H.E.W.'s desire to enforce the law strictly. While Finch attempted to lobby Nixon, Jack Veneman had contacted various White House officials by phone. In a conversation with Ehrlichman, Veneman was told "'You know Jack, the blacks aren't where our votes are." (Quoted in Panetta, L. and Gall, P., p.187) The decision was

to ensure that the plans for compliance advocated therein by H.E.W. would a) be developed in method and content in such a manner as to be inoffensive to the people of South Carolina; and b) that the plans advanced by H.E.W. will precedentially be satisfactorily applicable in any subsequent case or cases. (PNWH, May 15, 1969 p.1)

Finch and H.E.W. had lost another battle to southern pressure.

The administration's position was issued on July 3, 1969. Though containing some of the toughest language concerning desegregation, there were no deadlines as to when desegregation should be completed. Though Finch believed H.E.W. could continue to be tough on desegregation, Panetta, speaking to Veneman, said "'Jack, that's bullshit. The point I've been trying to make for the last five goddamn months is that you can't do away with the deadlines and not weaken the guidelines.'" (Panetta, L. and Gall, P., p.217) Panetta, though understanding the administration's position, continued to push for strong

enforcement of desegregation deadlines. *... were drafted.*

The press conference following the release was attended by Jerris Leonard, Jack Veneman and Leon Panetta. At the conference, all three spoke about their department's viewpoint. The press tended to listen most to Jerris Leonard and reported that the administration had relaxed enforcement. Told of the administration's position at the N.A.A.C.P. national convention in Jackson, Mississippi, Roy Wilkins accused the administration of "breaking the law." (Evans, Jr. and Novak, R., p.149)

In Washington, D.C., Panetta continued to deny that deadlines had been relaxed. In a phone conversation with John Ehrlichman, who was with the President in Key Biscayne, Florida, Panetta was told not to send a letter to school districts explaining the administration policy. Ehrlichman said "'let the statement speak for itself. Leon, things should be allowed to settle now.'" (Panetta, L. and Gall, P., p.227.) Panetta was convinced that the administration wanted to appear as though it had "sold out." Though he considered resigning, Panetta decided to fight from within the administration. Panetta understood how the administration wanted to pursue desegregation. By fighting the conservatives, Panetta angered southern Republicans and caused them to react to reforms which the South normally accepted. *... had been made in personnel.*

Quickly one letter and one memorandum were drafted. The letter, intended for school districts, said that no change in guidelines had resulted from the July third release. This letter was never mailed. The memorandum, sent to the eight regional civil-rights offices, said that no changes in policy had occurred. When word of the memo reached Washington, D.C., Mitchell exploded in anger. (Panetta, L. and Gall, P., pps.229-231) Soon afterward, Panetta realized that by staying at H.E.W. he placed himself in a bad situation. In August, Finch requested delay in twenty-three Mississippi school district cases. The courts had ordered desegregation ready for implementation by September. Veneman told Panetta that Finch had responded to heavy pressure placed upon him by the White House, which had in turn been pressured by Senator John Stennis of Mississippi. Stennis, chairman of the Armed Services Committee, led the fight in the Senate to save the administration's anti-ballistic missile program. (Reichley, p.185) To support Finch, Jerris Leonard attempted to find education experts willing to testify in favor of the delay. He found two such persons. At a cabinet meeting held on August 6, 1969, "both Dent and (Robert) Morton said that the people in the political structure ... are still concerned that too few changes had been made in personnel."

(PNWH, August 12, 1969, p.7) This single sentence represented how hard the South had lobbied President Nixon and how successful the South had been.

In October, the Supreme Court, headed by Warren Burger, ruled unanimously against delaying desegregation. The court ordered the twenty-three Mississippi districts to "begin immediately to operate as unitary systems within which no person is to be effectively excluded from any school because of race or color." (Alexander v. Holmes County Board of Education, 396 U.S. 20) In an H.E.W. meeting, Mardian suggested further delay was possible. L. Patrick Gray, responding to Mardian, said "'No, this is over. The Supreme Court has spoken. Now we must obey the law.'" (Quoted from an interview with Panetta, Reichley, p.185)

Soon afterward, Finch promised H.E.W. would not "tolerate any further delays in abolishing the vestiges of the dual system." (Reichley, p.185) Nixon, though disappointed with Burger, said "I call upon all citizens and particularly those in leadership position, to work together in seeking solutions for these problems in accordance with the mandate of the Court" (WCPD, October 30, 1969, p.1525) Privately, Nixon said "that he wants to find a way for the Administration to indicate that we are separating from the majority position of the Supreme

Court." (PNWH, February 11, 1970, p.1) Nixon was advised to follow the Court's pronouncements and help the South.

Though the administration sponsored desegregation, it had not said how efforts to end dual systems would proceed. Late in October, Finch presented Panetta's view about how desegregation should proceed. The Secretary asked Panetta if he could tell the White House that Panetta would resign if the policy were not implemented. Panetta agreed. Backing Panetta, Veneman told Finch "that if Panetta was fired he himself would quit on the spot and take some of H.E.W.'s best men with him." (Evans Jr., and Novak, p.157-159) Veneman's act only stalled the Panetta's release from the administration. On February 16, 1970, Nixon announced that a cabinet-level group with Vice President Agnew as the chairman and Secretary of Labor George Shultz as vice chairman would help the South through its desegregation dilemma. Panetta, curious as to why he had not been informed about the group, received his answer the next morning.

On February 17, 1970, Ronald Ziegler, Press Secretary for the President, said that Panetta's resignation, "submitted some time ago," has been accepted. After Panetta was fired, a strongly worded petition was sent to Secretary Finch asking him personally to explain the administrations's civil-right policies. After postponing

this meeting several times, Finch entered the hospital with a numb arm. Unable to perform his duties, Finch was relieved of his job and replaced by Elliot Richardson.

Finch became a cabinet level advisor to President Nixon.

(Dent, p.126) Ironically, Nixon began desegregation of the rural South and then Panetta and Finch, the two strongest supporters of this position, were relieved of their jobs.

When Nixon entered the Oval Office, he allowed John Mitchell of the Justice Department and Robert Finch at H.E.W. to pursue different civil-rights policies. In 1969, the two departments tugged desegregation in different directions. As a result, Nixon's policy exhibited ambiguity as he strove to serve various constituents. The conflict between the Justice Department and H.E.W. caused the administration to draft and redraft its official position. The position favored bringing suit against non-complying districts and allowing federal courts to make decisions before cutting funds. What appeared as an unofficial position was the fact that Nixon did not mind desegregating the South as long as he appeared against such action.

By leaving Panetta and Finch in the administration, Nixon allowed H.E.W. to withhold funds from non-complying school districts. Nixon, therefore, let H.E.W. pressure non-complying districts into complying with the law. If

Nixon had wanted to delay desegregation, he could have fired Leon Panetta and reassigned Robert Finch much earlier than he did. Instead, Nixon permitted his liberal appointees to make decisions and receive criticism by southern conservatives. After the Supreme Court ruled in Alexander that further delay of desegregation was not possible, Nixon had to make a decision. Though he sought a method around the Supreme Court's ruling, Nixon decided to help the rural South through the trauma of desegregation.

NIXON MOVES FORWARD ON CIVIL RIGHTS

When the cabinet-level group met, it became apparent that Agnew, already overloaded with other business, would not be active as the chairman of the group. Shultz, creator of the Philadelphia plan which required federally contracted construction unions to accept quotas of black apprentices, became the effective chairman. For the seven states most likely to resist desegregation (Mississippi, Louisiana, Arkansas, Georgia, Alabama, and North and South Carolina), Shultz created state advisory committees composed of prominent citizens from both races and both parties.

The purpose of the groups, as written in an unsigned memorandum to the President, was "to give visibility to the Administration's commitment to enter into a special

partnership with local leaders to achieve peaceful school desegregation in the South." (PNWH, August 6, 1970, p.1) "By stressing education along with desegregation, and cooperation rather than confrontation, he hoped to ease compliance." (Price, p.206-209) Shultz's innovative approach worked because local authorities entered into a partnership with the federal government and worked diligently.

Every state committee, except Louisiana's, met individually with the cabinet-level group at the White House and created desegregation plans. While at the White House, they followed a rigorous schedule including a personal greeting by the President in the Oval Office. "Under the spell of the Oval Office, racial antagonisms appeared to fade." (Reichley, p.189) Members of the bi-racial advisory committees worked together and formulated how their state's public education system would function in the future.

When Louisiana's committee was created, Nixon decided to plug his program personally. On August 14, 1970, Nixon went to New Orleans with the chairmen and vice chairmen from all seven committees. There he said

'The highest court of the land has spoken. The unitary school system must replace the dual school system throughout the United States.... We believe, all of us, in law and order and justice. We believe in enforcing the law. But I also believe that leadership in an instance like this requires some preventative action.... As a

result of these advisory committees being set up, we are going to find that in many districts the transition will be orderly and peaceful, whereas otherwise it could have been the other way. And the credit will go to these outstanding Southern leaders.' (Nixon's address as quoted by Price, p.209)

Nixon, though disagreeing with the Court, he helped desegregate the South.

Nixon's personal attention to the issue of desegregation displayed the President's power and how such power could be used to conduct an administration policy both peacefully and successfully. By the following school year, September, 1970, southern rural school districts began the desegregation process to comply with the Supreme Court's Green decision. By 1974, when Nixon left office, the percentage of black children attending totally black schools in the South fell from sixty-eight percent in 1968 to eight percent. (Statistical Abstract of the United States, 1978, p.151)

Analysis of the country's school districts allowed administrators to see that inner city districts were black and outlying districts were mostly white and that this division was along lines not necessarily created by prejudice. Though demanding desegregation in de jure cases, the Supreme Court had not ruled on a de facto case. The Court's focus broadened to include an area which required immediate attention, the subject of busing.

Increasingly, lower courts had ruled in favor of busing children in order to accomplish desegregation. President Nixon opposed the ideas of forced busing as a form of desegregation because he believed forced busing inhibited a student's chance to learn. He was quite vocal about his opinion. He believed the law required that discrimination not be present; it did not require integration which hindered students from learning. After initiating the desegregation process for de jure segregated districts, Nixon focused on de facto segregated districts to see if any action could be taken to help the districts. De facto cases occurred mainly in large northern and western cities and the surrounding suburbs. Because of the geographical makeup of districts, the only possible method to integrate students was through busing. Lower courts had ruled both for and against desegregation through busing. When a lower court ruled in favor of desegregating a de facto district, heavy pressure from civil-rights groups usually followed.

Within his administration, Nixon found most people opposed busing. One person who believed court decisions demanding desegregation in de facto cases went against the public will was Patrick Buchanan. Buchanan, having earned a conservative reputation as a speech writer for both the vice president and the President, sent a memorandum to the Nixon regarding the court decisions.

The national mood among blacks and whites alike is toward black separatism and white separatism. Where the Court in 1954 ruled at the crest of a national tide, their current rulings go against the grain of rising and angry public opinion.... Let me say candidly that for the foreseeable future, it is all over for compulsory social integration in the USA.... (Safire, p.233)

Reacting to the advice given him by Buchanan and others, Nixon delivered an address "setting forth administration policies" regarding desegregation in general and de facto desegregation specifically.

The administration positioned itself between those who "feel that the only way to bring about social justice is to integrate all schools now, everywhere, no matter what the cost is in the disruption of education," and those "who believe that racial separation is right, and wish the clock of progress would stop or be turned back to 1953." (WCPD, March 24, 1970 pps.424-440) Though the administration stressed that all types of segregation were "undesirable," school officials were not required to amend de facto conditions. Nixon, attempting to preserve the distinction between de jure and de facto segregation and also guide the courts with future decisions, added that "compulsory busing" was not a proper solution.

To propel his case further, Nixon nominated the southern conservative Harry A. Blackmun to replace the retiring Abe Fortas. By replacing liberals with conservatives, Nixon hoped to gain support on vital

desegregation issues. Meeting with Congressman Charlie Jonas and the Attorney General to discuss the pending Supreme Court decision of Swann v. Charlotte-Mecklenburg Board of Education, the President asked Mr. Mitchell to state the position of the administration. Mitchell said that though the administration could not "technically support Charlotte in the appeal, since the Charlotte School Board had not chosen any of the (H.E.W.) submitted plans, we nonetheless support Charlotte in principle." (PNWH, 9/21/70, p.1)

On April 20, 1971, however, the Supreme Court held unanimously, in the case of Swann v. Charlotte-Mecklenburg Board of Education, that busing could be used, in some instances, to reverse the effects of de facto segregation. The case centered around the school district of Charlotte, North Carolina, and the surrounding county and was the first time that the Court had ruled on a case involving two separate districts. Until this ruling, the Court had dealt solely with single district cases. In the opinion written by Chief Justice Burger, the Court ruled that sometimes "administratively awkward, inconvenient, and even bizarre" tactics were needed to end de facto segregation. (Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 28, 30)

Though establishing busing as a remedy for some

desegregation cases, the opinion also limited the criteria that could be used in deciding how to administer desegregation. Quotas, for instance, could not be used to make a school reflect the surrounding community. "Year to year adjustments" were also unnecessary once a school had achieved desegregation. (Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S., 22-31)

Though the decision contained ambivalent language, the Swann decision sent shock through the nation's metropolitan areas. In cities, local authorities and people in general had hoped the Court would follow Nixon's example and not require busing. Following the Swann decision, President Nixon was able to change the entire character of the Supreme Court when he replaced retiring Justices William J. Brennan Jr. and Hugo L. Black with conservatives Lewis F. Powell Jr. and William H. Rehnquist. (Kelley, p.750) These justices entered the Court at a time when the busing controversy had divided the nation, the administration and the Congress.

A bitter controversy within the Congress and the administration developed as pro- and anti-busing forces consolidated. The administration, taking advantage of a bad situation, attempted to recruit conservative southern Democrats to support conservative legislation such as anti-busing proposals in Congress. On May 5, 1971

President Nixon met with the Attorney General, Congressman Ford and Congressman Arends to discuss the matter.

The purpose of this meeting was to raise, on a highly confidential basis, the proposal suggested to the President by Secretary Connally that it was worthwhile considering the development of a coalition in the Congress between the Republican leadership and the conservative Southern Democrats. (PNWH, May 5, 1971, p.1)

In November, 1971, a Gallup poll found 18 percent favoring and 76 percent opposing "busing of Negro and white school children from one school district to another." Among blacks, 45 percent favored and 47 percent opposed "busing." (The Gallup Poll, vol.3 p.2329) Congress, still controlled by the Democrats, attempted to end the busing controversy in order to gain political support in the upcoming election.

From November, 1971 until February, 1972 Congress wrestled with many anti-busing amendments to the higher education bill. Congressman John Ashbrook of Ohio, proposed an amendment prohibiting the use of federal funds to "carry out a plan of racial desegregation of any school or school system." (Congressional Record, November 4, 1971, p.39313) Oregon's Democratic Congresswoman Edith Green added the language forbidding federal employees to "urge, persuade, induce or require" local authorities to use state or local funds for busing for integration. (Congressional Record, November 4, 1971, p.39313) Michigan Republican

Congressman William Broomfield proposed that court orders requiring busing to achieve "racial balance" not take effect until all appeals had been exhausted. (Congressional Record, November 4, 1971, p.39313) Though none of the amendments passed the House, Michigan Senator Robert Griffin attempted to stall busing in the Senate.

On February 25, 1972, Griffin proposed an amendment to the higher education bill prohibiting federal courts from ordering children bused "on the basis of their race, color, religion, or natural origin." (Congressional Record, February 24, 1972, p.S2448) Though the Griffin amendment passed by a vote of 43 to 40, it was later nullified when liberal Democratic Senators, campaigning around the nation, returned to Washington, D.C. After watching Congress fail in its attempt to solve the busing crisis, Nixon began to be more vocal about his position.

Nixon said "Forced busing is wrong and I don't care if it sounds like demagoguery--I want to say so loud and clear. The courts don't understand the folks." (Safire, p.480) Though he considered supporting a constitutional amendment outlawing forced busing, Nixon was dissuaded by Attorney General Mitchell, H.E.W. Secretary Richardson and John Ehrlichman. The three men "expressed lawyerly scruples against cluttering the Constitution with what amounted to legislaion on a presumably passing issue."

(Reichley, p.197) Nixon did not know what course to follow. Then, on March 14, 1972 George Wallace received forty-two percent of the votes in the Florida Democratic presidential primary. Nixon viewed Wallace, who had received twenty-four percent more votes than Hubert Humphrey, his closest rival, as a potential political threat in the 1972 presidential election.

Nixon, believing that Congress would not take the action he desired and seeing the presidential election close at hand, proposed two anti-busing bills on March 17, 1972. The first bill was a "moratorium" on court-ordered busing. If enacted, the bill would prevent courts from ordering busing until either July 1, 1973, or until Congress passed new guidelines for busing. The second bill, entitled the "Equal Education Opportunity Bill," not only ended busing up to the sixth grade, but severely limited busing for those above the sixth grade. It did, however, provide two and one-half billion dollars to schools serving children from poor families. (WCPD, March 20, 1972, pps. 590-608) According to Nixon, metropolitan schools would be "upgraded so that the children who go there will have just as good a chance to get quality education as do children who go to school in the suburbs." (Public Papers of the President, 1972, p.427)

Instantly, constitutional challenges rose against

Nixon's moratorium. Alexander Bickel, a constitutional law expert, wrote the moratorium represented "a more far-reaching limitation on judicial power, a greater qualification of the power of judicial review established by Marbury v. Madison than ever before." (New Republic, What's Wrong With Nixon's Busing Bill April 22, 1971, p.21)

In contrast, Robert Bork, also a constitutional law expert and later the Solicitor General under Nixon, argued that Article 1, Section 8 of the Constitution empowered Congress "to make all laws which shall be necessary and proper for carrying into Execution ... all Powers vested by this Constitution in the Government of the United States, or in any Department or Officer." Bork argued that the moratorium was constitutional because it

"is likely to turn upon the factual showing by Congress that the freeze is 'necessary and proper' to the exercise of the power to regulate remedies.... This means, essentially, a showing of the likelihood of the entry of further large-scale busing orders with their concomitant heavy expenditure of funds, administrative disruptions, and student inconvenience all tending to disrupt and make less effective the educational process." (Bork, p.19)

Instead of entering the controversy, Congress let the moratorium bill die in committee.

Nixon's equal educational opportunity bill did equally badly. In the House, an amendment to the bill by Congressman Ashbrook sought to assign students to their closest neighborhood school. An amendment to the same bill by Congresswoman Green attempted to reopen desegregation

cases already settled by the courts. (Reichley, p.199)

When the bill reached the Senate floor in October, 1972, liberals staged a filibuster. (PNWH, October 9, 1972, p.1) After three attempts to invoke cloture failed, Senate allies of the administration conceded defeat.

Though both the Congress and the President had failed to end busing, the issue did not disappear. In November, 1973 the Supreme Court accepted jurisdiction in the case of Milliken v. Bradley. On February 27, 1974, the Supreme Court, by a vote 5 to 4, ruled against forced busing. Though resulting "in an all black system, with an overwhelming white majority in the total metropolitan area," (Milliken v. Bradley, 418 U.S. 735) suburban school districts did not have to bus students into Detroit. The majority votes were comprised of Nixon's four appointments and Justice Potter Stewart, who had been appointed by President Eisenhower. In the opinion, Chief Justice Burger wrote:

Boundary lines may be bridged where there has been a constitutional violation calling for interdistrict relief, but the notion that school district lines may be casually ignored or treated as a mere administrative convenience is contrary to the history of public education in our country. ...local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to quality of the educational process.... Disparate treatment of white and Negro students occurred within the Detroit school system, and not elsewhere, and on this record the remedy must be limited to that system. (Milliken v. Bradley, 418 U.S., pps.741-746)

In the dissenting opinion, Justice Thurgood Marshall wrote: "Today's holding, I fear, is more a reflection of a perceived public mood that we have gone far enough in enforcing the Constitution' than it is the product of neutral principles of the law." (Milliken v. Bradley, 418 U.S., p.814) The decision, a victory for the President, neither ended busing nor the controversy associated with busing. It was merely the final step taken about the matter while Nixon was President. Though little change occurred in the North and West, movement certainly had been made in the South. The percentage of black children attending schools ninety-five percent or more black had declined to twenty percent in the South by 1974. The share of blacks attending similarly proportioned schools in northern and western states had risen to fifty percent. (Statistical Abstract of the United States, 1978, p.151)

While Nixon helped the rural South through desegregation, he opposed the use of forced busing to bring about desegregation in other areas of the country. Nixon regarded busing as an evil which hindered children from receiving the best education possible. Though the majority of the people effected by busing agreed with Nixon and resisted its use as a forced remedy to the segregation issue, the Supreme Court approved its use. When a white child became scheduled to be bused, the child's parents

CONCLUSION

often enrolled the student in a private school. The expenses of private school frequently caused financial burden for white middle class families and also served to solidify color lines and prejudicial feelings. Blacks did not have the option of sending their child to private school. When a black became scheduled to be bused, parents could either obey the order or not enroll their child in school. Both blacks and whites looked to the government for a solution of the busing crisis.

Though Congress wrestled with anti-busing legislation, it did not pass any of the proposed bills. Nixon, already an outspoken opponent to busing, searched for a method to end the controversy. When he proposed anti-busing legislation, Nixon gained political support from those effected by busing. His bills, however, did not pass and the controversy continued. The Supreme Court, composed of four Nixon appointees, addressed the busing issue again. In Milliken, the Court ruled against forced busing as a method to desegregate de facto segregated school districts. Soon after the decision, Nixon became caught in internal policy problems and could not address civil-rights issues.

CONCLUSION

Richard Nixon's political career encompassed many issues of global and long-lasting importance. The ramifications of his China policy are felt today. Watergate is still a commonly discussed political error, yet Nixon's civil-rights policy concerning desegregation and busing is discussed little. He became President during a transition period within the United States. The sixties were ending and many individuals wanted the United States to become the Camelot that John F. Kennedy had represented.

Splinter groups had brought the issue of civil rights to the forefront of American politics. As the civil-rights movement became publicized through various media sources, groups gained both public and financial support. Rapidly, support for the groups and for civil-rights issues such as desegregation became broad based across the nation. These groups called for immediate action and change. Nixon, wanting to avoid conflict as a presidential candidate, spoke to his constituencies and promised to fulfill their hopes for the future. He perpetuated his vision as the panacea for the country's problems by selecting an administration which had a diverse background and whose members held conflicting ideas.

Nixon had hoped to let the desegregation issue die. Instead, he found that organized minority groups, some

administration officials and the Supreme Court advocated immediate change. As the Court released decisions about desegregation cases, Nixon publicly announced he would implement the Court's rulings. Privately, he searched for alternatives in order to slow desegregation in the South. However, the law remained in effect and Nixon, elected on a law and order platform, was forced to review his desegregation policy.

While Nixon studied the legal background to desegregation, the Justice Departments and H.E.W. pursued separate policies. While the Justice Department moved slowly, H.E.W. entered contracts with school districts and sent negotiating teams to the South to help schools make desegregation plans. When districts would not negotiate, H.E.W. withheld federal funding in order to pressure officials into compliance. Though Nixon did not support funding cutoffs, he allowed H.E.W. to pursue the policy.

The problems grew, and the administration found that in the attempt to help black students, funding cutoffs served to hurt them. Nixon attempted to control the change by pressuring appointees, shuffling appointments, firing outspoken individuals and delaying decisions. However, decisions had to be made. Nixon, advised by his cabinet heads, decided to help the South desegregate. Though Nixon delayed enforcement of the Supreme Court's rulings, he

deserves some praise for accomplishing the task of desegregating the rural South peacefully.

As Nixon solved the desegregation crisis in the South, another crisis began. The Supreme Court, noting that segregated housing patterns impacted schools, ruled that forced busing could be used to desegregate de facto segregated districts. Forced busing was fought by many individuals throughout the country. White flight from public schools served to reduce the effectiveness of busing. Similarly, anti-busing organizations sprouted across the country. These organizations supported the failed attempts by Congress and by President Nixon to end forced busing.

Nixon, believing the law had gone far enough in demanding change regarding civil rights, openly voiced his opposition to forced busing. By proposing legislation which increased funding to schools serving poor families, Nixon attempted to reduce inequality. However, the best result such a proposal could accomplish, would be to create separate but equal facilities. Such institutions had been outlawed since 1954. In addition, Nixon proposed anti-busing legislation. Though he should not be criticized for such bills, his lack of leadership in proposing positive measures deserves much criticism.

He could have created policies which contained

positive incentives for schools voluntarily desegregating. Unfortunately, he feared upsetting his white, middle-class and suburban constituency which eventually voted predominantly for him in 1972. Two years later, the Supreme Court reversed itself by ruling against the use of forced busing. As Richard Nixon's years as President came to an end, the focus of government moved from issues of civil rights to problems of internal policy such as Watergate.

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