SOUTHERN STRATEGIES:
THE POLITICS OF SCHOOL DESEGREGATION
AND THE NIXON WHITE HOUSE

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Abstract

“Southern Strategies: The Politics of School Desegregation and the Nixon White House” challenges the conventional wisdom about the presidency of Richard M. Nixon. Traditionally, the “southern strategy” and the scandal of Watergate have defined the scholarship of the Nixon presidency. Both accounts focus on the role of conservatives in the White House who urged Nixon to exploit racial tensions and the increasing cultural divide among Americans to stay in power. However, this project shows that contradictory views—both liberal and conservative—framed the decision-making process inside the Nixon administration. This project shows how policy was made in the Nixon White House—piecemeal, with an eye to short-run political advantage, and in struggle.

More than any other topic, domestic or foreign, the internal battles over desegregation demonstrated the tensions in the Nixon White House. While the current historiography generally assumes that the administration followed the so-called “southern strategy” of stonewalling desegregation in hopes of winning the votes of racist whites, White House aides actually disagreed on how the administration should approach both the policies and politics of civil rights. In a larger sense, this project dissects the ways in which the White House, Congress, and the judiciary intersected with both entrenched and moving bureaucracies and activist organizations to negotiate the terms of desegregation.

In addition, as this project will make clear, the meaning of desegregation changed in the 1960s and 1970s. For a time, it meant something concrete: the end of a legally mandated dual school system. Eventually, as its meaning became increasingly contested, it emerged as a wedge between Americans who saw a future in which whites and blacks were represented equally in the country’s educational institutions and those who did not. Nixon attempted to appease all sides
of the desegregation issue—as he called it, “a middle ground”—and his decisions were always made only after a full consideration of the impact of policies on his popularity and political prospects. The result was a record of substantive achievements, as evidenced in the end of the South’s dual school system, in addition to pronounced failures in promoting racial equality.
For My Parents
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Introduction

“A Middle Course between Two Extremes”

This dissertation challenges the conventional wisdom about the presidency of Richard M. Nixon. Two compelling dramas dominate most of the current literature on the Nixon years: the so-called “southern strategy” and the Watergate scandal. Covering the beginning and the end of the Nixon administration, these two topics have done more than simply bookend the Nixon era; they have defined it. In the “southern strategy” narrative, the Nixon presidency originated in ugly appeals to the racist supporters of the demagogic Governor George Wallace, which Nixon and his strategists sustained by continually exploiting racial issues for political ends. In many accounts, the “southern strategy” virtually explains all the inner workings of the Nixon White House. The Watergate scandal pulls in the opposite direction, as the dramatic conclusion to the Nixon administration has understandably led historians to trace its origins. This concern, however, has led to an unfortunate teleology in which all actions of the administration have been filtered through the lens of the scandal, distorting our understanding of how the White House actually worked. And, like the studies that emphasize the southern strategy, those that emphasize Watergate tend to focus almost exclusively on conservatives in the Nixon White House, those most devoted to gaining and holding power by exploiting racial tensions. The ideological and political complexities of the Nixon administration get lost in favor of a stark and misleading view of Nixon’s presidency as divisive and even cynical.

This dissertation offers a far more complicated version of a presidency that was often riddled with contradiction and controversy. Specifically, it shows that the process of decision-making in Nixon’s White House involved intense debates among a diverse group of advisers. Even Nixon’s two closest aides, HR Haldeman and John Ehrlichman, a pair who seemed to form
such a unified front that White House Counsel John Dean famously called them “the Berlin Wall,” were frequently at odds. Indeed, they debated policies, political strategies, and personnel so bitterly that Haldeman eventually tried to push Ehrlichman out of the administration. The rivalry between these top advisers was just one example of the many conflicts and contradictory views inside the Nixon administration. On countless issues, the White House aides split into warring camps on volatile issues; many times, these polarized groups splintered into squabbles of their own.

This fragmentation of the administration was especially apparent in its internal debates on desegregation and school busing. Though previous studies have often asserted that the Nixon administration advanced a backlash agenda with single-minded determination, in truth, the White House was deeply divided on the issue of civil rights. Its policies, this dissertation will demonstrate, were made piecemeal, with an eye to short-run political advantage, and in struggle. The institutions of government—the White House, along with Congress, and the judiciary—intersected with both entrenched and evolving bureaucracies and activist organizations in order to negotiate the terms of various policies, in this case, above all, desegregation. As the scholar of American government Dan Carpenter has written “the advance of the bureaucratic state is one of the most wrenching and controversial changes of the twentieth century.”¹ Extraordinary in its capacity to “plan, to innovate, and to author policy,” the bureaucracy has taken on a life of its own.² Always in close coordination with elected officials and other institutions of government, “bureaucratic policymaking” has become, in Carpenter’s assessment, the “hallmark of modern American government.”³

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² Ibid.
³ Ibid., 6.
Historian Gareth Davies has built on this framework in his study of the American educational bureaucracy of the 1960s and the 1970s. Davies notes the monumental task involved in attempting to sort out from a web of complex relationships the actors who defined desegregation policy over the course of the Nixon presidency and the context of that policy.

“Any attempt to assess the respective contributions of administrative, judicial, and local action to this development,” Davies argues “is complicated by the fact that the three elements were so intimately interwoven.”

This dissertation seeks to disaggregate the actions of various branches of government, activists and political leaders—in addition to Nixon’s aides, advisers, and staffers—and places them in the context of a broader civil rights and political history.

According to conventional wisdom, President Nixon easily bent the institutions of government, its agencies, and its bureaucracies to his will, using them to lead a bold rollback of desegregation and the civil rights movement. He shifted the responsibility for desegregation away from the Department of Health Education and Welfare (HEW), where it had resided in the Johnson administration, to the Justice Department and the courts. In doing so, many scholars assert, the president instituted a “slower and less effective method.” Marian Wright Edelman, for example, who in the early 1970s was the Director of the Harvard University Center for Law and Education, had argued that enforcement of court-ordered desegregation had been “undercut” by Nixon who established “a tone of national retreat” which threatened to “erase desegregation progress already made in the South as well as to defeat efforts at making Brown a nationally applied policy.”

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6 Ibid.
In fact, with this shift in responsibilities among various bureaucracies, Nixon paved the way for potential advances in promoting desegregation. By allowing HEW to develop strict guidelines and timetables for desegregation in southern schools, by using the Justice Department to enforce these schedules through the courts, and by then employing local committees to ensure peaceful compliance, Nixon effectively ended the dual school system in the South by the fall of 1970. Although his public pronouncements could rarely be accepted at face value, in a September 1969 news conference, Nixon seemed to summarize his principles fairly. “It seems to me there are two extreme groups,” Nixon observed. “There are those who want instant integration and those who want segregation forever. I believe that we need to have a middle course between those two extremes. That is the course on which we are embarked. I think it is correct.”

Some scholars have taken note of Nixon’s accomplishments in the realm of civil rights to challenge the dominant narrative. Gareth Davies, most notably, has argued convincingly that Nixon “did indeed play a decisive role in breaking massive resistance to school desegregation.” He asserts that it was precisely Nixon’s conservatism on issues of race that allowed Nixon to “play a constructive role.” In Davies’ scholarship, an atypical Nixon emerges, one who, when “confronted with a highly complex and intractable political problem” paid close attention and used his “intelligence and statesmanship” to try to find a resolution to ending the South’s dual school system.

Davies offers a valuable framework, one that shows how the position of Nixon and his administration on school desegregation was far more complicated than scholars have

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8 Ibid.
9 Ibid.
10 Ibid.
traditionally argued. But his findings provide just that: a framework. He has proposed that the cluttered and congested debates over school desegregation in the Nixon White House and the federal agencies still needs unpacking. While he acknowledges that something important happened in the Nixon White House with regard to desegregation, the details of those debates, discussions, and policymaking need to be revealed. This dissertation seeks to uncover the details of this story.

In its reexamination of the inner workings at the White House, this dissertation chronicles the changes and stages in Nixon’s school desegregation policy with precision. Between 1968 and 1970, as a close examination of the evidence makes clear, Nixon focused on ending the dual school system in the South. Although he often sought political cover for his actions in the form of more conservative moves—ranging from public comments disparaging desegregation suits to Supreme Court appointments that suggested sympathy with segregationists—he also oversaw and coordinated a policy from the White House that orchestrated an end to the South’s dual school system, a goal that had long eluded previous presidents. By emphasizing the need to reduce the federal role in desegregation in favor of local organizations Nixon found an effective balance for changing the social fabric of the South with minimal resistance—and, importantly, without harming his political popularity in the region. After 1970, however, as the 1972 election approached, Nixon became noticeably more resistant to school desegregation. As de jure school segregation of schools in the South ended, and attention began to move northward, Nixon became concerned with the potential resistance to any attempt to end de facto segregation from the blue-collar Democrats whose votes he sought. At the same time, he was also disappointed in a continued lack of support from the African-American community. These political concerns quickly dictated an important shift in White House policy. And after Nixon’s landslide victory
in 1972, and as Watergate increasingly distracted the administration, Nixon joined an increasing majority of politicians nationally—liberals as well as conservatives—in opposing busing to achieve integration in schools.

As the dissertation makes clear, the issue of “desegregation” itself was more complicated than we have previously understood. The dissertation demonstrates how the idea of “desegregation” evolved and ruptured during the late 1960s and early 1970s. In this era, the meaning of desegregation changed. For a time, it meant something specific and concrete: the end of a legally mandated dual school system. Eventually, as its meaning became increasingly contested, it emerged as a wedge between Americans who saw a future in which whites and blacks were represented equally in the country’s educational institutions and those who did not.

Nixon bobbed and weaved his way through the late 1960s and early 1970s attempting to appease all sides of the desegregation issue—seeking to find, as he called it, “a middle ground.” The result was a record of considerable and even remarkable substantive achievements, above all the end of the South’s dual school system, but also of profound failures in promoting racial equality.

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As noted earlier, the southern strategy—the idea that Nixon incorporated the South into a national Republican political coalition by inventing a language for an evolved racism—dominates much of the historiography of the Nixon administration. Historians argue that Nixon endorsed a policy designed to halt desegregation in an effort to court particular voters who opposed progress on civil rights. Beginning in the late 1960s, these scholars claim, Nixon traded continued progress on civil rights issues for political gain in the South. Frank Brown, a scholar of African-American education, links Nixon’s election strategies directly to the issue of school desegregation. He writes that the strategies were “designed to gain the votes of individuals who
opposed school desegregation.”¹¹ Famed southern journalist John Egerton argues that Nixon used coded language to pledge to halt “what Lyndon Johnson started….In order to capture the white South, [he] promised it relief from the incursions of the black South, and [he] extended that promise to the rest of white America.”¹² Reg Murphy and Hal Gulliver assert that Nixon’s southern strategy “rested…on a calculated appeal to white segregationist sentiment. It was anti-black, not with passion but with a cool, clear-eyed political cynicism.”¹³ Historian James Patterson argues that because Nixon’s “southern strategy” focused on galvanizing a white electorate, it gave “relatively little attention to the wishes of blacks.”¹⁴

This interpretation of Nixon’s ambitions in the South has endured in contemporary discussions. Journalist Byron Williams explained in 2008 that Nixon’s southern strategy embodied the Republican Party’s “overt appeals to white voters to the exclusion of blacks in the South” which “on the heels of landmark civil rights legislation should be viewed as the patriarch of America’s current political divisiveness.”¹⁵ New York Times columnist Bob Herbert has written that “the southern strategy meant much, much more than some members of the G.O.P. simply giving up on African-American votes…it fed like a starving beast on the resentment of whites who were scornful of blacks and furious about the demise of segregation and other civil rights advances. The idea was to snatch the white racist vote away from the Democratic Party, which had committed such unpardonable sins as enacting the Civil Rights and Voting Rights Acts and enforcing desegregation statutes.”¹⁶

Many scholars have built on these broad arguments about the southern strategy and suggested that a core of conservative advisers urged Nixon to dig-in in defense of the southern strategy. Historian Matthew Lassiter asserts that “during the first two years of the Nixon administration, the conservative political advisers in the backlash camp won a fierce internal battle over civil rights enforcement with the policymakers from the moderate and liberal wings of the Republican Party.”\(^{17}\) Even Joan Hoff, Nixon’s greatest scholarly defender on issues of civil rights policy, argues that Nixon’s strategists lobbied to “[turn] back the clock on desegregation in order to build up the Republican Party in the South [and] tried to convince Nixon that desegregation should be indefinitely sidetracked.”\(^{18}\)

Although these interpretations are sound as far as they go, they slight the power of the non-conservative advisers who passed through the White House throughout Nixon’s presidency—their fortunes, access to, and popularity with Nixon ever-changing. Many of these advisers, as historian Thomas Sugrue writes, were “committed to the gradualist racial liberalism of the 1950s and early 1960s. Many of Nixon’s aides came from the ranks of the so-called Rockefeller Republicans, who supported civil rights out of a sense of noblesse oblige toward the impoverished Negro.”\(^{19}\)

The polarization of Nixon’s advisers was especially pronounced when it came to an issue that supposedly unified them in the “southern strategy”: desegregation. More than any other topic—domestic or foreign—the internal battles over desegregation showed how Nixon was pushed and pulled by various advisers and the manner in which he navigated through complex policy decisions. He both sought and followed the recommendations of advisers from across the political spectrum. His respect and trust in various aides was inconsistent, ebbing and flowing.


with remarkable speed. Nixon’s decisions were always made only after a full consideration of the impact of policies and public statements on his popularity and political prospects.

Recent historians of the southern strategy have also sought to complicate the traditional southern strategy narrative. Lassiter, for example, argues that the perception of Nixon’s strategy as a “top-down” phenomenon “launched by the Republican Party in order to exploit white backlash against the civil rights movement” is incomplete. Lassiter asserts that increasing conservatism in the South and opposition to school desegregation was driven by the emergence at the grassroots level of a self-defensive “ethos” from the suburbs of the “Sunbelt South”, with little direction from the strategists at the top of the Republican Party. Kevin Kruse, in his account of postwar Atlanta, *White Flight*, challenges the traditional studies of political strategy in the South, suggesting they overemphasize “a top-down explanation of political transformation predicated on…closed-door strategy sessions and stump speeches…and ‘racially coded language.’” He argues that Nixon’s successful presidential campaigns in the South were predicated largely on “conservative suburbanites.” Lassiter and Kruse maintain that the GOP’s strategy in the South engaged a transforming southern population that embraced a less conspicuous form of racial politics. Another historian, Joseph Crespino, also argues for the importance of suburban voters in understanding Nixon’s strategy in the South, suggesting that it entailed “not the segregationist Dixiecrat followers of George Wallace, but rather moderate suburban and upper South whites who readily identified with the fiscal and social conservatism of the Republican Party.”

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20 Lassiter, 3.
22 Ibid., 261.
To be sure, grassroots activism in the South and the changing composition of southern constituencies influenced Nixon’s political and policy decisions. Nixon hoped that, by acquiring and using political capital among southern constituencies—directed both regionally as well as politically—his administration would gain the opportunity to follow through with enforcing the orders of the courts and on occasion go beyond that without significant political consequences. Through Supreme Court nominations, legislation, and press statements, Nixon aggressively courted voters he presumed were, to say the least, less than enthusiastic to embrace school desegregation. Still, Nixon’s efforts to earn political capital were part of a larger design for a more complete policy. “The scholarship of those who emphasize the southern strategizing Nixon is not so much wrong—it captures one side of the man—as it is unsophisticated and incomplete,” Gareth Davies argues. “Nixon and his enemies needed one another in order to get the job done.”

This dissertation attempts to “capture” the other side of Nixon by partially returning to the “top-down” approach from which recent scholarship has strayed. The project incorporates the assumption that policy is formed at the top. However, it also seeks to complicate the idea of “the top” in order to show that it too is never monolithic. The dissertation challenges the traditional top-down approach that assumes that leaders—of parties, of regions, of movements, of political organizations—reflected the desires and objectives of their constituencies. The sentiments expressed by leaders and the attention paid to civil rights issues often seemed more important to leaders than to voters. A disconnect emerged, then, between the agendas of leaders and advisers and the issues that were important to voters. The claim that Nixon courted voters in the South by promising to “turn back the clock” on civil rights in short fundamentally ignores the changing makeup of southern voters in the late 1960s.

24 Davies, 140.
More broadly, a misunderstanding of Nixon’s political approach and his policies has led to an incomplete assessment of his overall record on civil rights. All of the generalizations that have so often been made about Nixon’s civil rights policies—both by those who admire and those who detest him—need to be dismantled. Specifically, Nixon’s bobbing and weaving on the issue of school desegregation has contributed to confusion in the historiography about the substance of his civil rights policy. Scholars characterize Nixon’s civil rights policy as “schizophrenic” and argue that the administration showed no consistent policy formula.25 Eleanor Holmes Norton, a civil rights activist, attorney, and congresswoman writes “there have been two civil rights Nixons, neither one of them ever particularly principled.”26 Norton concludes that, although there is evidence of some positive contributions to civil rights reforms Nixon’s policy was ultimately “beholden to the idea of the supremacy of majoritarian preference.”27 Historian Stephen Ambrose identifies the same conflicting trends in administration policies, suggesting its “wants were contradictory.”28 Ambrose argues that Nixon himself wanted an end to racial confrontations by 1970 and sought “relative peace on the racial front during his re-election campaign in 1972.” He also sought to solidify political gains in the South at the same time as enforcing court-ordered desegregation. Nixon wanted to “do what was right, without having to use force.”29 As a result, Ambrose suggests, “the Nixon Administration did not have a consistent policy.”30 Thomas Edsall and Mary Edsall, harsh critics of Nixon’s overall civil rights policy, write that while he should be given credit for policy initiatives such as the Philadelphia Plan and the Office of Minority Business Enterprise, Nixon’s agenda was

27 Genovese, 82.
29 Ibid.
30 Ibid.
ultimately contemptible because of Nixon’s refusals to help eliminate obstacles to the mixing of white and black students in southern schools, his efforts to nullify the Voting Rights Act, appointments of anti-civil rights conservatives to the Supreme Court, and his effort to “ally” with “the fractious tactics of his vice president,” Spiro Agnew. Instead of considering Nixon’s inconsistencies as pragmatic adaptations to changing political circumstances, these accounts offer divided judgments over what they can only see as a divided and inconsistent policy.

Scholars have often mischaracterized and misunderstood the broad sweep of Nixon’s complicated policy by treating it as a homogenous and monolithic entity. Most historians simply condemn Nixon’s civil rights policy and claim that the Nixon administration tried to slow desegregation and thwarted other initiatives to improve the position of African Americans in order to shore up electoral support in a South still dominated by white racists. Historian Melvin Small, for example, suggests that Nixon “signaled to southerners—as well as northerners—that the civil rights revolution was coming to an end.” Sociologist and affirmative action expert John Skrentny reiterates Small’s claim that Nixon attempted to “appeal to the south by slowing down the effort to secure black civil rights,” though he also recognizes Nixon’s contribution to affirmative action programs for African Americans. Political scientist Michael Genovese recognizes some of Nixon’s progressive steps on civil rights, but he concludes “overall, the Nixon approach to civil rights was ‘withdraw and retreat.’” Other suggest that Nixon’s civil rights policy was one of “benign neglect,” a phrase initially used by Nixon staffer Daniel Patrick Moynihan, when advising Nixon on how to push forward with civil rights reforms without provoking public outrage.

32 Small, 165.
34 Genovese, 83.
But Nixon’s policy on desegregation was much more complex than these accounts allow. In part, the complexities arose from an immense contradiction within Nixon himself. He was filled with personal biases yet simultaneously had a long history of supporting civil rights causes. The stories about Nixon’s off-the-cuff use of epithets against minority groups—African Americans and Jews seemed to be his favorite targets—are plentiful. Top Nixon adviser John Ehrlichman recounted in his memoir that Nixon “said he believed America’s blacks could only marginally benefit from Federal programs because blacks were *genetically inferior* to whites. Blacks could never achieve parity—in intelligence, economic success or social qualities.”\(^{35}\)

Yet despite this personal racism, civil rights engaged Nixon deeply. Before 1968, his attention to the issue was more than symbolic. In the fall of 1954, for example, as massive resistance arose in the South in the immediate aftermath of *Brown v. Board of Education*, Vice President Nixon supported desegregation, declaring “most of us here will live to see the day when American boys and girls shall sit, side by side, at any school—public or private—with no regard paid to the color of their skin. Segregation, discrimination, and prejudice have no place in America.”\(^{36}\) At the opening of the new session of congress in January of 1957 Nixon moved to bring the filibuster rule—often used by southern Democrats in the Senate to halt civil rights legislation—to a vote, hoping to nullify the rule and pave the way for civil rights bills. John Morris of the *New York Times* characterized Nixon’s position as a “surprise” and noted that his efforts were “hailed by civil-rights advocates and filibuster opponents as ‘historic’ and ‘a landmark.’”\(^{37}\)

That same year, 1957, Nixon aggressively backed the 1957 Civil Rights Act, which promised to investigate southern violence, establish a civil rights division within the Justice

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Department, and amend the federal code to fortify voting-rights provisions and provide authority for preventive suits to ensure this protection. Dr. Martin Luther King, Jr. lauded Nixon for his “assiduous labor and dauntless courage” in trying to make the law “a reality.” In 1960, as the GOP’s presidential nominee, Nixon introduced a civil rights platform that committed the “full use of power, resources, and leadership of the federal government in combating discrimination” and acknowledged the right of “peaceable assembly” to protest private discrimination, a statement condoning the sit-in movement which was emerging across the country in the late 1950s and early 1960s. While the GOP did not approve a civil rights platform with quite the vigor Nixon had desired, the 1960 platform was unquestionably strong. As historian L.J. McAndrews suggests, Nixon “held out for the most liberal platform on civil rights ever to be accepted by the Republican Party.”

In the late 1960s, the policies that Nixon supported were undoubtedly very different from those he had endorsed over the two previous decades. But this shift cannot be understood merely as self-interested without appreciating the larger context of a changing civil rights movement. As president, Nixon’s civil rights philosophy actually seemed congruent with an earlier phase in the history of the civil rights movement. Historian William Chafe, in his important book *Civilities and Civil Rights*, points out civil rights workers in the South in the 1960s first “concentrated on eliminating overt southern racism by portraying it as anachronistic and irrational, contrary to the American creed, and damaging to the interests of the nation.” In addition, an emphasis on “civility” was the cornerstone of the various campaigns of the civil

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rights movement. The center of civil rights protest moved from the formal institution of separate black and white public schools in the South, and the resistance of white southerners to Brown, to contesting the de facto segregation of schools in the North, a story that historian Thomas Sugrue has developed extensively and eloquently. Riots swept through the country in the final years of the decade, and in their wake came a “sharp breaking point after which a new paradigm took over,” as journalist Clay Risen notes. Civil rights activists, most notably the National Association for the Advancement of Colored People (NAACP) increasingly committed resources to ensuring equal opportunities for African Americans rather than integration. Simultaneously, by the mid-

43 Ibid.
45 Ibid.
46 McAndrews, 187.
47 Clay Risen, Nation on Fire (Hoboken: John Wiley and Sons, 2009), 250.
1970s, many white Americans resigned themselves to the idea that racial tensions had no solution and pushed to keep friction and antagonism out of their neighborhoods, which often meant confining minorities to the poorest parts of American cities.

This dissertation begins at a moment when hard fought, substantive and widespread racial integration seemed possible and ends as a conservative suburban belt emerged across the country, dividing city from suburb—and in many instances black from white—through a complex network of policies, laws, and attitudes. As this change developed in the early 1970s, some pieces of the fractured civil rights movement pushed towards separatism, what historian Daniel Rodgers has called “a new racial assertiveness: a claiming of collective African-American pride and place across a broad spectrum of American cultural, intellectual, and political life.”48 This ethnic and racial solidarity also became prominent among white conservatives. “In the backlash against the call for black power,” Rodgers argues, “working-class ethnic pride movements proliferated in the late 1960s and early 1970s, mobilizing the claims of the European immigrants’ descendants in a language that, except for the substitution of the term ‘ethnicity’ for ‘race,’ was all but indistinguishable from that of black cultural nationalism.”49 By the start of the new decade, the South’s dual school system had crumbled; that was significant. Yet, as the ground shifted, the fight for a truly integrated educational system became a memory of the 1960s.

49 Ibid.
Chapter 1

“A Commitment to Order”

“To secure the electoral prize states — Michigan, New York, and Pennsylvania — cannot be done with a polarizing strategy. There is far more to be gained, North and South, by a moderate strategy aimed at recruiting the frontlash vote into the party. In the South, it will build a lasting base for the GOP from the ground up, instead of relying on the occasional attractive candidate. And in the North, it will be the only road to victory for President Nixon.”

-Harry Dent, Nixon Adviser on Southern Affairs

On April 4, 1968, an assassin gunned down Martin Luther King, Jr. at the Lorraine Motel in Memphis, Tennessee. Riots exploded across the country. Borne out of escalating racial tensions and simmering frustrations, young African Americans pushed back against racial repression and bleak economic conditions in an outpouring of emotion brought on by King’s assassination. The violence intensified as whites across the country antagonized rioters. An editorial in the Chicago Tribune, for example, criticized the rioters and blamed African Americans for their own predicament: “They have not educated themselves, developed responsibility, trained themselves to hold jobs, or are shiftless and dependent on your taxes.”

Within 24 hours of the assassination, five people died in riots in Washington, D.C. and seven in Chicago. President Lyndon Johnson deployed 4,000 troops to the nation’s capital to stop the looting and burning. Johnson declared “a condition of domestic violence and disorder.”

Another 2,500 soldiers were airlifted to Andrews Air Force base as reinforcements. In six additional cities—Detroit, Chicago, Boston, Jackson, Raleigh, and Tallahassee—the National Guard was immediately deployed. In Chicago, where Mayor Richard Daley urged citizens to

4 Ibid.
“stand up and protect the city” 2,000 firefighters tried to douse fires across the city.\(^5\) By April 12, nearly 47,000 national guardsmen had been assigned to riot duty in 15 states; 125 cities had experienced violence or vandalism.\(^6\) Before the violence subsided, 43 people had lost their lives and there was $45 million in property damage.\(^7\)

National political leaders responded to the assassination in starkly different ways. On a campaign stop in Indiana, Senator Robert F. Kennedy broke the news of King’s death and called for cooperation and unity between whites and African Americans. “You can be filled with bitterness, with hatred, and a desire for revenge. We can move in that direction as a country, in great polarization—black people amongst black, white people amongst white, filled with hatred toward one another,” Kennedy warned. “Or we can make an effort, as Martin Luther King did, to understand and to comprehend, and to replace that violence...with an effort to understand with compassion and love.”\(^8\) He asked the crowd to “go beyond these rather difficult times.”\(^9\) Nelson Rockefeller, the governor of New York, compared King to the slain President Kennedy. Both men, Rockefeller said, were engaged in “a courageous fight for the fundamental human values upon which our nation was founded.”\(^10\) Michigan Governor George Romney called the assassination the cause for “a rededicated effort by everyone to eliminate racial prejudice and injustice in all its ugly and repressive forms.”\(^11\) California Governor Ronald Reagan called King’s assassination a “shocking act of violence that solved none of our nation’s problems.”\(^12\)

\(^7\) Ibid.
\(^9\) Schlesinger, 875.
Not one to miss a political opportunity, Reagan was quick to add that the assassination was also “evidence of a moral sickness that seems to be afflicting our nation.”

The week of riots and civil disturbances that followed the assassination—known as the Holy Week Uprising—also provided the impetus for many political leaders to shift the national conversation to calls for law and order. In Cleveland, Kennedy changed his focus to address the “menace of violence in America…. [with] victims…. black and white, rich and poor, young and old, famous and unknown.” Reagan argued that the chaos that followed King’s ending was the result of “a great tragedy” that had started when “we began compromising with law and order, and people started choosing which laws they’d break.” South Carolina Senator Strom Thurmond shared Reagan’s sentiments, blaming the civil rights movement itself for the uprising. “We are now witnessing the whirlwind sowed years ago,” Thurmond wrote, “When some preachers and teachers began telling people that each man could be his own judge in his own case.” In Maryland, Governor Spiro Agnew summoned African-American leaders to Annapolis to reprimand them for not stopping the post-assassination riots in Baltimore. He called the assembled black leaders “circuit-riding, Hanoi-visited, caterwauling, riot-inciting, burn-America-down type of leader[s].” It was “fiction,” Agnew told the group, that “Negroes lack any opportunity in this country.”

King’s assassination and the riots that followed served as the backdrop for a contentious campaign for the Republican presidential nomination. Reagan, then in his first term as governor of California, had won the office on promises to rein in federal government power and enforce law and order across the state. Speaking to crowds across the country in the spring and summer

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13 Ibid.
14 Clay Risen, A Nation on Fire (Hoboken: John Wiley and Sons, 2009), 142.
15 Perlstein, 257.
16 Risen, 7.
17 Perlstein, 258.
of 1968, Reagan insisted that the country could “no longer tolerate” violence from student protestors and civil rights activists. He blamed urban unrest on the laxness of the courts and the federal government.\(^{18}\) It was time, Reagan said, to “get angry” and to use government force to put down the unrest.\(^{19}\)

Although Reagan did not officially enter the presidential race, he had been testing his popularity nationally. Indeed, under the advice of Clifton White, his top strategist and a veteran of the GOP campaign circuit, Reagan was exploring a strategy to steal the nomination from the expected favorite Richard Nixon at the Republican convention in Miami Beach in August. White wagered that his own behind-the-scenes negotiations with southern delegates, coupled with Reagan’s hardly subtle appearances in states where Nixon’s support seemed most tenuous, would cost Nixon a first-ballot victory at the convention and open the race up. The key to the plan would be securing the endorsement of Senator Strom Thurmond, arguably the most influential southern politician of the era. “With Thurmond behind Reagan,” White recounted, “I thought we could count on most, if not all, of the 334 delegates the southern states would send to the convention.”\(^{20}\) Indeed, for most of the winter and into the spring of 1968, the South Carolinian certainly seemed to be leaning in Reagan’s direction. “I love that man,” Thurmond said. “He’s the best hope we’ve got.”\(^{21}\)

Reagan’s effort to outflank Nixon in the South depended on a similar maneuver from the North. Like Reagan, Governor Nelson Rockefeller of New York was intent on “stopping Nixon” and seizing the nomination from him, devoting untold resources from his vast personal fortune to the cause. And like Reagan, Rockefeller had stayed out of the race until May 1968. When he

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\(^{19}\) Ibid.


ran for a third term as governor of New York in 1966, Rockefeller had promised voters he had “taken himself out of contention [for the presidency], completely and forever, without reservation.” As the presidential race began in earnest, Rockefeller announced that he would support George Romney, the governor of Michigan and the former CEO of American Motors. Despite his public support, however, Rockefeller was increasingly skeptical about whether Romney could actually win the nomination. In February 1968, he considered entering the race himself, although he waited months to officially announce his candidacy. In April, Rockefeller mourned King’s assassination, calling him “a man of wisdom and eloquence” who “gave his life…in a courageous fight for the fundamental human values upon which our nation was founded.” Shying away from the law-and-order rhetoric that became the mantle of campaigning for Nixon and Reagan, Rockefeller sought to refocus attention on repairing urban decay and improving the socioeconomic conditions that he believed were at the root of civil unrest.

Romney was the fiercest civil rights advocate in the 1968 GOP primary. On the occasion of King’s assassination, he called for “a rededicated effort by everyone to eliminate racial prejudice and injustice in all its ugly and repressive forms.” Less than a year before King’s assassination, during the summer of 1967, forty-three people died in race riots in Detroit, heightening Romney’s sense of urgency about the country’s racial problems. Romney warned

23 “Leaders Express Shock, Grief at Dr. King’s Assassination,” Chicago Tribune, April 5, 1968, 23.
24 As a Mormon, Romney’s firsthand experience with prejudice heightened his sensitivities. In addition, Romney compensated for his personal embarrassment with the attitudes of the Church of Latter Day Saints (LDS) towards African Americans by pushing in the opposite direction. “Negroes are a cursed race,” Joseph Smith, the founder of LDS, had long ago codified in scripture. When Romney ran for the Republican nomination in 1968, LDS still excluded African Americans from the priesthood. Romney distanced himself from LDS racial views. “Michigan’s most urgent human rights problem is racial discrimination,” Romney proclaimed in his State of the State address in 1964, “In housing, public accommodation, education, administration of justice, and employment.” That same year, Romney declined to support Goldwater’s bid for the presidency after Goldwater rejected an anti-discrimination platform, an initiative Romney himself had worked on.
that “time is running out for those who have responsibilities for the tranquility of our nation.”

Following a 19-day tour of urban “slums” across the country in the fall of 1967, Romney cautioned that “the seeds of revolution have been sown.” They “cannot be rooted out by force” Romney continued. “We must either achieve orderly progress or change will be inflicted with mortal wounds. Either we shall join hands, hearts and minds and march together on paths of fulfillment for all, or we shall find ourselves torn asunder.”

Romney was honest and earnest, characteristics that voters seemed ready to embrace in 1968. He called the “individualism” that conservatives within his party increasingly promoted by the end of the 1960s “nothing but a political banner to cover up greed.” His honesty, however, also presented Romney’s campaign with enormous obstacles, especially when it came to Vietnam. Critical of Lyndon Johnson’s war policies, Romney argued that a Republican candidate—change for the sake of change—would have a better chance of ending the war, though he had no plan of his own. In a nationally televised broadcast on September 4, 1967, Romney suggested that he had been “brainwashed” by American government officials on a visit to Vietnam. Only months earlier, Romney had publicly supported the war as “morally right and necessary.” Now he had to explain why he had changed his mind without seeming to be weak or inconsistent. But the remedy was more harmful than the problem: Romney’s choice of words made him look, at best, like a trimmer with no clear position on the leading issue of the day, and, at worst, like a man who could be easily manipulated. The statement virtually doomed his candidacy. The New York Times observed “it dramatized what was regarded as the fuzziness

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27 Ibid.
28 Ibid.
29 Perlstein, 173.
of his position on Vietnam.”32 Romney effectively withdrew from the primary in late February, opening the door for Nelson Rockefeller. From then on, Rockefeller vowed to fight Nixon for the nomination “right up to the last vote.”33

Richard Nixon had been preparing for this fight for years. After his losses in the 1960 presidential election and the 1962 California gubernatorial race, Nixon carefully began rebuilding his public image. He reinvented himself as a new kind of law-and-order leader, moving far to the right from his 1960 position though not as far as Barry Goldwater had gone in 1964.34 From this new stance, Nixon joined Reagan in condemning the “rioting and vandalism” which followed King’s death.35 The assassination provided the opportunistic Nixon a chance to prove to voters he had changed since 1960, no longer embedded in what had become a rapidly crumbling liberal consensus and also no longer as outwardly sympathetic to the cause of civil rights. He was, instead, a much better candidate for an increasingly conservative country.

Nearly a month before King’s assassination, Nixon delivered a national radio address to warn of

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34 Many of Nixon’s ideas about law and order came from the advice of Daniel Patrick Moynihan. After the summer riots of 1967, Moynihan delivered a speech to the board of Americans for Democratic Action titled “The Politics of Stability.” Moynihan argued that it was “past time for liberal Democrats to recognize their responsibility for dealing with the national crisis of stability and to make alliances with political conservatives who shared this concern.” He asserted that liberals had to “divest themselves of the idea that the nation, especially its cities, could be run from agencies in Washington” and had to “overcome their destructive condescension on the issue of race, which took the form of ‘sticking up for and explaining away anything, however outrageous, which Negroes, individual or collectively, might do.’” According to longtime friend Leonard Garment, Moynihan’s speech “helped organize Nixon’s thinking about social issues and made him more comfortable talking about them.” As a result of the speech, Moynihan became an informal adviser to the campaign. He brought with him an unusual background. Growing up in a working-class family in New York City, Moynihan returned home after a stint in the Navy during the Second World War and soon received his Ph.D. in sociology. In the 1950s, he entered the world of politics, serving on the staff of New York’s Democratic Governor Averell Harriman. By the early 1960s, Moynihan was an Assistant Secretary of Labor in the Kennedy and Johnson administrations, where he was charged with formulating policy for the War on Poverty. Famously, in 1965, he produced “The Negro Family: The Case for National Action,” also known as “The Moynihan Report,” which argued that instability in family structure in the African-American community had its origins in the institution of slavery and threatened that community’s economic and political mobility. Moynihan was a “gifted writer of memoranda” and “stoked…interest in welfare reform, persuading Nixon to endorse a scheme to guarantee poor families a minimum income.”
a “war in the making in our own society” and a “gathering hate.” Arguing that “Negro resentments” and “grievances long suppressed” would lead to widespread rioting in the summer of 1968, Nixon urged the nation to be ready to “meet force with force.” He concluded his remarks by reiterating calls for law and order. “Our first commitment as a nation in this time of crisis and questioning,” Nixon proclaimed, “must be a commitment to order.”

After King’s assassination, Nixon implied in polite but pointed terms that the civil rights movement’s lack of regard for the law had led to such deadly results. He urged “a prayerful contemplation of the ghastly consequences of hatred and a new dedication to the ideals of non-violence and peaceful progress for which [King] stood.”

While Nixon used the Holy Week Uprising to try to convince voters of his commitment to law and order, he also wanted to win African-American political support. The difficult decision about how handle King’s funeral underscored his intense strategizing about how best to achieve a balanced candidacy. During the 1960 presidential campaign, Nixon made a grave miscalculation when he failed to intercede on King’s behalf when King was imprisoned following an Atlanta sit-in. While his opponent, John F. Kennedy, reached out to King and the judge involved in the case, Nixon tried to stay neutral. That decision cost Nixon the support of civil rights leaders, well known African-American supporters—including his longtime friend Jackie Robinson—and countless black voters. Concerned with balancing his law and order candidacy and his relationship with African Americans, Nixon gathered his advisers to examine his options in cold political terms. This sort of political maneuvering was commonplace for Nixon, as speechwriter William Safire noted. “[Nixon] measured and calculated beforehand

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36 Perlstein, 241.
37 Perlstein, 241.
[and] made such an obvious effort not to act impulsively,” Safire observed, “[He] liked to walk around a situation, get a lot of differing advice, and do what he liked to call ‘the right thing, which, you know, is not always the smartest thing politically.”

Safire, a public relations expert from New York City who Nixon described as “smart, feisty and funny,” had been a veteran of Nixon’s 1960 campaign and He called Nixon’s failure to intercede in Atlanta one of the “if-onlies” of the campaign—if only he had come to King’s rescue, countless African-American votes would have been his—and in the spring of 1968 told Nixon to go to the funeral.

Nixon’s old friend Leonard Garment agreed, arguing that Nixon had to attend the funeral in order to build strong ties with the African-American community. Nixon “had to go,” Garment stated, “whether for “moral or political reasons.” One of a handful of liberals in Nixon’s inner-circle, Garment’s opinion on civil rights issues was in 1968 more important to Nixon than any other member of the staff. As fellow lawyers at the New York firm of Mudge, Stern, Baldwin and Todd in the 1960s, Garment and Nixon initially bonded over a mutual love of jazz—Garment was a master of jazz clarinet and Nixon a pianist. Although they disagreed on a number of political issues, their friendship evolved into a close professional and political relationship, and by the 1968 campaign Garment had emerged as one of Nixon’s most trusted advisers. The Jewish Garment noted that he and the Quaker Nixon shared an identity as “social migrants” on the fringes of what Garment called “polite society.” As they advanced through their careers and gradually became part of “the establishment,” Garment noted, he and Nixon shared “mixed, archetypal feelings about coming to terms with the world around them.”

40 William Safire, Before the Fall (New York: Doubleday, 1975), 49.
42 Safire, 49.
43 Garment, 124.
44 Ibid., xi.
45 Ibid., xi.
Most of Nixon’s advisers warned him that attending the funeral would cost him southern delegates.\(^{46}\) John Mitchell, for instance, urged Nixon not to become a “prisoner of the moment.”\(^{47}\) A longtime friend of Nixon’s and an accomplished New York City attorney, Mitchell was a “heavyweight” whose confidence and sense of authority were deeply admired by the candidate.\(^{48}\) Among Nixon’s closest advisers, Mitchell maintained the oddest relationship with the candidate: part friend, part admirer, and part political operative. Yet he was among the most powerful aides in the Nixon organization. “It was Mitchell whom Nixon men went to for answers,” Safire recalled, because “he had a way of getting to the nub of the problem and then laying out alternative routes to the solution, proposing his recommendation, and then—this is where he left many politicians behind—picking up the telephone and making something happen.”\(^{49}\) In this instance, his counsel was clear. Traveling to Atlanta, Mitchell warned, would make it look like Nixon was “grandstanding” at the grave of a national hero.\(^{50}\) Despite their close connection, Nixon rejected Mitchell’s advice in this instance, though he took his words to heart. “There can’t be any grandstanding,” he warned his staff, noting that the popularity of politicians seeking to “capitalize” on the assassination would ultimately suffer.\(^{51}\) “I’ll go down and pay my respects to Mrs. King quietly,” Nixon explained.\(^{52}\)

Nixon thus sought to strike a balance between establishing himself as the law and order candidate to win southern delegates while simultaneously providing quiet reassurance to both African Americans and more moderate elements of the GOP. His balancing act was tested again just a week after King’s assassination. On April 11, 1968, President Lyndon Johnson signed into

\(^{46}\) Safire, 249.  
\(^{47}\) Ibid.  
\(^{48}\) Ibid., 264.  
\(^{49}\) Ibid.  
\(^{50}\) Ibid., 249.  
\(^{51}\) Ibid., 49.  
\(^{52}\) Ibid.
law the Civil Rights Act of 1968. The most important provision of the bill, Title VIII or the Fair Housing Act, prohibited discrimination in housing based on race, religion, and ethnicity. While this civil rights milestone was significant, it was balanced by anti-rioting provisions which sounded out the themes of law and order too. The measures prohibited “travel in interstate commerce…with intent to incite, organize, promote, and encourage a riot” and outlawed speaking “to assemblages of persons for the purposes of inciting, organizing, promoting, and encouraging a riot.” In private, Nixon had urged GOP lawmakers to pass the bill before it became a significant campaign issue. When a delegate at the GOP convention in Miami Beach asked Nixon about his support for the bill, Nixon admitted that he had told Gerald Ford, the minority leader in the House of Representatives, and other Republicans to “vote for it and get it out of the way….get the civil rights and open housing issues out of our sight so we [don’t] have a split party over the platform when we [come] down here to [the convention in] Miami.”

Nixon’s desire to deal with civil rights issues quietly was quickly becoming a hallmark of the campaign. And it seemed to be working. At the end of April, the Gallup Poll had Nixon leading Democratic candidate Eugene McCarthy in a hypothetical contest by three percentage points and Hubert Humphrey by nine percentage points. Despite his national popularity among voters, there seemed to be less enthusiasm for Nixon among GOP leaders. In the spring, his advisers worried about a research file leaked by Time that showed doubts among Republican leaders about Nixon’s potential as a presidential candidate. “He’s the most qualified man,” mused Colorado Senator Peter Dominick, a Goldwater Republican, “but can we win with a man

53 Perlstein, 456.
54 Dean Kotlowski, Nixon’s Civil Rights (Cambridge: Harvard University Press, 2001), 47.
56 “Nixon Tops All In Gallup Poll,” Boston Globe, April 21, 1968, 1.
who’s lost twice?” At the opposite end of the Republican Party, Senator Ed Brooke, a moderate African-American from Massachusetts, told *Time* that if Nixon won the GOP nomination, the election “wouldn’t be a contest…it would be a giveaway.” Ab Hermann, a high-ranking GOP political strategist, suggested, “I can’t explain it, but I don’t like him.” The unpublished analysis mainly accused Nixon of lacking “bold new concepts….that could capture the electorate’s imagination.”

In response to that kind of criticism, Nixon planned a broad coalition among groups with seemingly opposing interests, based on what he called an “alliance of ideas.” In a May 16, 1968 radio address entitled “A New Alignment for American Unity,” Nixon pointed to a change in the political landscape of the country. “Time, events, or the unaided individual action of the mind,” Nixon told an audience, “will sometimes undermine or destroy an opinion, without any outward sign of change…. The majority has ceased to believe what they believed before.” In his declaration, Nixon seemed to hint at a more tolerant and less rigid populace. Republicans were “inclined to be against,” Nixon observed, “and we must learn to be for.” Nixon argued that “differences of emphasis, not of fundamentals” factionalized Americans who were concerned with “the speed of change, not so much…the direction of change.” He asserted that an array of disparate groups—Republicans, “new liberals,” the “new South,” black militants, and “the middle of the American political spectrum”—were naturally united by a desire to reduce the size and involvement of the federal government. “People come first,” Nixon proclaimed, “and

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57 Perlstein, 203.
58 Ibid.
59 Safire, 47.
60 Ibid.
62 Ibid.
65 Ibid.
government is their servant…. Government is formed to protect the individual’s life, property, and rights, and to help the helpless—not to dominate a person’s life or rob him of self-respect.”

According to speechwriter William Safire, the speech publicly demonstrated that Nixon “was aware of some unifying common denominators in a society then appearing to be coming apart at the seams.”

Most significant to the primary campaign, the New Alignment speech explicitly argued that southern political support did not have to come at the expense of African-American support. “The new South is no longer prisoner of the past, no longer bound by old grievances or the old racist appeals,” Nixon asserted. “The new South is building a new pride, focusing on the future, pressing forward.” Nixon believed he could incorporate African Americans into a coalition that included parts of the South as well as working-class voters in the Midwest and the Northeast. Keeping with his theme of minimizing government, Nixon argued that African Americans needed “the economic power that comes from ownership, and the security and independence that come from economic power.”

Nixon accused white America of expanding welfare programs that benefitted African Americans out of a “sense of guilt” for a history of subjugation. Foreshadowing his black capitalism initiatives, Nixon claimed that even black militants did not want “separation, but to be included in—not as supplicants, but as owners, as entrepreneurs—to have a share of the wealth and piece of the action.”

Reactions to the speech ranged from disbelieving to laudatory. Conservative and even mainstream periodicals hailed the address as a major accomplishment with real substance. The Chicago Tribune called it “as thoughtful and intelligent a political appraisal as we are likely to

66 Safire, 50.
67 Safire, 50.
68 Ibid.
69 Ibid.
70 Ibid.
get this Presidential year.”\textsuperscript{71} Time observed that “at a moment of national dissension, any new, constructive note of national unity can only be welcome.”\textsuperscript{72} Liberal publications and pundits were more skeptical. “To us this is just silly,” asserted The New Republic. “When the South and black militants get into the same boat we want to watch—from another boat.”\textsuperscript{73} Former Kennedy speechwriter Ted Sorenson noted that Nixon’s call for unity was out of character, the product of a “Nixon mimeograph machine that ran amuck one night.”\textsuperscript{74}

Despite the mixed reaction to Nixon’s speech, there was substantial evidence to support the idea that the politics of the South were shifting and that a new political coalition could conceivably include both southern whites and African Americans. The rise of increasingly large urban centers in the South had chipped away at the region’s traditionally dominant rural powerbase, a shift reinforced by the Supreme Court’s decision in \textit{Baker v. Carr} in 1962 which ordered the apportionment of legislative power based solely on population numbers. In addition, transplants from around the country, lured by economic opportunities and with comparatively progressive politics, began moving to the South. As political scientists Earl Black and Merle Black have noted, by the 1960s southern cities were “gradually becoming zones of heterogeneity and political diversity in a region long known to be homogenous.”\textsuperscript{75} In addition, the attitudes of native southerners were simultaneously broadening in a way that increased the importance of issues other than segregation. Wayne Robbins, an aide to Strom Thurmond, captured this changing attitude, suggesting that in the “new south,” rather than “ideological posturing,” the region needed a “pragmatic approach to its many social and economic problems.”\textsuperscript{76} He noted

\textsuperscript{71}“The Alliance of Ideas,” \textit{Chicago Tribune}, May 19, 1968, 28.
\textsuperscript{72}“Nixon’s ‘New Alignment,’” \textit{Time}, May 31, 1968.
\textsuperscript{73}“It’s Nixon,” \textit{New Republic}, June 8, 1968, 8.
\textsuperscript{74}“Nixon’s ‘New Alignment,’” \textit{Time}, May 31, 1968.
\textsuperscript{76}Memorandum from Wayne Robbins to Senator Strom Thurmond, November 30, 1970. Subject: Implication of 1970 Election Results. Thurmond Collection, Box 8, Administrative Assistant Subject File Liberty Amendment to
that the GOP needed to “answer the needs of the new South, and then the new South will answer the call of the Republican Party.”77 The Ripon Forum, which represented the voice of the liberal wing of the GOP, echoed this same sentiment, urging Nixon to appeal to “the new cities (with their Northern migrants), and the emerging black vote.”78

A closer look at the presidential election of 1964 showed that white voters in the South were changing their opinion on issues of race and civil rights. In both cities and towns across the South, a significant number of white voters from every economic class cast ballots for Lyndon Johnson even though, just months earlier, he had signed the Civil Rights Act into law. While he rarely won majorities over Goldwater among lower-class whites especially in the rural South, Johnson still maintained significant support there (See Table 1). A change in the dominance of the race issue among southern voters was especially apparent on the issue of integration. Historian Stephen Hayward points out that between the 1940s and the 1960s, “even in the South public opinion on race was beginning to moderate.”79 Support for integration of schools rose from 3 percent to 31 percent; support for transportation integration rose from 4 percent to 52 percent; and support for integrated housing rose from 12 percent to 51 percent.80 At the same time as white voters in the South grew more moderate on racial issues, the number of African-American voters in the region grew steadily. In the 1964 presidential election, for the first time in history, the voting rate among African-Americans reached fifty percent, nearly double the average rate of the previous decade. The Voting Rights Act of 1965 expanded the ranks of southern black voters even more. By the close of the 1960s, sixty percent of eligible African

Midair Collisions, MSS 100. Administrative Assistant; A. Subject File; Memoranda: Folder I; September 1969 – December 1976.
77 Ibid.
80 Ibid, 24.
Americans in the South were registered to vote, compared to two-thirds of the white population. According to historian Numan Bartley this new voting bloc “buttressed the forces of moderation” across the region.81 By 1968 African Americans exercised increasing influence over the South’s political machinery, “moderating southern politics and encouraging black support for moderate policies.”82

Convinced he could bring the South into his coalition, Nixon sought the support of Strom Thurmond. Nixon needed Thurmond to deliver southern delegates for him in order to ensure a victory on the first ballot at the convention, and avoid a showdown with Reagan and Rockefeller. Harry Dent, chairman of the South Carolina Republican Party and Thurmond’s former assistant, had been pressuring Thurmond to endorse Nixon despite Thurmond’s attraction to Reagan. “A vote for Reagan is a vote for Rockefeller,” Dent cautioned Thurmond. “We have no choice, if we want to win, except to vote for Nixon. We must quit using our hearts and start using our heads. Believe me, I love Reagan. But Nixon’s the one.” Nixon hoped to make this same case to Thurmond personally, planning to travel down to a gathering of southern Republicans in Atlanta in late May.83

Just days before the trip, on May 27, 1968, the Supreme Court announced a decision that threatened to throw off his balancing act once more. In Green v. New Kent County School District, the Warren Court issued one of its most important decisions on the school desegregation issue. For nearly two decades, much of the country had operated under the assumption that freedom-of-choice plans, which technically allowed African-American students to register at any school within defined vicinities, were a sufficient remedy to meet the directive of Brown v. Board of Education. Freedom-of-choice plans were notoriously ineffective, however, as

82 Ibid, 405.
83 Cohodas, 396-397.
African-American students who tried to register in white schools faced intimidation, threats, and more practical challenges like inadequate transportation. As a result, the Court ruled in *Green* that freedom-of-choice plans were an insufficient remedy for racial inequalities and imbalances in schools. It ordered districts with segregated schools to “fashion steps which promise realistically to convert promptly to a system without a ‘white’ school and a ‘Negro’ school, but just schools.”\(^{84}\) The decision was the first direct order from the Court to compel a timely end to dual school systems, a phenomenon disproportionately present in the South. The NAACP Legal Defense Fund immediately requested that federal courts review all desegregation plans to ensure their compliance with the new decision. According to historian Dean Kotlowski, *Green* “shift[ed] the onus of desegregation from blacks to school boards, meaning no future administration could copy LBJ and invoke the ‘freedom of choice’ shibboleth.”\(^{85}\)

On the eve of his visit to Atlanta, Nixon came face to face with the politically sensitive matter of school desegregation. He wanted to handle it in a way that would not cost him the support of southern whites or African Americans. Anticipating widespread public reaction to *Green*, Nixon prepared to position himself in the middle, praising the principle established in *Brown* and criticizing the remedy proposed in *Green*. “The Court was right on *Brown* and wrong on *Green*,” Nixon told his advisers.\(^{86}\) Nixon had previously argued that school desegregation was right, for both political and moral reasons. However, he also asserted that compulsory integration of schools was wrong, especially when it involved the potential solution of “busing pupils long distances away from their homes.”\(^{87}\) Busing could “destroy” a child, Nixon argued,

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\(^{84}\) Perlstein 284.  
\(^{85}\) Kotlowski, 27.  
\(^{86}\) Safire, 232.  
\(^{87}\) Ibid.
and courts were unqualified determine whether it would actually improve educational opportunities for African Americans.⑧⑧

The strong reaction to *Green* never came, from either civil rights leaders or segregationists. Yet, when Nixon traveled to Atlanta on May 31, 1968—the *Green* decision only days old—desegregation and the Supreme Court were primarily on his mind. In Atlanta, he reassured southern leaders that if elected he would reject compulsory busing as an acceptable method for integration and racial quotas.⑧⑨ In addition, he vowed to appoint only strict constructionists to the Supreme Court, judges who agreed that the Court’s desegregation mandate was in need of “reinterpretation.”⑧⑩ Liberal judges had “tipped the balance too far against the strict-construction interpreters of the Constitution.”⑧⑪ He also assured his audience that his choice for vice president would be “acceptable to all sections of the party” and promised to appoint southerners to powerful positions within the administration.⑧⑫ Persuaded by Nixon’s appearance in Atlanta and encouraged by Dent, Thurmond decided to endorse Nixon. In an effort not to tip off Reagan’s strategists, however, he did not reveal his support publicly until the convention.⑧⑬

Over the course of the summer months, Nixon continued to push law and order as the major theme of his campaign for two reasons. First, after years of protests, riots, and civil disturbances over civil rights and the war in Vietnam law and order seemed to be the right message. A Harris poll published in the *New York Times* showed that 81 percent of voters believed that “law and order has broken down.”⑧⑭ In that same poll, 84 percent believed a

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⑧⑧ Perlstein, 300.
⑧⑩ Ibid.
⑧⑪ Ibid.
⑧⑫ Ibid.
⑧⑬ Ibid.
“strong president” could improve the situation. Second, Alabama Governor George Wallace, who entered the 1968 presidential race as a third-party candidate, had been eagerly promoting himself as both the right man to handle the rioters as well as the best man to halt what he described as an increasingly intrusive government. “Send them a message,” Wallace proclaimed to overflowing campaign audiences. Referring to the riots in Washington, Wallace told a crowd he would make the Capital a safe place “for your children to visit” even if he had to mobilize 30,000 National Guard troops. Wallace criticized liberals “with pointed heads”, an “insane” Supreme Court, and “anarchists” for the country’s problems. Nixon knew that he would have to win a substantial portion of the law and order voters in the general election in November. He could not afford to be outflanked by Wallace.

Within the GOP, Reagan and Rockefeller were positioned at opposite ends of the law and order spectrum. Reagan rode the law-and-order message to the governorship of California in 1966 when two-term Governor Pat Brown seemed unable to rein in campus chaos at Berkeley, instigated by administrators who sought to limit political activity on campus. Reagan followed through with campaign promises to restore order at Berkeley and continued to make law and order his mantra in the 1968 primary campaign. When Senator Robert Kennedy was assassinated on June 6, 1968, for example, Reagan blamed “an attitude that says a man can choose the laws he must obey, that he can take the law into his own hands for a cause.” That was unacceptable, Reagan said. Rockefeller, in sharp contrast, focused instead on the rebuilding of communities and solving social problems. Nixon purposefully tried to place himself directly

95 Ibid.
98 Jerry Gillam, “Demagogic Words of So-Called Leaders’ to Blame, Reagan Says,” Los Angeles Times, June 6, 1968, B.
between Reagan and Rockefeller. On August 3, Nixon submitted his proposals—which both expressed respect for authority but stopped short of condemning any group—to the GOP platform committee. “When the homes and schools and churches of a free society fail in their roles as commissioned watchmen,” Nixon wrote, “the people must fall back for their safety upon the police and prosecutors and courts.”99

A similar scenario played out on the other main issue in the GOP primary: Vietnam. Once again representing the most conservative position, Reagan threatened an invasion of North Vietnam unless significant concessions were made in the Paris Peace talks. Rockefeller, in contrast, called for a gradual withdrawal of American troops from Vietnam and training the South Vietnamese to provide their own security. Nixon once more sought to find the middle ground in the Republican primaries, ultimately seizing the position of the Democratic president as a way out. At the end of July, President Johnson asked Nixon to fly to Washington so that he, the GOP’s likely presidential nominee, might be briefed on the war’s progress. Johnson explained that he would continue bombing north of the demilitarized zone until the North Vietnamese agreed to negotiate reasonably with the South Vietnamese.100 Nixon wrote in his memoirs that he pledged to Johnson that he would “not to undercut our negotiating position just in case the Communists came around and agreed to the conditions Johnson would insist upon in return for a bombing halt.”101 Here, then, he sounded much more like Rockefeller than like Reagan. He called for a “phasing-out” of American troops and a settlement of the conflict.102

Nixon successfully juggled law and order and Vietnam, the two major issues of the election. With further help from his meticulous campaign staff and his own tireless

100 Ibid.
campaigning, Nixon emerged as the likely GOP nominee. When the GOP finally gathered in Miami Beach, however, it became clear that Nixon’s nomination was not guaranteed. While Rockefeller announced he had twice as many votes as Reagan did, Reagan had been busy over the course of the summer personally courting delegates from across the country, but especially in the South. Many southern delegates had promised to switch their vote to Reagan when he actually declared his candidacy, which Reagan did on the afternoon of August 5, the first day of the convention. Reagan’s strategist Clifton White argued the “unit rules”—which gave a candidate winning the majority of a delegation credit for all the delegation’s votes—would be the best option to capitalize on the support of southern delegates.

The following day, on August 6, Reagan approached the southern delegates he had carefully courted over the summer months. They politely declined to support him. White quickly realized that most of the southern delegates had been talking directly to Strom Thurmond, who made his way through the entire southern delegation in Miami Beach to make clear that “a vote for Reagan is a vote for Rockefeller.” 103 Voting for Reagan, Thurmond told the southern delegates, would destroy Nixon’s first ballot chances and open the door to a Rockefeller—not a Reagan—victory on the second ballot. “Very early in the game I was aware of the curious game being played,” White recounted.104 While most southern delegates should have supported Reagan, “if for no other reason than the vast majority of Republicans in their states wanted Reagan as their candidate”, White explained, Dent and Thurmond had been “quietly working for Nixon” all along.105

104 Clifton White, 97.
105 Ibid.
with Rockefeller’s team to try to collaborate on a potential strategy to stop Nixon’s first ballot chances. They came to no agreement.  

Confident that he had enough votes to win the nomination on the first ballot, Nixon gathered his political strategists—Robert Finch, H.R. Haldeman, John Mitchell, John Tower, Robert Ellsworth, and Rogers Morton—on the evening of August 7, 1968 to discuss the GOP’s vice-presidential candidate. The short list for the position had three names: Governor John Volpe of Massachusetts, Governor Spiro Agnew of Maryland, and Lieutenant Governor Robert Finch of California. Volpe did not add much politically to the ticket, but Nixon seemed to like him personally, in large part due to his Italian heritage. Garment observed that Nixon was attracted to such “foreign ethnic types.” His aides suspected the Italian-American governor might help Nixon in states with larger cities in the Northeast and Midwest. Historian Herbert Parmet has noted that Italians were “rushing towards Republicanism” in the late 1960s and were “especially valuable because of their concentration in states with significant numbers of electoral votes.”

In many ways, Agnew seemed the obvious choice for Nixon. He had established himself in the aftermath of King’s assassination as a tough law and order governor. Early in the convention, Agnew told the assembled audience “anarchy and rioting” have “no constructive purpose in a constitutional republic.” Importantly, however, Agnew also had a more balanced record on civil rights. He had defeated a segregationist candidate to win the governorship of Maryland, carrying 94 percent of the black vote. Once in office, he appointed African

106 Perlstein, 300.
107 Herbert Parmet, Richard Nixon and His America (Boston: Little, Brown, and Company, 1990), 510.
108 Parmet, 510.
Americans to numerous state offices, enforced new fair employment policies in Maryland’s executive branch, and pushed through an open housing bill that prohibited discrimination in the sale of new homes.\textsuperscript{111} Agnew also told the convention audience “racial discrimination must be eliminated no matter whom that upsets.”\textsuperscript{112}

The final name on the shortlist for vice president was Robert Finch, a forty-four year old liberal Republican from California. Finch first met Nixon in 1946 when he was working as a staffer for Congressman Norris Paulson. After law school and service in the Korean War, Finch returned to California and became increasingly involved in California politics, running for Congress twice in 1952 and 1954, at the same time as setting up a successful law practice. In 1958, Nixon asked Finch to come to Washington to work in the vice president’s office in anticipation of his presidential run in 1960. Nixon valued Finch’s advice. Journalist James Reichley, who conducted extensive interviews of Nixon administration officials, noted that since the 1940s, Finch had “served as a good sounding board” for Nixon “a companion on who to try out ideas about government, about politics—about life.”\textsuperscript{113} In 1960, Finch managed Nixon’s campaign; in 1966 he was elected lieutenant governor of California. Finch molded himself into a West Coast progressive in the image of Earl Warren and Thomas Kuchel. The election of 1968, Finch argued, would be the “last election won by the un-black, the un-poor and the un-young.”\textsuperscript{114} By then, Finch had become Nixon’s “chief confidant and closest friend.”\textsuperscript{115} Though still a presence in California politics, “Nixon needed Finch,” who shuttled back and forth between coasts to advise Nixon in the lead up to the 1968 convention.\textsuperscript{116}

\textsuperscript{111} Kotlowski, 197.
\textsuperscript{114} Davies, 115.
\textsuperscript{116} Ibid.
After a brief discussion between Nixon and his assembled advisers, Nixon made clear that Finch was his choice for the ticket, a striking indication of how different Nixon’s presidency might have been.\(^{117}\) Finch ultimately refused the position, “appalled” at the suggestion and concerned that a Nixon-Finch ticket would “smack of nepotism.”\(^{118}\) In addition, Finch “felt he could be a better friend and adviser than a running-mate to the old companion who now offered him partnership.”\(^{119}\) Nixon called Agnew, the committee’s second choice, and Agnew accepted his offer to become the GOP’s candidate for vice president.

On August 8, 1968, Nixon received 692 votes on the first ballot to become the GOP’s presidential nominee. Rockefeller won 277 delegates and Reagan 182. Thurmond’s assistance gave Nixon 248 votes in the 11 states of the former Confederacy; Reagan won only 58.\(^{120}\) In addition, the broad base of support Nixon had built over much of the spring and into the summer of 1968 was apparent at the convention. One *New York Times* columnist described Nixon as the “symbol of reunion” at the convention “the man who is most easily accepted by the greatest number of delegates and the man who deserves recognition for his abundant services to all wings of the party.”\(^{121}\)

In delivering his acceptance speech, Nixon linked law and order and Vietnam. American cities were “enveloped in smoke and flame,” Nixon said.\(^{122}\) We “hear sirens in the night; we see Americans dying on distant battlefields abroad; we see Americans hating each other; fighting

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\(^{117}\) Ibid, 253.

\(^{118}\) Ibid.

\(^{119}\) Ibid.

\(^{120}\) Tom Wicker, “Nixon Selects Agnew As His Running Mate,” *New York Times*, August 9, 1968, 1.


each other; killing each other at home.”123 Then, he signaled to the “forgotten Americans”—a phrase Reagan had been using for months—that he was their man. There was, Nixon insisted, a “quiet voice in the tumult and the shouting. The great majority of Americans, the forgotten Americans—the non-shouters; the non-demonstrators.”124 And the forgotten Americans, according to Nixon, transcended color lines. “They are black and they are white,” Nixon said. “They are not racists.”125

When Nixon announced Agnew as the vice presidential nominee, delegates from the Northeast and Midwest were furious. They “seethed and grumbled,” Tom Wicker wrote in the New York Times, “particularly those in the moderate wing of the party and from big urban states, who believed a Southern-oriented ticketed could not win this fall.”126 Many Republican moderates criticized Nixon for cutting a deal with Thurmond and predicted that would “come back to haunt him in the campaign against the Democrats.”127 Despite the outrage, calls for unity from New York Mayor John Lindsay and Rockefeller helped to prevent significant party fracturing at the convention and kept the GOP relatively intact.128

The end of the convention also marked a massive shift in power within the Nixon organization. The “hard-nosed Haldeman-Ehrlichman operation,” as Garment called it, took over the campaign’s operations, signaling an “abrupt, though probably essential, shift of authority from the happy and anarchic little band that had run the campaign from 1966 through the 1968 primaries.”129 Unlike many of Nixon’s campaign staffers, Haldeman and Ehrlichman were not Nixon’s friends, but rather “singularly devoted to the breeding and tending of

124 Ibid.
125 Ibid.
127 Ibid.
128 Ibid.
129 Garment, 126.
power.”  Despite their pairing, the two men were quite different from one another.

Ehrlichman was raised in Washington State as a Christian Scientist, his father a convert from Judaism. A decorated World War II navigator in the Air Force, Ehrlichman used his GI Bill benefits to attend UCLA and Stanford Law School before settling into a law practice in Seattle. A “political moderate,” Ehrlichman “espoused no particular philosophy, save to elect his boss president.”  Safire suggested that Ehrlichman, “more than any of the men in close” was “a product of Nixon’s, and worth observing in studying Nixon’s creations.”  According to Kotlowski, “Ehrlichman reflected the tactician in Nixon, mediating between liberal staffers such as Garment and conservatives such as Buchanan.”  On civil rights in particular, Ehrlichman had a reputation as being “pragmatic.”  H.R. Haldeman, meanwhile, was born in Los Angeles and served in the Navy Reserve during World War II. After attending UCLA, he successfully worked in advertising before becoming Nixon’s advance man in the 1960 election and then his campaign manager in the 1962 gubernatorial race. Haldeman’s relationship with Nixon, Safire noted, was “similar in a way to that of Cathy and Heathcliff in *Wuthering Heights*—Cathy insisted she was not so much in love with Heathcliff, as she was Heathcliff—so too did Haldeman see his identity merged with Nixon’s. But Haldeman would show what Nixon could conceal. Haldeman could be cruel in person as Nixon could be cruel in abstract.”

As he campaigned in the fall of 1968, Nixon pushed law and order. He sought to fend off attacks that law and order possessed subtle racist overtones by characterizing it as a value that transcended racial lines. In Charlotte, North Carolina, for example, Nixon told a group of 7,000

130 Ibid., 152.
131 Kotlowski, 13.
132 Safire, 10.
133 Kotlowski, 14.
134 Ibid.
135 Safire, 10.
people, mostly white, “A new voice is being heard in America. It’s the forgotten
Americans,...people who pay their taxes and go to work and support their churches, white people
and black people, people [who] are not rioters.” Law and order was also a way for Nixon to
contrast himself with his Democratic opponent, Hubert Humphrey, in a race where the two
candidates were not strikingly different.

Throughout the campaign, Nixon was largely silent on most civil rights issues.
According to historian Hugh Davis Graham, “on civil rights issues he had little to say beyond the
customary nostrums—it was a time for moderation and healing, for rejecting the extremes of
racial segregation and forced busing, for trying to make the existing laws work rather than
adding new ones.” When civil rights did enter the campaign, it was often when George
Wallace tried to provoke Nixon. In September, for instance, Wallace accused Nixon of courting
whites in the South on themes of law and order, while still supporting civil rights legislation to
curry favor with the Eastern Establishment. A day later, on a campaign stop in the South, Nixon
responded by clarifying his opposition to the Court’s ruling on school desegregation. “When
you say that it is the responsibility of the Federal Government and the Federal courts to, in effect,
act as local school districts in determining how we carry that out,” Nixon said, “then to use the
power of the Federal Treasury to withhold funds in order to carry it out, then I think we are going
too far.”

Ultimately, the Humphrey campaign could not escape Lyndon Johnson’s shadow,
especially when it came to the war in Vietnam. Nixon won an extremely close election,
receiving 43.4 percent of the popular vote to Humphrey’s 42.7 percent, and 301 electoral votes to

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Humphrey’s 191. Wallace, running on the American Independent ticket, managed 13.5 percent of the popular vote and 46 electoral votes. He won Louisiana, Mississippi, Alabama, Georgia, and Arkansas, while Nixon won the remainder of the southern states.

Voter turnout in the South in the 1968 presidential election was unprecedented. Approximately 51 percent of the region’s voting-age population went to the polls, which represented an increase of 183.6 percent from 1948.139 Overall, Nixon won the South with 34.7 percent of the votes, surpassing Wallace’s 34.3 percent and Humphrey’s 31 percent.140 Nixon found the most success in “higher-prestige neighborhoods” where his “economic conservatism and law-and-order defense of social stability” won him votes among affluent whites.141 On the other hand, Wallace was most successful among rural and lower class voters, especially in the Deep South. Importantly, Wallace’s success among those lower class groups was not absolute. In Little Rock, Arkansas, for example, Nixon won nearly a third of all lower- and lower-middle class votes. In Miami, Florida he handily defeated Wallace in the working-class demographic, nearly doubling the number of Wallace votes, though the high concentration of Cubans in the city helps explain the anti-immigrant Wallace’s problems there. In rural Macon, Georgia, Nixon won nearly thirty percent of the working-class vote. In Richmond, Virginia, former capital of the old Confederacy, Nixon beat Wallace by 3 percentage points.142 (See Table 2)

In the weeks after the election, Nixon appointed Harry Dent as his political adviser on southern affairs. As Nixon prepared to take office, Dent was already working to solidify the South as part of a permanent GOP coalition. Dent had concluded that there was an opportunity

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140 Ibid, 127.
141 Ibid.
to “write the South into the Union on an equal basis.” As the power of the South in national politics increased, however, Dent was cautious not to give the impression that the new administration was “less interested in the Northeast.” Dent framed a strategy that would include both the South as well as northern states. “Nobody is being written out,” Dent wrote to Nixon. “The South is only being written in…. [W]e are bringing the country back together again.” In that context, Dent downplayed the idea of a “southern strategy.” “There is no such thing as a southern strategy,” he wrote. “The myth that there is any such thing as a Southern strategy…the only strategy….is a strategy to win all across the country.”

A moderate approach to civil rights was necessary to build a lasting national political coalition for the GOP. “This cannot be done with a polarizing strategy,” Dent advised Nixon. “There is far more to be gained, North and South, by a moderate strategy.” Dent warned Nixon that “Republicans who try to out-segregate the Democrats seldom win; Republicans who win votes of [moderates]—men like Rockefeller, Holton, Baker, Bush, and even Tower—win the highest offices. Those who await mass conversions of racist Democrats to Republicanism have a long wait indeed.”

Nixon had done poorly among African-Americans voters in the election, carrying 12 percent of the black vote, a significant decrease from the 30 percent he had won in 1960. Yet Nixon’s advisers were not discouraged. The Minorities Division of the Republican National

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143 Memorandum for Harry Dent, December 11, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”

144 Memorandum for Harry Dent, December 11, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”


146 Memorandum for the President, From Harry Dent, December 1, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”


148 Memorandum for the President, From Harry Dent, December 1, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”

Committee, for example, viewed African-American voters as fundamental to the party’s political strategy in the region. “We must move forcefully into the South. If we do, long-range victory is ours,” an election analysis from the RNC noted. Immediately after the election, Dent wrote to Phil Joanou, a prominent Nixon advertising consultant, to explain why attracting African-American voters was important to the GOP’s long-term strategy. “The greatest concentration of Negroes in the South and, for that matter, the country runs in the traditional Deep South Black Belt,” Dent wrote. “A glance at census maps shows that this has changed little between 1960 and 1970. All 103 counties with a Negro population of at least 50% are in the area.”

Dent prioritized the pursuit of black voters in a memo titled the “Eight Goals of the Nixon Administration.” While “many black leaders may denounce us,” wrote Dent, “we must continue to receive them and show every courtesy. The ethnic groups deserve more attention than they have been getting.” Dent argued the GOP had to demonstrate a “total willingness to add ‘color’ to the Southern Strategy.”

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insisting “everyone is wanted.”

“Republicans have a great deal to offer Blacks,” Dent wrote to Nixon.

The strategy for recruiting African-American voters was twofold. First, the administration set out to promote black elected officials both by increasing the prestige of incumbent black officeholders and helping aspiring black public servants get elected to office. Lyn Nofziger, a Republican strategist and an incoming White House aide, summarized this strategy in a memo to Dent. “We should also be utilizing our elected Negro officials in such a way as to give them stature,” Nofziger argued. “It seems to me that we scattershot our efforts to elect Negro candidates. If we would pick three or four each year, at whatever level, and adequately finance them and support them, then within a few years we could have cadres of elected Republicans who have a special obligation to the Republican-Nixon Administration.”

There “should be a Black person in the communications department to see that news is disseminated of interest to the Black community through the various Black publications, as well as the general press. More publicity should be given showing that there are Republican Black elected officials…. [T]he story isn’t getting out.”

In addition to building relationships with black leaders, Nixon sent representatives to address black citizens in the South directly to persuade black constituencies that the administration was invested in them. For example, Bob Brown, special assistant to the president who directed many of Nixon’s programs promoting minority business enterprise, wrote to John Ehrlichman to inform him trips the administration had planned for officials in “a number of
predominantly black towns and rural communities around the country.” In the South, the administration hoped to “educate black officials” about the federal initiatives to improve their well-being and to “demonstrate the concern of the Administration in making those programs available.” The administration’s aim was to “achieve visible tangible results that could be used to demonstrate the thrust of the Administration in the minorities area.”

The decision of Nixon and his advisers to incorporate African Americans into the GOP’s coalition was also driven by a fear that alienating African Americans could drive the country into further racial turmoil. “It will be the role of a Nixon Administration to thwart that development,” wrote adviser Samuel C. Jackson, “to avoid what many predict will be a race war with permanent divisions.” Another adviser wrote to Nixon that he could quell fear among some whites of a “black revolution” by emerging as a leader who could talk to both whites and African Americans. “Show you can really speak to the blacks,” the memo suggested. “Show your compassion with them,” another adviser implored, “merely by the fact of being with them [especially] in the South or what I call ‘nervous’ areas again because it would demonstrate that you can communicate with the Blacks.” In the fall of 1968, Nixon recognized the great danger that racial tensions still posed to the country. “All we can do is not say anything or do anything which will cause the Negroes to lose confidence in me,” Nixon told the head of the Philadelphia

Chamber of Commerce, “because I am going to be President of the United States, and no President can do anything without having the confidence of the black community.”\textsuperscript{163}

\textsuperscript{163} Hugh Davis Graham, \textit{The Civil Rights Era} (New York: Oxford University Press, 1990), 305.
# TABLE 1

## 1964 Presidential Election Select Returns Southern Counties

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Chapter 2

“A Hell of a Problem”

“Few public issues are so emotionally charged as that of school desegregation, few so wrapped in confusion and clouded with misunderstanding. None is more important to our national unity and progress.”

Richard Nixon, March 24, 1970

At his inauguration, Nixon reassured blacks and whites that he would work to resolve the racial tension that plagued the nation. On the steps of the Capitol, Nixon urged his audience to “listen to the better angels of our nature” and to “surmount what divides us, and cement what unites us.” Let us “lower our voices,” Nixon concluded.

The greatest civil rights challenge facing the country as Nixon took office in January of 1969 was the desegregation of southern schools. Both Nixon’s conservative advisers as well as his more liberal aides believed that the administration would be capable of navigating the treacherous path towards successful school desegregation, but that the going would be difficult. According to Bryce Harlow, Nixon’s congressional liaison, Nixon’s own attitude was that segregation “was a hell of a problem that the country had to get past.” Many of Nixon’s advisers were “profoundly concerned about the danger of a constitutional confrontation,” Leonard Garment noted, that could result from officials in the South defying court orders and legislative mandates as the legal and judicial framework for civil rights was strengthened over the course of the decade.

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3 Ibid.
Nixon suggested that enforcing court-ordered desegregation was “fair” and “good for the nation” and promised a balanced approach.\textsuperscript{6} He argued that there were those “who want instant integration and those who want segregation forever. I believe that we need to have a middle course between those two extremes.”\textsuperscript{7} He wanted to “appear more reasonable than Johnson and still carry out the law.”\textsuperscript{8} Not only was it not in the country’s best interests to devote time, resources, and energy to addressing racial antagonisms, public discord over civil rights also threatened Nixon’s image and the ability of the White House to get things done. “It became clear [to Nixon],” one scholar astutely observed, “that he could not rule a country absolutely torn asunder by the race question…he had to have domestic tranquility to get his chance at a favorable review by the historians.”\textsuperscript{9}

While Nixon promised action on school desegregation through a balanced approach, he came to the White House in January of 1969 without a clear position on the issue. From the start, he presented the issue ambiguously and as a matter of federal versus local control, saying his administration would “reverse the situation wherein state and local officials merely get the word from Washington. Rather, we want the federal government to get word from the state and local governments.”\textsuperscript{10} Nixon selected Robert Finch to head the Department of Health, Education, and Welfare (HEW), the agency charged with overseeing school desegregation. Finch had turned down invitations from Nixon to become both his vice presidential candidate and his attorney general, setting his sights instead on HEW, the “the action department of the administration,” as he called it.\textsuperscript{11} Finch assembled a diverse team of civil rights progressives—

\textsuperscript{9} Reg Murphy and Hal Gulliver, \textit{The Southern Strategy} (New York: Scribner, 1971), 221.
with minimal resistance from the White House—along with a few conservatives to run HEW. James Farmer, for example, the former head of the Congress of Racial Equality (CORE), became an assistant secretary at HEW. James Allen, the head of the New York public school system and a proponent of busing, became HEW commissioner. Finch even offered a job to Roger Wilkins, the nephew of NAACP executive director Roy Wilkins—an uncompromising and outspoken civil rights activist in the Johnson administration—though Wilkins turned him down. On the conservative side, Finch appointed L. Patrick Gray as assistant to the secretary. Californian Robert Mardian, also a conservative, was appointed general counsel. Among numerous graduates of the University of Southern California who had positions in the Nixon administration, Mardian had chaired Barry Goldwater’s 1964 campaign and Nixon’s 1968 campaign in four western states.

Finch also asked Leon Panetta, a native Californian and a former assistant to Senator Thomas Kuchel, to lead the Office of Civil Rights (OCR), which was at that time a department within HEW. Kuchel had initially come to the Senate when California governor Earl Warren appointed him in 1952 to occupy Nixon’s vacated seat after Nixon had won the vice presidency. Kuchel was a fiscal conservative, staunch anticommunist, and civil rights progressive who, as minority whip, helped manage the floor vote for the 1964 Civil Rights Act. Working under Senator Kuchel, Panetta built a reputation as a civil rights progressive and effective negotiator, helping to draft the Civil Rights Act of 1968. When he took over at OCR at the age of 30, Panetta immediately noted a “gulf” between his “1960s-style liberalism” which sought to “bring into the American homestead those millions who had been left out of it” and Nixon’s “orthodox conservatism.” In fact, though a registered Republican, Panetta had voted for Hubert

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12 Reichley, *Conservatives in an Age of Change*, 181.
Humphrey in 1968. While he did not disclose this fact to Finch or others in the administration at the time, he “always thought they knew.”\textsuperscript{14} Still, he agreed to head OCR, hoping that the “Nixon administration would continue slow momentum forward on civil rights, or at least that there would be no retreat.”\textsuperscript{15}

In their first days at HEW, Finch and his team confronted a complicated and still evolving legal framework for desegregation left behind by the Johnson administration. Johnson’s legislative accomplishments in the field of civil rights were unparalleled. In 1964, Johnson refused to compromise on the specifics of a civil rights bill, insisting on strong language and principles in the Civil Rights Act of 1964, a legislative framework that far exceeded the vision of his predecessor, John F. Kennedy. On March 15, 1965, as he prepared the nation for the passage of landmark Voting Rights Act, Johnson addressed a joint session of Congress and proclaimed to the nation that the time had come for the United States to prevail over its “crippling legacy of bigotry and injustice.”\textsuperscript{16} As Johnson neared the end of his speech, he insisted “their cause must be our cause, too.”\textsuperscript{17} Johnson hesitated momentarily before adding the phrase “we shall overcome.”\textsuperscript{18} Johnson biographer Robert Caro wrote that aides to Martin Luther King, Jr., watching the president’s speech with the civil rights leader at a home in Selma, Alabama in the midst of the Selma to Montgomery March for voting rights, “saw him cry then” for the first time.\textsuperscript{19} After the Voting Rights Act passed, Johnson set his sights on a fair housing bill. “We’ve got to end this God-damn discrimination against Negroes,” Johnson told his aide Joseph Califano. “Until people whether they’re purple, brown, black, yellow, red, green or

\begin{itemize}
  \item \textsuperscript{14} Ibid.
  \item \textsuperscript{15} Ibid.
  \item \textsuperscript{17} Ibid.
  \item \textsuperscript{18} Ibid.
\end{itemize}
whatever—live together, they’ll never know they have the same hopes for their children, the same fears, troubles, woes, ambitions. I want a bill that makes it possible for anybody to buy a house anywhere they can afford to.”

Johnson got his bill just months before the end of his presidency in the form of the Civil Rights Act of 1968, which included Title VIII, the Fair Housing Act. The section explicitly prohibited the “refusal to sell or rent a dwelling to any person because of race, color, religion, or national origin.” Taken together, the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Civil Rights Act of 1968 represented an unprecedented legal framework for civil rights. King’s widow, Coretta Scott King, called the package the “most comprehensive and effective civil rights legislation” in history.

Mourning Lyndon Johnson’s death on January 22, 1973, civil rights leaders Bayard Rustin and A. Philip Randolph offered the highest praise for the former president, suggesting “with the exception of Lincoln, who freed the slaves, no single President contributed as much to the cause of racial equality as did Lyndon Johnson.”

Importantly, in addition to these legislative accomplishments Johnson also deliberately set the terms of the civil rights debate along moral lines. Casting aside the negotiated give-and-take political coalitions he had spent much of his career constructing, Johnson framed the discussion as a matter of right and wrong. “I speak tonight,” Johnson proclaimed in his March,

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23 Ibid.
1965 American Promise speech, “for the dignity of man and the destiny of democracy.”

Johnson biographer Doris Kearns Goodwin eloquently summed up the manner in which Johnson had emerged on civil rights. “For on this issue,” Goodwin explains, “He was more than a giver of gifts; he had become a moral leader.”

While Johnson pointed out that racial tensions were not a strictly southern problem or a problem only for African Americans, and even as he pled with the nation to take the high moral ground on the civil rights issue, he acknowledged the complexity of southern society. Racial antagonism and inequality, Johnson insisted, presented a crisis national in scope. There was no “Negro problem…Southern problem…[or] Northern problem,” he declared, but rather there was an American problem. Still, he confessed “As a man whose roots go deeply into Southern soil, I know how agonizing racial feelings are. I know how difficult it is to reshape the attitudes and structure of our society.”

Johnson was steadfast in targeting the entrenched racial inequality of southern institutions—provisions in the Voting Rights Act, for example, which vigorously targeted practices of disenfranchisement in the South—and understood that his actions on civil rights would fracture a Democratic political coalition which had endured since the New Deal. “By endorsing a civil rights bill,” historian Dan Carter writes, “Johnson knew he had destroyed what was left of his party’s old base among white voters in the South.”

In alienating segregationist-leaning southern white voters, he wrote off the South as a reliably Democratic region and solidified two-party competition there.


27 Ibid.

Yet, the successful passage of the Civil Rights Act and the Voting Rights Act provided Johnson with a significant victory among other groups of voters—moderates and self-described racial-gradualists. For the moment, that victory outweighed the political price of losing southern white conservative support. As a result of Johnson’s legislative accomplishments, and as African Americans gradually but boldly circulated through the formerly all-white institutions of southern society, “without the ‘seas of blood’ that white supremacists had confidently predicted for half a generation,” as Carter suggests, “the outer boundaries of the region’s color line collapsed.”

In addition to the Fair Housing Act, Johnson followed the remarkable accomplishments of 1964 and 1965 with additional legislation to compel compliance and promote equality. This was especially true in education. Title VI of the 1964 Civil Rights Act required that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The consequences of noncompliance grew significantly when Johnson guided the Elementary and Secondary Education Act (ESEA) through Congress in 1965. ESEA increased the federal role in education, an area historically reserved for state and local governments. The act provided an unprecedented level of federal investment and aimed to fund quality education for students of all socioeconomic backgrounds.

ESEA funding depended on compliance with Title VI of the 1964 Civil Rights Act. Therefore, as historian Gareth Davies suggests, ESEA provided a “potentially powerful vehicle for attacking racial discrimination in schools.”

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29 Ibid., 225.
31 Davies, 2.
following ESEA’s passage, the Department of Health, Education, and Welfare (HEW), charged with ensuring that schools met the qualifications for receiving ESEA funding, enforced Title VI weakly. Before 1966, HEW accepted freedom-of-choice plans as adequate proof of a district’s non-discrimination policy. Under these plans, individual African-American students petitioned for transfer from a district’s all-black school to an all-white school. While southern districts argued this option removed the legal barriers to desegregation, the “burden of integration” was placed on African-American petitioners who were often dissuaded by “intimidation” from anti-integration whites.\(^{32}\) Ralph McGill, the progressive editor of the *Atlanta Constitution*, wrote “there is all too often no freedom in the freedom of choice plan. It too frequently is freedom in reverse. It offers a segregationist, racist-dominated community or board an opportunity to proclaim a free choice, while they covertly employ ‘persuasions’ to maintain segregation or meager tokenism.”\(^{33}\) As a result, African-American mobility within southern school districts was hindered and the dual school system remained intact. At the close of 1965 school year, just 6 percent of southern students attended integrated schools.\(^{34}\)

After the passage of ESEA in 1965, as southern schools pledged to meet the requirements of Title VI even as they continued to discriminate on the basis of race, civil rights groups pushed for compliance. The Student Nonviolent Coordinating Committee (SNCC), the National Association for the Advancement of Colored People (NAACP), and the American Friends Service Committee joined other groups in urging HEW to scrutinize the freedom-of-choice plans approved by the courts. Activists charged that HEW “deferred” to “outdated and limited court degrees.”\(^{35}\) As a result of pressure exerted by civil rights activists, officials at HEW developed


new criteria for Title VI compliance and ESEA funding. In March of 1966, HEW released revised guidelines that demanded evidence of “significant progress” towards integration and banned freedom-of-choice plans as reasonable evidence of integration.\(^{36}\) The Office of Education, which operated as a division of HEW, sent letters to school districts in 17 states demanding statistical evidence of integration in both the student body and the faculty and staff. In addition, HEW charged that majority African-American schools within dual school systems were inherently inferior. HEW stipulated that “small and inadequate schools for segregated use—markedly inferior to the other schools in the system—must be closed before September and their staff assigned to other schools.”\(^{37}\)

HEW officials warned that the Justice Department reserved the right to intervene in court-ordered desegregation plans in the South in order to strengthen them. Pressured by their communities and fearful of significant backlash, southern judges were generally reluctant to demand extensive and functional plans for desegregation. Until 1966, the judiciary often acceded to the Briggs dictum, codified in 1955 to clarify the decision in *Brown v. Board of Education*. Briggs established that the “Constitution….[does] not require integration,” but rather it only prohibits discrimination.\(^{38}\) The case allowed for unlimited *de facto* segregation and did little to compel integration of any kind.\(^{39}\) When HEW issued its new guidelines demanding statistical proof of integration in 1966, an extraordinarily complex system of rules and enforcement—involving both the federal government and the judiciary—existed in the South. While some schools filed integration plans with HEW, others operated under court-ordered

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\(^{37}\) Ibid.


plans. Upon issuing the new guidelines, then, HEW assured schools with court-ordered plans that the department would not interfere in a “situation already handled by the judiciary.”

Still, white southern leaders were furious at the new HEW guidelines. Twenty-two incensed southern senators penned a letter to President Johnson calling the new guidelines an “unfair and unrealistic abuse of bureaucratic power.” Mississippi Governor Paul Johnson asked education officials in his state not to commit to the new rules, calling them “a brazen attempt not only to exceed the limit of the law, but also to gain absolute control over education.” One Alabama official asked HEW to “trust local school officials rather than announcing distrust indirectly by sending a horde of snoopers into the state.” Echoing William Jennings Bryan in 1896, an Alabama congressman charged that HEW had “pressed down upon the brow of the South a crown of thorns as cruel and as torturous as that pressed upon the head of the Prince of Peace when they crucified Him on the cross.”

At the same time, some civil rights activists also criticized the new HEW guidelines for not having gone far enough. In a three-page letter to HEW secretary John Gardner, the NAACP requested a “direct revision of regulations and guidelines issued under Title VI.” Roy Wilkins, the Executive Director of the NAACP, suggested that “deficiencies” in the new guidelines included “continued acceptance of court-ordered segregation plans, reliance upon freedom-of-choice plans submitted by school authorities seeking to impede desegregation,” as well as a “failure to come to grips with northern school segregation problems.”

41 Ibid.
42 “U.S. Will Not Bow to Dixie Pressure,” Afro-American, April 23, 1966, 1.
43 Ibid.
44 Davies, 112.
The harsh reaction to HEW’s new guidelines surprised and dismayed Johnson, who pressured Gardner to assuage public concerns. Born in Los Angeles, Gardner had been a captain in the United States Marine Corps during World War II. After returning, he took a job working on educational initiatives at the Carnegie Corporation, where he would ultimately become president. In 1961, he published his first book, *Excellence*, which made a compelling case for the link between equality and a successful society. It attracted the attention of President John F. Kennedy, who began to tap Gardner for advice. On July 27, 1965, Johnson appointed Gardner Secretary of HEW, as the newest phase of desegregation compliance began to unfold. In response to Johnson’s request, Gardner gave “assurance to Southern governors that his department was not trying to impose a formula for racial balance in schools or the ‘instantaneous desegregation’ of every teaching staff,” as the *Chicago Daily Defender* reported.\(^{47}\) Johnson warned HEW to limit its reach into noncompliant school districts. In one instance, he even fired an education commissioner for suggesting publicly that the administration intended to withhold funds from segregated school districts in Chicago. The *Defender* observed in April that “the Department of Health, Education and Welfare is not in the mood to carry out, with firmness, the prohibitions under Title VI of the 1964 Civil Rights Act.”\(^{48}\) Responding to the White House’s ongoing interference in 1966, one HEW official sarcastically exclaimed, “We accept tokenism, what more do they want?”\(^{49}\)

Despite Johnson’s demands to ease pressure on southern school districts after the harsh reaction to his new education legislation, the HEW guidelines shifted the onus for enforcing desegregation outside of the federal agency. While a provision in the new guidelines seemed to limit HEW’s jurisdiction in districts already under court order, the new framework encouraged


\(^{48}\) Ibid.

\(^{49}\) Perlstein, 137.
the Justice Department to appeal to the courts to revisit and strengthen existing plans to meet HEW’s new standards. In other words, the Justice Department sought to incorporate courts in legitimating HEW’s new guidelines. According to Gareth Davies, this “facilitated a decisive acceleration in the rate of judicially imposed desegregation.” Motivated by the new guidelines, lawyers at the Civil Rights Division (CRD) of the Justice Department filed a Title VI lawsuit against the Jefferson County school district in Alabama seeking to make HEW’s guidelines the new standard for compliance in court-ordered desegregation plans. The Department wanted a “uniform and comprehensive decree” to establish an “unmistakable precedent” for all schools in the South under court order. Lawyers asked for a “speeding [of] integration in many southern cities and counties” and suggested that a “new judicial tool was needed to correct the lag between the district and appeals court” which resulted in “a wide disparity in desegregation progress and widespread failure to conform with the latest executive and judicial standards.”

The “model decree” would follow “closely the guidelines drawn by the Office of Education for districts permitting students to choose their schools.”

The Fifth Circuit Court of Appeals was responsible for overseeing court-ordered desegregation plans in the South. With a reputation as a liberal-leaning body, the Fifth Circuit had several members who were outright champions of civil rights. A three judge panel composed of Texas Circuit Judges John Brown and Homer Thornberry and District Judge Harold Cox, a Mississippian, was supposed to hear the Jefferson County case in New Orleans on May 23, 1966. A scheduling conflict, however, prevented Brown from sitting for arguments in the

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50 Davies, 121.
52 Ibid.
case and at Brown’s request, John Minor Wisdom, a Circuit Judge from Louisiana, replaced him as the panel’s senior member. Wisdom’s liberal record on civil rights cases was remarkable. By the late 1960s, he was best known for having authored the Fifth Circuit’s opinion requiring the University of Mississippi to admit its first African-American student, James Meredith in 1962. Along with Judges John Brown, Elbert Tuttle, and Richard Rives, Wisdom was one of four judges of the Fifth Circuit who were collectively nicknamed the “Fifth Circuit Four,” known for decisions that helped guarantee civil rights for African Americans.

In three previous school desegregation cases, Wisdom had written opinions establishing HEW guidelines and timetables as supreme in ending dual school systems in various southern districts. While Judge Brown, who Wisdom had replaced, was also progressive on civil rights decisions, Wisdom had vast expertise in school desegregation cases. As one scholar has suggested, “ironically, as fate would have it, but for the vagaries of one of his colleague’s personal schedule, Wisdom would not even have sat on this case, let alone author an opinion that…placed the federal judiciary in the driver’s seat….to accelerate….school desegregation.”54 After hearing oral arguments, Wisdom wrote the majority opinion which, according to law professor and Wisdom biographer Joel William Friedman, is “widely regarded as the single most influential non-Supreme Court decision in the area of school desegregation.”55

Wisdom’s opinion in *U.S. v. Jefferson County* began with a striking acknowledgement of the difficulty of the problem of ending the South’s dual school system. “We approach decision-making here with humility,” it began. “Many intelligent men of good will who have dedicated their lives to public education are deeply concerned…they understand the grim realities of the

54 Friedman, 205.
55 Ibid.
problems that complicate their task.” The court made two crucial statements intended to accelerate school desegregation. First, by endorsing HEW’s guidelines, the decision moved beyond the seemingly unsolvable problem of defining the “all deliberate speed” portion of Brown, which had been a source of constant litigation in the courts and effectively put off tangible desegregation efforts on the ground. The courts, Wisdom wrote, were over-involved in the operations of desegregation, a task “perilously close to the perimeter of the judicial function.” The decision sought to reconcile the process of desegregation in districts under court order with those operating under HEW guidelines by establishing “uniform” standards based on the new HEW guidelines. It sanctioned HEW’s benchmarks for integration as the only acceptable remedy for previously segregated school systems. Second, the court established that HEW’s guidelines were consistent with Title VI and the Fourteenth Amendment. “Title VI of the Civil Rights Act of 1964,” wrote Wisdom, “was not only appropriate and proper legislation under the Thirteenth and Fourteenth Amendments; it was necessary to rescue school desegregation from the bog in which it had been trapped for ten years.”

The decision illustrated the potential power of using the judiciary to enforce HEW desegregation plans. HEW could defer to the courts to enforce the desegregation requirement and the courts subsequently could refer to HEW for specific plans and schedules to meet the requirement. Prior to Jefferson County, southern opponents of desegregation preferred judicially imposed desegregation orders to HEW enforcement. Local judges, fearing backlash from their communities, approved plans with relaxed desegregation guidelines that appealed for continuous delays. In Jefferson, the Justice Department sought to discourage southern school districts from

57 Friedman, 205.
“choosing the court route as the slowest form of desegregation.” The Justice Department insisted “there will no longer be occasion for the periodic submission of amended plans. Instead, the school boards will clearly understand their obligations and will report to the court on a periodic basis.” The *New York Times* bluntly summarized the effects of the decision by suggesting it could “help put down a revolt by many districts against stringent new requirements in the guidelines. In order to receive Federal assistance, districts must desegregate under one of the two routes.”

While *U.S. v. Jefferson County* empowered HEW as the entity with principle authority in school desegregation cases, and although it effectively defined the relationship between HEW and the courts in new ways, southern districts often continued to refuse to comply with desegregation requirements in the final years of the Johnson administration. As a result of political pressures imposed by Johnson and others, in addition to the obstacles of managing its own vast bureaucracy, the agency was dilatory in withholding funds, even as the courts had endowed it with a tremendous amount of power to do so. In October of 1966, only 74 of 800 segregated school districts had had their funding withheld by HEW. When Richard Nixon took office in January of 1969, just 1 in 5 African-American students in the South attended a desegregated school, defined by HEW as “one that has a majority of white students but is attended by Negroes.”

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61 Ibid.
62 Ibid.
63 Perlstein, 137.
On the eve of Nixon’s inauguration, Finch seemed unsure about the direction that the administration’s desegregation efforts would take. While he promised “constant and steady pressure,” he simultaneously shied away from committing to de-funding “as an ultimate weapon.”

“You don’t go in with a meat ax,” he explained, “and get genuine compliance.”

Finch’s statements concerned many civil rights activists. Washington Post writer Ellen Hoffman observed that it was a “time of uncertainty about the future of the Federal program set up by the 1964 Civil Rights Act.”

Ruby G. Martin, who served as the head of civil rights enforcement at HEW under Johnson and was an “authority on school desegregation,” resigned in January of 1969. Martin, who was also the highest-ranking African American at HEW, expressed “concern over the direction that the civil rights enforcement program may take under the Nixon Administration.”

As civil rights activists anxiously waited for the new administration to establish its position on desegregation, southerners anticipated a more relaxed approach under Nixon and an easing of guidelines. Paul Anthony, a spokesman for the Southern Regional Council, established in the 1940s to promote racial equality and the originator of the Voter Education Project, suggested “in the South, it is concluded….that Nixon will go slow.”

Another official from the South cited “a tendency” among southern districts to “refuse to submit desegregation plans or ask for extension dates” in the first weeks of the administration as they anticipated more relaxed guidelines.

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70 Ibid.
71 Ibid.
72 Ibid.
When Finch arrived at HEW in early 1969 he discovered that the Johnson administration left “an unwelcome present.” Wilbur Cohen, the outgoing secretary who had assumed the helm of HEW briefly after John Gardner’s resignation in 1968, failed to revoke funding from five southern school districts that HEW had deemed out of compliance for not having submitted satisfactory desegregation plans. Almost immediately the administration was caught between Nixon’s inaugural commitment to follow through with orders to end the South’s dual school system and his assurances to the region that using “the power of the federal treasury to withhold funds in order to carry out [desegregation]” was “going too far.” Nixon, as one historian has suggested, was “the victim of Lyndon Johnson’s procrastination on school desegregation.”

From the White House, Attorney General John Mitchell argued that the administration should use the five Mississippi school districts to signal a complete shift in responsibility from HEW to the Justice Department. According to the journalist Tom Wicker, Mitchell aimed to abandon “administration-ordered fund cutoffs” altogether and move “instead to reliance on court orders to accomplish whatever desegregation could not be avoided.” Mitchell asserted that the administration’s choices on these initial cases would reflect “the general question of….political direction.” The attorney general asked Finch for a delay to “conduct the case-by-case reviews they have promised in dealing with districts whose desegregation pace had been challenged by HEW.” Finch ultimately bowed to pressure and delayed the cutoffs for two months. Civil rights activists reacted to Finch’s decision with frustration. The Leadership Conference on Civil Rights suggested that the scenario was “bound to stimulate new violations of a law

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73 Wicker, One of Us, 489.
74 Ibid.
76 Tom Wicker, One of Us, 489.
77 Ibid., 490.
overwhelmingly passed by Congress."79 A group of House Democrats complained that the Mississippi districts were being given “special treatment.”80 One hundred and forty Democratic congressmen, members of the House Democratic Study Group, charged in a letter to Nixon the delay would “stimulate further foot dragging and evasion on the part of school districts which still discriminate against children on the basis of race” and “undermine the efforts of those southern school officials who have attempted to obey the law.”81

Nevertheless, two months later, HEW stood by the original funding cuts for three of the five southern school districts. Concerned with the political fallout, especially in the South, Nixon pressured Finch to ease the enforcement of funding cutoffs for other school districts. He personally directed Finch to release a joint statement with Mitchell clarifying procedures and describing the relationship between HEW and the Justice Department. Issued on July 3, 1969, the Mitchell-Finch statement diminished HEW’s role in revoking federal funding at the same time that it expanded the Justice Department’s authority. The statement also committed HEW to “minimizing” the “number of cases in which it becomes necessary to employ the particular remedy of a cutoff of Federal funds, recognizing that the burden of this cutoff falls nearly always on those the Act was intended to help, the children of the poor and the black.”82 While the Johnson administration had established 1970 as the absolute deadline for the end of all dual school systems, the statement called that policy “too rigid to be either workable or equitable” and vowed to take a case-by-case approach.83 HEW had joined the Justice Department in embracing

81 Ibid.
83 Ibid.
gradualism and justifying “sound reason for limited delay” specifically “bona fide educational and administrative problems in some districts.”

Civil rights activists responded with fury and exasperation. Joseph L. Rauh Jr., vice chairman of Americans for Democratic Action and counsel to the Leadership Conference on Civil Rights, labeled the new policy a “sellout of civil rights.” Coretta Scott King suggested that HEW had made “a tragic mistake that must not be allowed to stand.” Roy Wilkins proclaimed the Mitchell-Finch statement was “almost enough to make you vomit.” Senator Walter Mondale suggested that a “further delay is both tragic….and unnecessary.” Rudy G. Martin warned that the administration had “opened the floodgates” for southern districts to attempt to renegotiate their desegregation plans and ask for more delays. Harvard political science professor Gary Orfield predicted that “progress is likely to stop in the Deep South.”

Other critics lamented the shift in responsibility from HEW to the Department of Justice, which argued a “slower and less effective method.” Marian Wright Edelman, the Director of the Harvard University Center for Law and Education, said that enforcement had been “undercut” by the change. She accused Nixon of establishing “a tone of national retreat” which threatened to “erase desegregation progress already made in the South as well as to defeat efforts at making Brown a nationally applied policy.”

84 Ibid.
85 Ibid.
86 Ibid.
88 Ibid.
89 Ibid.
92 Ibid.
Many white southerner leaders, however, predictably approved of the Mitchell-Finch statement and did so warmly. Strom Thurmond said the Nixon administration “recognizes that flexibility and reason—not blind adherence to rigid social doctrine—must be a part of desegregation procedures.” He praised Nixon’s “deep concern with the problem inherent in this difficult situation.” Clarke Reed, Chairman of the Mississippi Republican Party, called the statement a “historic step” in “returning to the schools their primary objective of education of the nation’s youth.”

To be sure, the Mitchell-Finch statement sympathized with southern school districts and seemed to permit continued delays. However, it also reiterated that the administration was “unequivocally committed to the goal of finally ending racial discrimination in schools, steadily and speedily, in accordance with the law.” While the statement suggested that funding cuts should be used sparingly, it did not altogether abandon those cutoffs as effective enforcement mechanisms. Moreover, despite the trepidation of civil rights activists, Finch insisted that HEW would not “renegotiate plans” with districts which had already desegregated or submitted plans for desegregation. He also committed HEW to the March 1968 guidelines which required that districts with dual school systems take “interim steps in 1969 leading to complete desegregation immediately thereafter.”

Even more surprisingly, by the summer of 1969, attorney general Mitchell’s view of the desegregation issue had begun to change. Persuaded by civil rights progressives at the Justice Department, led by the head of the Department’s Civil Rights Division (CRD) Jerris Leonard,

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94 Ibid.
Mitchell advised Nixon that the best way to “bring the Deep South into speedy compliance” would be to demonstrate a “commitment to law.”

Leonard was 38 years old when Mitchell put him in charge of the CRD. A former Wisconsin state legislator and the Republican candidate for United States Senate in Wisconsin in 1968, Leonard took a central and often overlooked role in untangling the Justice Department’s relationship with HEW and in providing a strong voice for civil rights progress from within Justice. Already sensing an increased emphasis on the courts in desegregation enforcement when Nixon was elected in 1968, and aware of Johnson’s difficulties in bringing about an end to the South’s dual school system, Leonard hired additional attorneys and developed a new litigation strategy. Most districts had desegregation plans which met federal guidelines, but local circumstances prevented voluntary implementation.

Ironically, contrary to all expectations, the Mitchell-Finch statement marked the start of a brief period of aggressive desegregation enforcement at HEW and the Justice Department. On July 7, 1969, HEW ordered three new funding cutoffs in districts in Georgia, Florida, and South Carolina. In addition, HEW and the Justice Department unveiled a seldom used tool in mandating desegregation, which would become another prominent instrument for Justice Department action on school desegregation throughout the Nixon presidency. The Justice Department brought Title IV lawsuits against two school districts, one in South Carolina and one in Illinois. Title IV of the 1964 Civil Rights Act gave the Attorney General the power to file lawsuits against any district not compliant with the principle of “desegregation,” defined by the law as “the assignment of students to public schools and within such schools without regard to

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98 Davies, 123.
99 Davies, 124.
their race, color, religion, or national origin."\textsuperscript{101} The law specifically excluded actions defined as “the assignment of students to public schools in order to overcome racial imbalance.”\textsuperscript{102} On July 3, Leonard warned that the Justice Department was “exploring suits that will cover whole states instead of individual school districts.”\textsuperscript{103} A week later, the Justice Department sued an additional two school districts, in Arkansas and Mississippi. Within a week of the Mitchell-Finch statement, the Justice Department had filed eight new lawsuits. The \textit{New York Times} reported that it had become clear that “the Nixon Administration has made an important policy shift on the sensitive issue [of desegregation].”\textsuperscript{104}

On August 1, 1969, as Leonard had promised earlier, the Justice Department sued the state of Georgia to compel state school officials to “complete the abolition of the racially dual public school system there.”\textsuperscript{105} Of the 195 districts in Georgia, only 15 were totally desegregated. The lawsuit charged Georgia with “perpetuating unlawful dual systems of schools based on race [and providing] educational opportunities for Negro student which are inferior to those provided for white students” and marked the first time the federal government sued a state board of education.\textsuperscript{106} Clarke Reed mourned the “zeal” with which HEW and the Justice Department pursued desegregation in the South.\textsuperscript{107} Governor Lester Maddox called the suit “criminal” and proclaimed the citizens of Georgia would “win the war against these tyrants. If we don’t, the United States will cease to be a free republic.”\textsuperscript{108} Maddox’s opposition, of course, was no surprise. He rode opposition to the Civil Rights Act of 1964 to the governorship in 1966.

\textsuperscript{102} Ibid.
\textsuperscript{106} Ibid.
\textsuperscript{107} Davies, 124.
and represented a particularly nasty streak of the enduring segregationist South. After Martin Luther King, Jr. was assassinated, Maddox refused to memorialize the slain civil rights leader, vehemently protesting when Georgia’s secretary of state ordered the flying of flags at half-staff over his objections.

Significantly, however, the suit against Georgia also substantiated the arguments of officials in both the Johnson and Nixon administrations that southern officials who favored ending the dual school system needed political cover. Harry Dent advised Haldeman and Ehrlichman in the spring of 1969 that both “staunch and moderate southern states” had a high percentage of voters “in between segregation and integration.” He talked of the emergence of “a moderate South” and noted that ending the dual school system there would “help ‘bring the nation together’ and concurrently help the fortunes of the Nixon Administration as well as Republicans generally.” While there was “increased tension…on the school ‘integration’ question,” there was “not nearly as much on school ‘desegregation.’” The South was “evolving on this question,” Dent argued. “These same stands are appreciated by our basic constituency in the suburbs and rural areas elsewhere.” If desegregation was “carried out in

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109 Memorandum for Bob Haldeman and John Ehrlichman from Harry Dent, Re: The President’s Developing Image in the South, February 3, 1969. WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.

110 Memorandum for Bob Haldeman and John Ehrlichman from Harry Dent, Re: The President’s Developing Image in the South, February 3, 1969. [chk] Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.


the right way,” Dent suggested, it would ultimately “help the Republican Party.”

Indeed, when Leonard and the CRD sued the state of Georgia, the New York Times reported that “in private, many Georgia officials were believed to have welcomed the suit” and “preferred court-ordered integration to any other method.”

State officials indicated that Georgians would “accept court orders but would react adversely to any other procedures.”

Finch, too, observed in the fall of 1969 that a shift in authority from HEW to the courts would prove valuable in increasing compliance. “When HEW says it the local officials are inclined to say the heck with it,” Finch exclaimed, “But when a court says it, it becomes a matter of contempt.”

By the late 1960s, segregationist-leaning officials began resolutely to seek delays in implementing desegregation. Believing the new Nixon administration would make “a change” on the Supreme Court and shift “the tone and direction of the courts on the school question,” as Clark Reed suggested in the spring of 1969, some southern officials sought to postpone changes in the South’s dual school system in hopes that the court would change direction first.

The administration encouraged the segregationist South’s position by signaling that it would change the composition of the Court. When Earl Warren retired in the spring of 1969, Nixon nominated Warren Burger as his successor. Burger had worked his way from a farm in Minnesota to law school. Ultimately emerging as a leader in Minnesota politics, Burger had also helped elect Harold Stassen to the governorship in 1938 and was later a crucial supporter in Stassen’s efforts

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115 Ibid.


to win the Republican nomination in 1948 and 1952. As the realistic possibility of a Stassen nomination diminished at the 1952 Republican convention, Burger secured the support of the Minnesota delegation for Dwight D. Eisenhower, crucial votes in winning Eisenhower the nomination.\footnote{Steven G. O’Brien, Paula MacGuire, James M. McPherson, and Gary Gerstle, eds., \textit{American Political Leaders: From Colonial Times to the Present}, (Santa Barbara: ABC-CLIO, Inc., 1991).} Eisenhower eventually appointed Burger as an assistant attorney general in charge of the Civil Rights Division at the Justice Department and in 1956 to the United States Court of Appeals for the District of Columbia Circuit, where he remained for 13 years.

On the appeals court, Burger was considered a “strict constructionist.” Nixon called Burger a judge who recognized the “role of the court to interpret the law and to leave to Congress that of writing the law—that’s the kind of man I want.”\footnote{E.W. Kenworthy, “Burger Nomination is Lauded by Conservative Members,” \textit{New York Times}, May 22, 1969, 37.} In his memoirs, Nixon noted he was “impressed” by Burger’s speeches on the role of law and order in society and called him a “personally impressive man.”\footnote{Richard Nixon, \textit{Memoirs of Richard Nixon} (New York: Grosset and Dunlap, 1978), 420.} And Burger’s decisions on the appellate court indicated that he favored a conservative-leaning racial politics and that, in all likelihood, he would favor slowing down desegregation of schools.

While reaction to the nomination was mixed, a consensus predicted Burger would be conservative on civil rights. North Carolina Senator Sam Ervin praised the nomination as one that provided “the guarantee that we will have a return to constitutional government in the United States as the Supreme Court is concerned”—southern code words for rolling back civil rights decisions.\footnote{E.W. Kenworthy, “Burger Nomination is Lauded by Conservative Members,” \textit{New York Times}, May 22, 1969, 37.} One Washington lawyer noted that Burger was “the most conservative member of the Court of Appeals.…President Nixon said he was going to appoint a strict
constructionist as Chief Justice, and Warren Burger perfectly fits the bill.”

New York University Law School Dean Robert McKay was in the minority when he speculated that Burger would emerge as a moderate “much like Earl Warren.”

The *New York Times* editorialized that “if Mr. McKay turns out to be right it will be a surprise of the first order, one that would dwarf the surprise of legal experts when Justice Warren took his court beyond one and then another new frontier.”

On June 23, 1969, the Senate confirmed Warren Burger as Chief Justice of the United State Supreme Court.

Meanwhile, on May 15, 1969, Abe Fortas resigned from the Supreme Court amid scandal. Fortas held what many deemed the “Jewish Seat”—before Fortas, it had been held by Louis Brandeis, Felix Frankfurter, and Arthur Goldberg. Nixon wanted a “strict constructionist” southerner to balance out geographically the Burger nomination and satisfy his new political base in the South. Nixon said he wanted to nominate someone who would “interpret the Constitution rather than amend it by judicial fiat,” but these were more code words: his chief aim was to earn additional political capital in the South by appointing a southern white who was conservative on civil rights issues.

Nixon nominated Clement Haynesworth, Jr., of Greenville, South Carolina, on August 21, 1969. William Rehnquist, then an Assistant Attorney General, was charged with vetting the candidate. Rehnquist based his recommendation on twelve years of Haynsworth’s judicial decisions. In a memo outlining Haynsworth’s judicial philosophy, Rehnquist wrote that the judge would “not be favorably inclined towards claims of either criminal defendants or civil

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123 Ibid.
124 Ibid.
125 Ibid.
126 Ibid., 15.
rights plaintiffs…[who had] been beneficiaries of the Supreme Court’s ‘broad constructionist’ reading of the Constitution.”

Looking back years later, John Dean, a White House staffer who would serve as Counsel to Nixon from 1970 to 1973, Haynsworth was exactly “what Nixon wanted.”

A graduate of Furman University and Harvard Law School, Haynesworth had served in the Navy during World War II. Thereafter, he returned to South Carolina and worked in private practice for a number of years, until he was nominated and confirmed for a seat on the United States Court of Appeals for the Fourth Circuit in 1957. Since 1964, he had served as Chief Judge and was a respected conservative jurist.

While many observers believed that Haynesworth’s confirmation was guaranteed, especially given the success of the Burger nomination, a powerful case against Haynesworth emerged. Many critics viewed the judge’s previous judicial decisions as both anti-labor and anti-civil rights. Massachusetts Senator Edward Brooke, a black Republican, argued that Haynesworth’s “treatment of civil rights issues is not in keeping with the historic movement toward equal justice for every American.”

On their own, though, Haynesworth’s conservative credentials were unlikely to provide sufficient grounds to reject his nomination, even in a Democratic Congress. Instead, allegations of entanglement in ethically questionable situations began to haunt Haynesworth’s nomination. Haynesworth had, for example, served on the board of directors of a company called Carolina Vend-a-Matic at the same time that he presided over a case involving a company doing business with the company. In another episode, Haynesworth’s broker purchased shares of the Brunswick Company between the end of a trial involving the company and Haynesworth’s decision in the case. The Nixon administration suggested that “charges of unethical behavior simply do not stand up under review of the facts” and pointed out

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127 Ibid., 16.
128 Ibid.
that a number of investigations, including those conducted by Attorneys General Kennedy and Mitchell, found no apparent wrongdoing. Various groups, including the Labor Relations Committee of the National Chamber of Commerce, accused Congress of trying “deliberately to pursue the ‘ethics’ line to minimize attention to their real ‘philosophical’ basis of opposition.”

Yet liberal members of Congress eyed Haynesworth with suspicion, for his decisions on civil rights cases, his business dealings, and Nixon’s intentions to nominate a southerner to fill the traditionally liberal “Jewish seat” vacated by Fortas, who was forced to resign after allegations that he had accepted money from a friend, Louis Wolfson, in exchange for requesting a pardon on his behalf from President Johnson. Coupled with the “appearance of impropriety,” as Senator Birch Bayh of Indiana put it, critics had enough ammunition to reject the Haynesworth nomination. While it was never proven that he violated any law, the specter of transgressions marred his nomination. Haynesworth became the first Supreme Court nominee to be rejected by the Senate since Herbert Hoover nominated John J. Parker in 1930. Parker’s nomination was also quashed because of matters related to civil rights, when it was discovered that in running for governor in North Carolina in 1920 he told white voters he was opposed to African-American involvement in the political process.

Despite the failure of the Haynesworth nomination, southerners lauded Nixon for submitting it. Nixon’s second attempt to fill Fortas’ seat pushed even further in the direction of the conservative white South. Nixon told Dent, “Harry, I want you to go out this time and find a

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132 Hoff, 47.
133 Wicker, One of Us, 497.
good federal judge further south and further to the right.” On January 19, 1970, Nixon nominated George Harrold Carswell, who was serving as chief judge on the United States District Court for the Northern District of Florida. Carswell’s credentials simply did not merit confirmation. He was not a respected or effective jurist. His reversal rate was 40 percent, twice the rate of the average federal judge. Seven of the 18 judges of the Fifth Circuit Court refused to endorse his nomination. The Dean of the Yale Law School told the Senate Judiciary Committee that Carswell “presents more slender credentials than any nominee put forth in this century.” Bryce Harlow, Nixon’s close adviser, complained that critics “think he’s a boob, a dummy. And what counter is there to that. He is.” Safire later called the nomination “one of the most ill-advised public acts of the early Nixon Presidency.” In arguing in favor of his nomination, Senator Roman Hruska of Nebraska seemed to damn Carswell with a defense that was in fact insulting. “Even if he were mediocre,” Hruska said, “there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren’t they, and a little chance. We can’t have all Brandeises and Frankfurters and Cardozos and stuff like that there.”

In addition to the reality that he was wholly unqualified, Carswell’s entrenched social and political beliefs were far more extreme than Haynesworth’s. He had a record as an overt and unapologetic racist. For example, a local newspaper that had covered one of Carswell’s fiery speeches in his run for the Georgia legislature in 1948 quoted the judge as declaring: “I yield to no man in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed. I believe the segregation of the races is proper and the only practical and correct way

135 Wicker, One of Us, 497.
136 Small, 169.
137 Ibid.
138 Ibid.
139 Ibid.
of life in our states. I have always so believed and I shall always so act.”

Nixon’s own Justice Department lacked confidence in Carswell. When the White House requested it “prepare some papers demonstrating that Judge Harrold Carswell evinces a balanced point of view on civil rights and labor issues” in an attempt to prop up the nomination. Attorney General Mitchell refused. It would be, he said, “improper for the Justice Department to provide any documentation to friendly Senators before the Senate Judiciary Committee convenes to discuss these issues.”

Even Nixon, journalist Tom Wicker has claimed, was “privately convinced by Carswell’s record and inept performance in his own defense that he was not an appropriate nominee.”

Not surprisingly, on April 8, 1970, the Senate voted 51 to 45 against confirming Carswell to the Court. Thirty-eight Democrats and 13 Republicans voted against Carswell, while 17 Democrats and 28 Republicans voted for him.

The sectional breakdown was telling. Of 22 southern senators, only four voted against the Carswell nomination. Howard H. Baker Jr., a moderate Republican from Tennessee, suggested on the Senate floor that the vote could potentially alienate the South to a degree that the nation might “relive the tragedy of 100 years ago.” Baker argued that “by our action….we are polarizing one-third of the United States into thinking there is an anti-southern bias in the United States Senate.” While Senator Bob Dole tried to downplay the role of region in the vote, describing it instead as a battle between liberals and conservatives, Carswell’s significant

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140 Murphy and Gulliver, 133.


142 Wicker, One of Us, 498.


144 Ibid.

145 Ibid.
success among southern Senators—who provided more than a third of his total support—highlighted regional differences.146

Carswell’s confirmation was doomed from the start. Many of Nixon’s own Republican allies in Congress warned him about the strong possibility of a Carswell rejection. After the Senate refused to confirm Carswell, however, Nixon acted quickly to solidify potential political gains from the nomination. He publicly accused Congress of bias against southerners and “conservatives.” Nixon condemned the Senate’s “character assassination” of both Haynesworth and Carswell and called the entire incident an act of “regional discrimination” against the South.147

Dent traveled to the South to measure the region’s perception of the president and to publicize the administration’s outrage. He noted that throughout the South “Richard Nixon was a hero…and so were Judges Haynesworth and Carswell.”148 Nixon’s persistent but failed attempts to appoint southerners to the Court “considerably improved Nixon’s standing with southerners and conservatives.”149 In other words, the entire episode presented a scenario Nixon could not lose. He reassured the South that he was the region’s ally and proclaimed “the day will come when men like judges Carswell and Haynesworth can and will sit on the high court.”150 As one scholar noted, Nixon’s statement “was an extraordinary display of Presidential temper,” undoubtedly calculated to look that way.151 The vacancy Fortas left on the Court would not be filled until April of 1970, when the Senate confirmed Harry Blackmun who, like Burger, was

146 Ibid.
147 Carter, 397.
148 Wicker, One of Us, 493.
149 Ibid., 500.
expected to be more conservative than he actually turned out to be. In 1973, Blackmun wrote the majority opinion in *Roe v. Wade*.

As Nixon navigated his way through Supreme Court nominations in the spring and summer of 1969, and although the Justice Department and HEW seemed to ramp up enforcement efforts following the Mitchell-Finch statement in July, the administration retreated from its commitment to end the dual school system in the South in the summer of 1969. The Fifth Circuit Court of Appeals previously ordered 33 Mississippi school districts to submit desegregation plans to HEW by August 11, 1969. Dr. Gregory Anrig, chief of the Division of Equal Educational Opportunity at HEW, called the plans “educationally and administratively sound both in terms of substance and in terms of timing.”

Despite this endorsement from HEW officials, though, on August 19, Finch and Mitchell petitioned the Fifth Circuit for a two-month delay in implementing the desegregation plans claiming that the original deadline would create “chaos, confusion, and catastrophic educational setback” for “children black and white alike.”

Finch suggested that the desegregation plans were constructed “under great stress” by HEW’s Office of Education.

According to the *Washington Post*, Finch blamed “logistical problems that were made worse by Hurricane Camille” for the Justice Department’s request for a new December 1 deadline. The hurricane landed in Mississippi on August 17 and caused significant damage across the state. Personnel in districts around Mississippi argued that the effects of the storm had made it “impossible to move the many hundreds of students around the schools in the various

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153 Wicker, *One of Us*, 505.
districts and have any semblance of order.” On August 28, 1969, the Fifth Circuit Court of Appeals granted HEW’s request for a delay in 30 Mississippi school districts. In what seemed like a complete reversal of the progress of the last three years, the decision “permitted 22 of the districts to open in the fall of 1969 under freedom-of-choice plans.” As Wicker noted it was “the first time [since Brown v. Board] that the federal government had taken a stand against desegregation.” The Department of Justice, he observed, had aligned itself with the South rather than with the NAACP.

Political pressure from Mississippi Senator John Stennis figured prominently in the administration’s actions. An outspoken opponent of desegregation who signed the Southern Manifesto in 1956 and voted against the Voting Rights Act of 1965, Stennis also held a powerful position as Chair of the Senate Armed Services Committee. In that position, he had tremendous influence over one of Nixon’s most beloved projects, the Anti-Ballistic Missile (ABM) System. Charles Overby, a former Stennis staffer, wrote in the Jackson Daily News that Stennis threatened to “abandon his role as chief defender of the defense appropriations bill unless the delay was granted [to the 33 Mississippi school districts].” According to Overby, Stennis told Nixon that in the absence of a delay he would return to Mississippi immediately instead of remaining in the Senate. Nixon denied that Stennis had pressured him, asserting that the senator “would be the last person to say, ‘Look, if you don’t do what I want in Mississippi, I am

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156 Davies, 125.
158 Wicker, One of Us, 493.
159 Ibid.
not going to do what is best for the country.’”  

In addition, Finch claimed that he was under “no pressure from the White House or anybody else and nothing was said to him about the military authorization bill.”

Regardless of the justification, the administration’s action incited civil rights leaders around the country and fueled suggestions that Nixon’s primary domestic objective was “blocking school integration.” Jack Greenberg, director-counsel of the NAACP in New York, suggested that the ruling was “exceedingly unfortunate” and would “contribute to delay and confusion.” “Segregationist school boards across the South will all now be demanding the same treatment,” he noted. “We hope that this is an isolated situation and not indicative of a trend.”

The United States Civil Rights Commission accused the administration of a “major retreat” in the desegregation struggle. The NAACP Legal Defense Fund placed a full-page ad in The New York Times on September 3, 1969 accusing the federal government of breaking its “promise to the children of Mississippi.” The ad proclaimed “our government, for the first time, instead of pressing for school integration, has gone to court to ask that school segregation be allowed to continue….It was not a group of red-neck sheriffs or Ku Klux Klanners who made this demand, but some of the highest appointed officials in this nation.”

The NAACP quickly appealed the decision arguing that the ruling would encourage delay across the South. On October 29, the Supreme Court issued a 9-0 decision in Alexander v. Holmes County Board of Education. The Court noted that the “question presented” was one

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162 Ibid.
163 Ibid.
164 Perlstein, 393.
166 Ibid.
169 Ibid.
involving “the denial of fundamental rights to many thousands of school children who are presently attending Mississippi schools under segregated conditions contrary to the applicable decisions of this Court.”\footnote{“Text of High Court Order,”\textit{\textit{New York Times}}, October 30, 1969, 34.} The Court declared the “continued operation of segregated schools” was “no longer constitutionally permissible” and ordered every school district to “terminate dual school systems at once and to operate now and hereafter only unitary schools.”\footnote{Ibid.} The Court ruled that school districts must “end segregation at once” and maintain integrated schools “now and hereafter.”\footnote{Warren Weaver, Jr., “School Integration ‘At Once’ Is Ordered By Supreme Court; Nixon Bid for Delay Rejected,”\textit{\textit{New York Times}}, October 30, 1969, 1.} By demanding immediate action, the decision went beyond the precedent the Court had established fourteen years earlier in\textit{Brown}, which called for all deliberate speed in ending the dual school system in the South.

With a new Supreme Court precedent, the judges of the United States Court of Appeals for the Fifth Circuit met in November to begin hearing arguments in desegregation cases that could “set the state for the final dismantling of the dual school system in the South.”\footnote{Jon Nordheimer, “Judges Meet to Speed End to Dual Schools,”\textit{\textit{New York Times}}, November 18, 1969, 29.} The judges suggested that they would “attempt to accelerate the desegregation timetable on the basis of the Supreme Court’s ruling.”\footnote{Ibid.} The Fifth Circuit, however, noted that there would be no attempt to define a “universal criteria” but instead each plan would be dealt with on “the facts and circumstances of each school district.”\footnote{Ibid.} \textit{Alexander} put the courts firmly in charge of determining acceptable desegregation plans. While the Fifth Circuit Court complied with the Supreme Court’s decision, its judges expressed frustration at the overwhelming task the highest court had placed before them. “The courts are not the way to get this problem solved,” Fifth Circuit Chief Judge John Brown asserted, “What we need is for the executive branch of
Government to take a vigorous stand on the issues. I don’t see how we can handle it.” 176 Importantly, and in a sign of things to come, Brown also suggested the Supreme Court’s decision in Alexander brought up new questions about de facto segregation and busing. “Does the court have the power to alter natural zoning lines to require busing to achieve some characteristic of integration of a student body?” he asked “What happens when buses are not provided by the school district and the residential pattern is not imposed by government edict? Does the court have the duty to require busing then?” 177

On the surface, the Supreme Court’s decision appeared to be a “stinging setback for the Nixon administration,” as the New York Times called it. 178 It failed to protect certain southern interests. Moreover, the Court seemed to be challenging Nixon’s authority in the early days of the presidency. Even more ominously, Nixon’s own appointment to the Supreme Court, Chief Justice Warren Burger, had joined in the unanimous decision against a delay in Mississippi.

In another way, however, the Supreme Court’s decision in Alexander actually helped the administration by providing Nixon with political cover. Simply by seeking a delay in the courts on behalf of the Mississippi school districts, the administration appeased opponents of ending the dual school system and generated political support in the South. “When this administration comes up for re-election in 1972,” Dent wrote, “desegregation will have been completed, killing the idea that the Administration had sold out to the South. At the same time, we should ensure that whatever blame emanates from the South is placed elsewhere than the back of this Administration. If we can do this, we will merit an easy reelection.” 179 The Court “will be doing

176 Ibid.
177 Ibid.
this so far as political blame is concerned in the South,” Dent reassured Nixon. Dent summed up this view concisely, suggesting if the administration could “achieve total desegregation in the South in 1970” with “the major burden being borne by the state Democrat leadership on orders of the Federal courts and without blame being attached to this Administration, then we will have achieved the miracle of this age.”

The so-called Committee of Six, an informal group formed by some of Nixon’s top conservative political advisers immediately after Nixon’s election in order to improve his prospects for reelection in 1972, echoed this sentiment. Although there is little record of the group as much as meeting throughout the first two years of Nixon’s presidency or having significant influence, it was important if only for the power of those involved, some of the best political strategists in the country: Robert Ellsworth, Harry Dent, William Timmons, John Sears, Pat Buchanan and Tom Huston. Soon after Nixon took office, in some of the only documented action the Committee took, it recommended Nixon follow through with desegregation, “scapegoat” liberal members of the federal bureaucracy, and “stay out of this fight to the degree possible.”

In this light, Nixon addressed the nation pledging the resources of his administration to execute the law. “[I am obligated] to carry out what the Supreme Court had laid down,” Nixon announced, “I believe in carrying out the law even though I may have

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disagreed as I did in this instance with the decree that the Supreme Court eventually came down with. But we will carry out the law.”

Of the members of the Committee of Six, Pat Buchanan was quickly emerging as the most vocal opponent of desegregation. He had joined Safire and Price to form the core of Nixon’s speechwriting team. When he first met Nixon in 1966, Buchanan was a 28 year old Catholic from St. Louis. He sought Nixon out at a cocktail party in his home city in order to offer his services to Nixon’s campaign. Nixon asked Buchanan to come to New York for an interview. There, he asked Buchanan to compare his proclaimed conservatism to that of William F. Buckley. “Buchanan, who was more conservative than Buckley (his specialty as an editorial writer for the right-wing St. Louis Globe-Democrat was disseminating smears about civil rights leaders passed on by J. Edgar Hoover),” journalist Rick Perlstein writes, “artfully dodged the question: ‘I have a tremendous admiration for Bill Buckley.’” Buchanan, Safire, and Price became “the most celebrated writing threesome in presidential history,” Garment once suggested, and perhaps the most influential. In a sense, the diversity of Nixon’s speechwriting troika reflected his larger campaign organization. Price was a liberal Protestant, Buchanan a conservative Catholic, and Safire a Jewish centrist. “Nixon never wanted us to work in committee,” recounted Safire. “He would sometimes give a Price draft to Buchanan for toughening, or a Buchanan draft to Price for softening, or a draft of either to me for making more quotable, but he kept his writers distinct; we knew he wanted us for what we were, and not for what we might think he thought his ‘perfect’ writer would be.”

184Perlstein, 84.
185Perlstein, 84.
186Garment, 107.
In Mississippi, Nixon had been playing a political game all along, and not only with Senator Stennis. In watching the administration’s actions unfold inside the White House, Wicker suggested that the litigation and outcome of a delay in Mississippi “had been predictable, even inevitable.”

With the *Green v. School Board of New Kent County* decision of 1968, the Court established a binding precedent requiring action to transform dual school systems to unitary school ones across the South. Nixon, a lawyer well-versed in the judicial framework for desegregation, understood the considerations of the Supreme Court in the Mississippi case. He had scrutinized all dimensions of the desegregation issue in preparing for the 1968 campaign.

“Given his capacity for study and concentration,” Wicker astutely pointed out, “it would be surprising if he actually thought the Supreme Court would accept the administration position.”

In other words, given the typical pattern of Nixon’s behavior, his meticulous and in-depth knowledge of the specifics and details of each issue facing his administration, and his propensity to micromanage policy decisions, Nixon must have considered the strong possibility of the Court’s rebuke. After recounting the actions of the administration in the Mississippi case, Wicker pondered if “that reaction [of the Supreme Court] been foreseen, even sought, in hopes of easing southern resistance to desegregation that Nixon knew was unavoidable? Nixon had turned the Supreme Court to calculated political ends.”

Following through with ending the South’s dual school system in the aftermath of *Alexander* was good politics. By publicly appearing to defend the South from federal

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188 Wicker, *One of Us*, 494.
189 On May 27, 1968, in *Green V. School District of New Kent County*, the Supreme Court ruled unanimously that “freedom of choice” desegregation plans did not meet the requirements of the law if they were ineffective in desegregating schools as with the speed that other desegregation plans might. “Delays are no longer tolerable,” the Court declared. The Supreme Court overturned the decisions of lower courts that held that freedom of choice plans were adequate compliance with the law, because the constitution forbids segregation based on race by does not require affirmative action by public officials to reduce racial balance resulting from individual decisions. (“Justices Tell South to Spur Integration of All Its Schools,” *New York Times*, May 28, 1968.
190 Wicker, *One of Us*, 494.
191 Ibid.
interference in the Mississippi case, the administration earned substantial political capital among opponents of desegregation and, more importantly, with moderate southerners concerned with the federal government’s intrusion into their affairs. Yet, the administration’s pledge to honor the law as interpreted by the courts left no choice but to comply with the Court’s order to enforce laws requiring an end to dual school systems in the South. “The huge political credit he earned in the South with his Supreme Court nominations and his other gestures to the Southern sensibility—particularly local leadership,” wrote Wicker, softened the blow as unavoidable social change arrived in the South.192

Despite Dent’s acceptance of the mandate issued in Alexander and his embrace of the political balancing act allowed by the decision, other conservative advisers pleaded with Nixon to resist entirely the Court’s order. Pat Buchanan charged ahead with his campaign against “compulsory integration.”193 He urged Nixon to send Vice President Agnew to deliver a speech in Atlanta attacking the courts. He told Garment the speech would “tear the scab off the issue of race in this country.”194 Titled a “Brief Against Compulsory Education,” Buchanan wanted Agnew to proclaim that the “burden of proof” had shifted to those who favored desegregation to prove “what tangible benefits can be realized by continuing along this…road.”195

Buchanan argued against the “contrived mixing of the races North and South.”196 He rejected Dent’s assertion that the South would tolerate the outcome of Alexander and instead

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192 Ibid., 506.
195 Davies, 128.
warned Nixon that desegregation would lead to “blood in the streets.” The “[racial] climate” of the nation, he said, “argues against [it] for the simple reason of maintaining peace.” He claimed that “integration appears to damage rather than advance both the cause of education and the cause of racial harmony.” He asserted that “black separatism and white separatism” was an acceptable solution to “blacks and whites alike” and warned that Nixon would be a one-term president if he did not reverse the administration’s direction on desegregation. He predicted that “for the foreseeable future, it is all over for compulsory integration in the USA because that body of public approval which must be present for a social change of this magnitude is not there. Indeed, a hard opposite opinion is building.” Despite an era of progress on desegregation and civil rights, Buchanan resolved to end the “second era of Re-Construction” and its “ship of integration.” Buchanan insisted, “[Integration] is not our ship. It belongs to national liberalism—and we cannot salvage it; and we ought not to be aboard. For the first time since 1954, he added, the national civil rights community is going to suffer an up-and-down defeat. It

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may come now; it may come hard; it may be disguised and dragged out—but it can no longer be avoided.”

Buchanan urged Nixon to help try to reverse *Green v. New Kent County* and *Alexander*, and argued that the “current rulings” of the courts “go against the grain of rising and angry public opinion.” While the constitution prohibited legal segregation, he said it did not “forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of government power to enforce segregation.” Even the “language of Brown” was “too much” for him.

In a haunting suggestion that wreaked of the separate but equal precedent that *Brown* had ended, Buchanan proposed an “alternative to blacks and white liberals” that would promise “a reasonable chance that education is going to be improved where the blacks are now,” a solution common among racial conservatives determined to inhibit racial mixing. Buchanan maintained that “the decision overturned a fifty-eight-year-old precedent and was rooted in sociology, not the Constitution.”

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disproportionately disadvantage lower-class whites “who integrate while the middle class retain their freedom of choice to go to schools where they want.”\textsuperscript{209} Even decades later, on the 50th anniversary of the \textit{Brown} decision, Buchanan still maintained that the Court “crossed a historic divide” in an unprecedented and inappropriate exercise of judicial power. He suggested that the judiciary “had executed, in the name of the Fourteenth Amendment, a coup d’etat. It had usurped power over state schools that had never been granted to federal courts either in law or the Constitution.”\textsuperscript{210}

In the winter of 1970, Buchanan’s argument appeared to have resonance with Nixon, as the administration retreated from actively enforcing desegregation orders. The \textit{New York Times} suggested that Nixon embraced a policy “that coincides perfectly with the President’s 1968 campaign promises.”\textsuperscript{211} The administration’s inaction and its approach amounted to a declaration that “integration will be pursued as a goal insofar as it will achieve an educational purpose and will not disrupt the neighborhood school concept or require considerable additional busing of students.”\textsuperscript{212} Even Finch seemed to step back from his frequent battles with officials within the administration and began “talking in the same vein as the White House conservatives he opposed.”\textsuperscript{213} The \textit{New York Times} observed “the pro-Court forces have now been beaten down by repeated actions and statements from the White House.”\textsuperscript{214}

While Buchanan outwardly supported efforts to halt desegregation, other administration officials in the winter of 1970 argued for responding to \textit{Alexander} with a period of public ambiguity and gradualism. Moynihan especially was concerned that a sharp public response

\textsuperscript{209} Frederick S. Lane, \textit{The Court and the Cross} (Boston: Beacon Press, 2008), 3.
\textsuperscript{210} Ibid.
\textsuperscript{212} Ibid.
\textsuperscript{213} Ibid.
\textsuperscript{214} Ibid.
from the administration in support of Alexander might ignite a panicked reaction from some segments of the public and strengthen the position of opponents like Buchanan. In January 1970, Moynihan advised Nixon that the civil rights issue might benefit from a period of “benign neglect.” The issue had been “too much talked about,” Moynihan warned, “The forum has been too much taken over by hysterics, paranoids, and boodlers on all sides.” While he wanted Nixon to continue to pay “close attention” to the desegregation issue, he simultaneously cautioned him to avoid “situations in which extremists of either race are given opportunities for martyrdom, heroics, histrionics or whatever.” What was needed, he insisted, was a “period in which Negro progress continues and racial rhetoric fades.”

Nixon adhered to Moynihan’s advice as he calculated his next move on the desegregation issue. He instructed staffers to facilitate inaction and avoid taking strong positions. “Keep it confused,” Nixon ordered Finch. Harlow called the strategy “an overlay of fuzz” and “a


calculated waffle.” Ron Zeigler, Nixon’s press secretary, joked with Ehrlichman about the seeming contradictions of Nixon’s desegregation policy and the complexity of talking to the press about the issue. “We’re not for that,” he quipped to Ehrlichman, “I mean we’re for that.”

Not all administration officials were willing to accept Nixon’s orders. At the Office of Civil Rights, Leon Panetta’s aggressiveness and his meticulous attention to southern compliance, which often defied orders from the White House for flexibility and leniency, irked administration officials, particularly Harry Dent. Dent wrote to Harlow in the winter of 1970 suggesting that “Leon Panetta is still riding high at HEW, so it looks like we are going to have to fire him.”

Dent suggested that Panetta was simply gathering “ammo against the administration….info that will be used against us eventually.” Haldeman later wrote in his daily diary to suggest that Nixon himself had grown increasingly frustrated by Panetta’s aggressive push for desegregation. “[Nixon felt that pushing too hard and too fast would just continue to lead to more and worse confrontations, whereas a policy of moderation and steady progress would bring far greater and earlier success,” Haldeman wrote, “Panetta was a leader in the push for speed and rigid enforcement and the [president] ordered him removed.”

In February 1970, the administration pressured Leon Panetta to resign as head of the Office of Civil Rights. Although Panetta told the press that his exit from the administration was

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220 Ibid.
223 Hoff. 88.
initiated by Haldeman and Harlow who “opposed civil rights for minorities and were out to get him personally,” in fact Nixon was chiefly responsible.\textsuperscript{225} According to Ehrlichman, Panetta was fired because “he refused to conform to the President’s policies and the President was out to get him.”\textsuperscript{226} Nixon himself expressed resentment at how “Panetta had become convinced that it was the mission of HEW to be aggressive in this field which is why he was out of step with the [Nixon’s] position.”\textsuperscript{227} In February 1970, Nixon wrote to Ehrlichman, “I want Panetta’s resignation on my desk Monday (as a starter)…This is my decision. If there are those in the Administration who disagree they can resign.”\textsuperscript{228} In the minutes of a meeting held between Nixon and Georgia Senator Richard Russell, as the Senator argued that HEW staffers were inciting African Americans in the South, Nixon boasted about Panetta’s termination. Harlow recorded that “the President mentioned the departure of Mr. Panetta from HEW and told the Senator in confidence that the request for Panetta’s departure had come from the Oval Office.”\textsuperscript{229}

When he submitted his letter of resignation, Panetta warned that the administration’s attitude towards civil rights seemed to be shifting. “When I assumed this position,” Panetta wrote, “I was dedicated to the goals of the President to ‘bring us together.'”\textsuperscript{230} He called Nixon’s leadership in the area of civil rights “courageous” and credited the Republican Party with “the beginning efforts to eliminate the injustices of the past and achieve true equality in this

\begin{footnotes}
\item[226] Ibid.
\end{footnotes}
land.” However, Panetta criticized Nixon’s newfound willingness to sacrifice progressive and dignified civil rights policies in exchange for momentary political gain set a dangerous precedent. “The political pressures of the moment cannot change or lessen the need for greater understanding and leadership in this area,” Panetta warned, “nor should they be allowed to influence the enforcement of the law.” He called his resignation the “inevitable result” of the impact of political pressures on limiting the power of the Office of Civil Rights. Finally, observing the growing confrontation between liberals and conservatives not only in the Nixon administration but also within the larger context of the GOP, Panetta concluded, “I….hope and pray that the Party will not be held responsible for permitting these efforts to come to an end.”

In the midst of Panetta’s departure, liberal advisers in the White House urged Nixon to clarify his position on desegregation. Garment wrote Ehrlichman in March of 1970 that “too much is going on.” He suggested the “desegregation process needs revamping; the decisions are in conflict; different elements of ‘the public’ are confused by legislative gyrations….uncertain about the President’s stance on race.” Ehrlichman noted that the

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administration’s policy would “lead to a thousand questions.” Farmer conveyed to Nixon “the prevalent feeling among Negroes that [the] Administration is embarked upon a Southern Strategy designed to slow down school desegregation to the detriment of Negro children.” He, too, pleaded with Nixon to “make a public statement putting [the] Administration unequivocally on record in support of court-ordered desegregation.” Nearly 2000 HEW staffers wrote to Finch in March of 1970 asking for a “clearly-defined policy” in the area of desegregation. “Recent events,” the HEW letter suggested, “bearing directly on HEW’s civil rights commitment…have raised questions in our minds about the Department’s current stance.” The letter suggested confusion and concern about the “future leadership role of HEW in this field” which compromised the “effectiveness of each of us in carrying out our assigned responsibilities.” HEW staffers pleaded for a clarification of the administration’s policy. Even Dent warned Nixon that “the apparent schizophrenic posture of this Administration” might cost Nixon the political support of both conservatives and liberals.

In March 1970, a broad spectrum of advisers warned Nixon that the administration’s ambiguous position on school desegregation increased the possibility of defiance and violence in the South. While race relations were improving in the region, and although polls showed a weakened opposition to desegregation, the still unresolved nature of the issue threatened to ignite

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239 Ibid.
a crisis. George Shultz, Nixon’s first Secretary of Labor, suggested the subject of desegregation “was becoming more inflamed by the day.”²⁴³ For Moynihan, by the spring of 1970, “benign neglect” was either ineffective or had quickly run its course. He warned that the “ghetto” violence that ravaged cities across the Northeast and Midwest throughout the 1960s “may be spreading to the South.”²⁴⁴ He suggested that the administration was fortunate that northern riots “never really penetrated the South” where “half the black population lives” and warned that “southern racial violence…would be a calamity of historic proportion” and that it would “destroy the administration.”²⁴⁵ He advised Nixon to “act rather forcefully” to avoid it.²⁴⁶

Garment told Nixon to “make crystal clear” the administration’s intention to enforce all orders of the court and proposed using the “friendly local media” to “publicize Southern-directed ‘success stories’ in key districts.”²⁴⁷ He urged Nixon to issue a statement on desegregation in order to reaffirm “the President’s commitment to racial justice” and to call for “equity in dealing with the South.”²⁴⁸ He pushed Nixon to emphasize that his priority was quality education and to

²⁴⁷ Memorandum for The President from Leonard Garment, August 5, 1970. Folder: WHSF, President’s Handwriting, [August 1 thru 13, 1970]. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
reassure “southern leaders and citizens who have worked in good faith to implement Brown that their work will not be wasted, that they won’t be left out on a limb.” 

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In a stunningly quick departure from a winter of ambiguity, by March 1970, Nixon moved forward definitively on enforcing the *Alexander* decision. He rejected Buchanan’s request for Agnew to travel to the South and wrote to Buchanan that his plan to resist court orders was “wrong.” He told Haldeman and Ehrlichman that the time had come for a “decisive statement which includes an act.” Then, he collaborated directly with speechwriter Ray Price on an 8000 word statement committing to “carry out the law fully and fairly” and to take aggressive action to end the dual school system in the South. The administration’s “white paper” on school desegregation, Price suggested, offered the “most comprehensive treatment of school-desegregation issues that had ever been issued by any president.” The *New York Times* editorialized that Nixon “raised new hopes” that the “painstaking work of a decade and a half would not be undermined.” The paper applauded Nixon’s affirmation of a “personal belief” that *Brown* was a good decision “in both constitutional and human terms.”

At the beginning of his March 24 statement, Nixon described desegregation as a moral issue of tremendous national importance and committed the administration to resolving the

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250 Memorandum to the President, from Patrick J. Buchanan, Subject: Thoughts on De-Segregation options, February 22, 1970. Folder: WHSF, President’s Office Files, President’s Handwriting, February 16 thru 18, 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, January 16, 1970 to March 15, 1970, Box 5.

251 Memorandum from John Ehrlichman to Bob Haldeman, February 28, 1970. Folder: WHSF, President’s Office Files, President’s Handwriting, February 16 thru 18, 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, January 16, 1970 to March 15, 1970, Box 5.


255 Ibid.
crisis. He identified it as an “American issue, of direct and immediate concern to every citizen.” He promised that his administration would dismantle “all racial bars to equality of opportunity in the schools.” He proclaimed that “the pull of conscience and the pull of national self-interest both are in the same direction.” Nixon observed that “few public issues are so emotionally charged as that of school desegregation, few so wrapped in confusion and clouded in misunderstanding. None is more important to our national unity and progress.” He identified the “larger context” of the question of school desegregation as “part of America’s historic commitment to the achievement of a free and open society.” A system, he suggested, “that leaves any segment of is people poorly educated serves the nation badly; a system that educates all of its people well serves the nation well.”

Yet, despite this clear-cut proclamation, Nixon’s March 24 statement proved extraordinarily convoluted. It contained four main sections. First, Nixon suggested that, since Brown, the Supreme Court had been firm in declaring de jure segregation illegal and calling for its elimination. Nixon warned local communities not to incite lower courts into “extreme” and contradictory rulings through acts of noncompliance. Still, Nixon added that de facto segregation had yet to be deemed unconstitutional by the Court. Second, Nixon discussed the state of race relations nationally. He spoke of “resegregation”—caused by whites fleeing neighborhoods to avoid desegregation—as symbolic of the “deeply rooted racial attitudes” of

257 Ibid.
258 Ibid.
260 Ibid.
many Americans. Nixon argued that resegregation was symptomatic of the difficulty of integrating large, mostly black urban school systems. He mourned that the onus for changing the country’s culture fell on children. Third, he suggested that his administration’s objective was to improve “quality of education” in both white and black schools. He stated the White House would partner with—rather than dictate to—local school boards “provided they act in good faith and within constitutional limits.” Fourth, Nixon outlined a tentative plan for funding to deal with school desegregation. He said the funds would not be used primarily for busing, but instead opted for local experiments aimed at “interracial experiences” including “integrated, part-time, supplementary schooling outside a child’s neighborhood school.” Nixon called his plan “innovative.” He said it presented “alternatives are not limited to perpetuating racial isolation on the one hand, and massively disrupting existing school patterns on the other.”

Although the New York Times praised Nixon’s resolve, it simultaneously noted the continued ambiguity in the details of the March 24 statement. “Mr. Nixon’s philosophy of education is divided against itself,” the paper observed, “He complains that past policy has demanded too much of the schools by asking them to accomplish a ‘social transformation.’ But despite his limited view of the school’s mission, the President admits that school desegregation is most important to national ‘unity and progress.’” In the Times reporter Robert Semple observed that “the practical impact of the Nixon statement will not easily be measured for some time.” The most confusing component of the March 24 statement involved the administration’s position on de jure and de facto segregation. Nixon suggested that the South

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264 Ibid.
265 Ibid.
266 Ibid.
267 Ibid.
268 Ibid.
would not be able to use the lack of integration in the North as an excuse to delay an end to the region’s own segregation. “Deliberate racial segregation of pupils by official action is unlawful wherever it exists,” Nixon suggested. “In the words of the Supreme Court, it must be eliminated ‘root and branch’—and it must be eliminated at once.”271 Still, while the statement bluntly committed the administration to ending the South’s dual school system, it also directly noted that it would not require the elimination of de facto segregation in the North until the courts provided further direction on this issue.

To civil rights activists, the statement made clear Nixon’s hostility toward busing and his support of the neighborhood school concept. Jack Greenberg, the director-counsel of the NAACP Legal Defense and Educational Fund, questioned Nixon’s motives. “President Nixon’s statement that ‘there are limits to the amount of Government coercion that can be reasonably used’ is shocking,” Greenberg suggested, “The use of the term ‘coercion’ when the issue is the protection of constitutional rights of black children is just another example of rhetoric which rarely reduces prevailing confusion on the question of school segregation….We need only vigorous action by the Departments of Justice and Health, Education, and Welfare. We search in vain for such promise in this statement.”272 Greenberg also objected to Nixon’s criticism of using children to achieve what the adult community could not, stating “the very purpose of schools is to raise a generation according to our national ideals.”273 He further suggested that Nixon’s criticism of busing to achieve racial balance would allow for the perpetuation of the dual school system. “To pay lip service to integrated schools and an integrated society,” Greenberg proclaimed, “while acquiescing in the continuation of segregation would doom black children to

271 Ibid.
273 Ibid.
the kind of inferior education that has historically resulted from segregation.” 274 Francis Kornegagy, executive director of the Detroit Urban League, suggested that Nixon was “placating southern white people to perpetuate the same pattern of isolation, while at the same time playing into the hands of black people who want separatism.” 275 Isaac Williams, a filed secretary for the North Carolina NAACP, asserted “it looks like another Nixon maneuver to pacify the South.” 276

Southerners, on the other hand, embraced much of Nixon’s position. While most southern segregation was perceived to be de jure until the late 1960s, by the early 1970s de facto segregation patterns developed not only in the North, but also in southern cities. Thus, southerners recognized that Nixon had gestured to protect them from a massive transformation in the status quo. “The mere existence of primarily white and black schools in an area is not conclusive evidence of true de jure segregation,” suggested Senator John G. Tower, a Texas Republican. 277 William Poe, chairman of the Charlotte-Mecklenburg school board—which had been ordered by lower courts to use busing to end all-black schools—suggested Nixon “seemed to be saying, ‘We’re going to have some all-black schools, so let’s do something to bring them up to par with white schools through appropriations.’” 278

Yet even though the March 24 statement was ambiguous in many respects, and although civil rights activists deplored it and segregationist-leaninng southerners embraced it, Nixon had extended his administration’s commitment—at least for the moment—beyond simply ending the South’s illegal dual school system. “Even within the limited and occasionally contradictory mandate of the President’s statement,” the New York Times concluded, “progress is possible.”

274 Ibid.
275 Ibid.
276 Ibid.
The question is ultimately whether he allows his lieutenants to exploit its doubts or expects them to advance its commitment.™ Nixon convinced many racial moderates within the administration that, as Robert Semple observed in the *New York Times*, they had “won a major triumph after a long drought.” ²⁸⁰ Their “sense of elation,” Semple wrote, “derives not only from the President’s message, but from the cautious hope that some Administration figures thought to be inhospitable to civil rights now have changed their view.”²⁸¹ At the very least, as one scholar later suggested, “for all the attention paid to Nixon’s acceptance of Southern ‘good faith’ and aversion to ‘unreasonable’ busing, his March 24 school desegregation address sounded closer to Farmer than to Buchanan.”²⁸²

In his own way, through a combination of bobbings and weavings, inconsistent public politics and backroom policy making, Nixon had positioned his administration to apply the law and guidelines framed by an intricate combination of the federal government, the courts, and Congress and bring about real change in the racial balance of schools. By transferring responsibility for guidelines and timetables to HEW and its immense staff pushing in the direction of desegregated education, by using the Justice Department to prosecute schools that did not abide by the new guidelines, and by currying favor with voters in the South by other means in order to protect his own political fortunes, Nixon established the means to transform the racial composition of southern educational institutions to an extent few would have predicted in the 1968 campaign.

²⁸¹ Ibid.
Richard Nixon’s March 1970 statement to the nation offered the most comprehensive plan for confronting institutional segregation in education ever devised by any president. Although complex and long, the statement skillfully negotiated the difficult web of judicial decisions, laws, bureaucratic guidelines, and enforcement procedures related to school desegregation that had emerged over the previous two decades. Although the statement did not issue a specific plan for resolving issues related to de facto segregation, the administration appeared firm in its commitment to eradicate the South’s dual school system. In this context, the statement’s most crucial directive was in the allocation of significant funding—$1.5 billion—to coordinate desegregation in the region and ease the transition to a unitary school system through the funding of “teachers, education specialists, materials, curriculum revision, equipment and renovation.”

“Words ring empty without deeds,” the statement declared, “In government, words ring even emptier without dollars.” In requesting the funding, Nixon wrote that the money would “provide immediate assistance to school districts which must desegregate by the fall of

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1970. These desegregating districts face urgent needs for teachers, education specialists, materials, curriculum revision, equipment and renovation.\footnote{Letter from Richard Nixon to The President of the Senate, May 25, 1970. Folder: WHCF Subject Files, (HU) Human Rights, [EX] HU 2-1 Education – Schooling, 3/1/70 – 3/31/70. NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71 – 9/30/71, Box 9.}

By the spring of 1970, many southern leaders recognized that the dual school system’s demise was inevitable. The administration’s maneuvering and its strategy of using the Justice Department to enforce compliance with judicial decisions, which were based on HEW guidelines, provided increasingly moderate southern officials with the political cover they needed. Leonard Garment observed that “many Southerners were looking for a way to meet the deadline dilemma without tearing their communities apart.”\footnote{Gareth Davies, See Government Grow, (Lawrence: University Press of Kansas, 2007), 134.} The chairmen of the Republican Party state committees appeared to accept the imminent transformation and asked for the administration’s assistance to “insure that the responsibility for this is properly credited to the courts.”\footnote{Memorandum for The President from Harry Dent, Subject: Report on Southern Chairmen’s meeting and desegregation in the South, January 13, 1970. Folder: WHSF, President’s Office Files, President’s Handwriting, February 16 thru 18, 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, January 16, 1970 to March 15, 1970, Box 5.}

The columnists Rowland Evans and Robert Novak observed that, by the spring of 1970, “local Republican leaders” in the South had begun to encourage “voluntarily compliance” with administration directives.\footnote{Rowland Evans and Robert Novak, “Nixon’s Desegregation,” Los Angeles Times, June 5, 1970, C7.} In addition, Nixon’s popularity in the South in the spring of 1970 enabled the administration to act on Alexander’s mandate. “The President and the Vice President are more popular in the South today than ever before,” Dent wrote. “The polls now show the President’s approval to be higher in the South than in any other section. The President
has thus far received little blame for school integration anguish.” A Gallup poll indicated in July of 1970 that 68 percent of white southerners approved of Nixon.

The political capital Nixon earned by appearing to stand up for the South—in arguments about the speed of enforcement, in Supreme Court nominations, and in incorporating southerners into his inner-circle—was exactly what the administration needed to shield itself from criticism and maintain southern political support as the process unfolded. Resolving the regional crisis over school desegregation was also politically expedient. Ending the dual school system in the South would make it easier for Nixon to govern, increase the number of voters supporting Republican candidates in the South and across the country, and remove the national stigma that the South was racist and backwards. Historian Gareth Davies argues that Nixon’s unpopularity among civil rights activists, combined with his attempted Supreme Court nominations and other efforts to curry favor in the South, “may have allowed him to play a constructive role at this moment in history.”

In addition, race relations at least appeared to be improving across the country. “Racial unrest seemed to subside,” historian James Patterson has observed. “Contrary to expectations, the ghettos had quieted in the summer of 1968, and they stayed relatively peaceful through the early 1970s...blacks were developing a sizeable middle class.” Racial tension across the country eased in the first years of the Nixon Administration. According to Moynihan writing in

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10 Ibid.
retrospect, “there weren’t any more race riots under Nixon because of the hope generated in the black community by his welfare reform, revenue sharing, and job training proposals.”

In addition to a resigned acceptance of desegregation by many southern officials by the spring of 1970, there was also a marked change in the outlook of the southern public at large. Moynihan highlighted the findings of a Gallup poll that revealed an enormous shift in southern whites’ attitudes. While 61 percent of white southerners had objected to “integration” in 1963, by the spring of 1970 only 16 percent were opposed. Gallup, Moynihan notes in a memorandum to Nixon, called this “one of the most dramatic shifts in the history of public opinion polling.”

Moynihan added that in the South “race relations have been getting better.” Southerners were “more concerned with their jobs, rights, and privileges,” Dent observed. “Few, if any, want to be classed in the racist category,” he explained, “The South is in the process of evolving more and more on the race question.” Dent further observed that candidates like George Wallace “cannot win” nationally and that Wallace had “made himself vulnerable to the racist charge by his 1970 [gubernatorial] campaign” and in doing so “alienated…many middle and upper class whites who supported him in 1968.”

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In the Democratic primary in Alabama, Wallace faced off against Governor Albert Brewer, a moderate on civil rights who sought the support of African-American voters. (Brewer, as lieutenant governor, had risen to the governorship in May 1968, when Wallace’s placeholder wife, Governor Lurleen Wallace, died of cancer.) Brewer actually received more votes than Wallace in the first round of balloting, but the race was close enough to warrant a run-off election. Wallace narrowly beat Brewer in the run-off, after waging a vulgar, vitriolic, and thoroughly racist campaign. One Wallace advertisement declared in bold capital lettering: “BLACKS VOW TO TAKE OVER ALABAMA” and that Brewer was their leader. As if the message needed further clarification, the ad showed a young white girl with blond hair dressed in a bathing suit and smiling, alongside several African-American children. “This could be Alabama four years from now,” the caption read, “Do you want it?” In order to regain the governor’s mansion and preserve his presidential campaign Wallace had felt it necessary to run a campaign that would only harm and perhaps prevent his chances of ever winning the presidency.

As it happened, Wallace would never get that far: in May 1972, five months after he declared his presidential candidacy, Wallace was cut down by a would-be assassin and rendered paralyzed, ending his political career. Even though Wallace finally bested Brewer, the closeness of the 1970 campaign showed that, even in the South, overt racism was no longer a fool-proof path to political office even in Alabama. And the future looked even dimmer for blatant racism. “The passing of time and the job of total desegregation” Dent argued, would create a new political reality in the South and across the country. Winton M. Blount, an Alabaman who served as Nixon’s Postmaster General and an adviser on race relations assured Nixon that

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19 Ibid.
“desegregation and integration are no longer the issues in the South. It is clear that the dual school system is wrong and that what we should seek is to make available to all students the best education without discrimination.” Historian Herbert Parmet had pointed out that by March, the debate over schools in the South had shifted “from whether desegregation would finally take place to how it would take place—peacefully or violently, with the schools saved or destroyed.”

At the same time, though, some White House officials cautioned in private that Nixon’s hold on southern white voters was by no means secure, and that he ought to proceed cautiously—or not proceed at all. Haldeman warned Nixon that “politically we don’t win anything” by encouraging compliance with court orders in the South and argued that the administration “not be under the illusion that this is helping us politically.” While the administration risked losing the support of some white southerners, Haldeman observed, Nixon would not be able to replace white voters with an increasingly enfranchised African-American population. We will get “no credit from the Blacks for doing this desegregation,” he wrote, “and a lot of heat from many of our supporters.” Harlow reiterated Haldeman’s concerns, writing to Nixon “there are no votes for the Nixon Administration in any of this.” But Nixon saw the situation differently, albeit in cold political terms. In response to Haldeman’s and Harlow’s memos, Nixon told officials at HEW and the Justice Department to “complete this process [of

23 Memorandum from H.R. Haldeman to The President, Subject: Desegregation Meeting, August 4, 1970. Folder: WHSF, President’s Handwriting, [August 1 thru 13, 1970]. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
24 Memorandum from H.R. Haldeman to The President, Subject: Desegregation Meeting, August 4, 1970. Folder: WHSF, President’s Handwriting, [August 1 thru 13, 1970]. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
25 Memorandum from Bryce Harlow to Staff Secretary, Re: August 13 Meeting, 6:30p.m., August 20, 1970. Folder: WHCF Subject Files (HU) Human Rights, [EX] HU 2-1 Education – Schooling, 8/1/70 – 8/31/70. NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71 – 9/30/71, Box 9.
desegregation] now rather than later, nearer the 1972 elections.”

One Republican southern strategist reported “We don’t want any time-bombs in 1971 and 1972. We’ll take the court suits now and hope it quiets down by the 1972 election.”

Afraid to risk Nixon’s popularity in the South, administration officials determined that an understated approach to desegregation in the South would be ideal. Haldeman, going along, suggested “our people are to do only what the law requires and they are to do it quietly without bragging about it.” He argued that the “best approach” to desegregation would be for administration officials to “quietly do our jobs without press conferences or announcements of what our plans are.” Nixon agreed and warned Garment not to “make a big statement about a massive federal program for overseeing integration” and ordered him to act in a manner “as low profile as possible.” The entire operation would be “low-key,” as Haldeman put it, and would proceed “district by district and state by state.” Yet muffled and politically calibrated as it was, the White House’s effort would still be of historic importance. What the political scientists Merle Black and Earl Black call the Nixon administration’s “behind-the-scenes efforts to foster compliance by local school officials,” would become the most important strategic initiative of

26 Memorandum from Bryce Harlow to Staff Secretary, Re: August 13 Meeting, 6:30p.m., August 20, 1970. Folder: WHCF Subject Files (HU) Human Rights, [EX] HU 2-1 Education – Schooling, 8/1/70 – 8/31/70. NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71 – 9/30/71, Box 9.
28 Memorandum from H.R. Haldeman to The President, Subject: Desegregation Meeting, August 4, 1970. Folder: WHSF, President’s Handwriting, [August 1 thru 13, 1970]. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
29 Memorandum from H.R. Haldeman to The President, Subject: Desegregation Meeting, August 4, 1970. Folder: WHSF, President’s Handwriting, [August 1 thru 13, 1970]. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
30 Memorandum for The President from Leonard Garment, August 5, 1970. Folder: WHSF, President’s Handwriting, August 5, 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
31 Memorandum from H.R. Haldeman to The President, Subject: Desegregation Meeting, August 4, 1970. Folder: WHSF, President’s Handwriting, [August 1 thru 13, 1970]. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, August 1970 to October 1970.
any president in the aftermath of *Brown v. Board of Education* in helping to bring about an end to the dual school system.\(^{32}\)

In order to ensure the discretion, Nixon shifted authority for desegregation away from both HEW and the Justice Department, and placed it firmly inside the White House. Davies has noted that, during the Nixon years, the federal bureaucracy and the courts—not the Oval Office—shouldered most of the responsibility for civil rights policy, with a single exception: desegregating southern schools.\(^ {33}\) Nixon hoped that authority in the White House would in turn be consolidated in the Cabinet Committee on Education (CCE)—informally known as the Cabinet Committee on Desegregation—which Nixon established to coordinate the administration’s policy efforts. The group was charged with distributing the 1.5 billion dollars Nixon had set aside to facilitate a smooth transition.

In addition to moving control of desegregation efforts to the White House, Nixon made a significant modification at HEW. On June 6, 1970, in the first change to his cabinet since taking office, Nixon announced he was replacing Finch with Undersecretary of State Elliot Richardson. Nixon claimed publicly that he needed Finch’s assistance in the White House and thus had assigned him to the Domestic Affairs Council. “I regret having him leave HEW,” Nixon claimed, “but I need him here….I believe this change is in the best interests of the whole administration.”\(^ {34}\) Some administration officials, indeed, believed that Finch’s move to the White House indicated a leftward shift in Nixon’s inner-circle. “Nixon is pulling his administration to the ‘center,’” one official suggested.\(^ {35}\) A week after moving Finch to the White House, Nixon appointed George Shultz, the Secretary of Labor, to head the Office of

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\(^{33}\) Davies, 221.


Management and Budget. Nixon “had a couple of options,” another White House adviser suggested after the Shultz transition, “He could move in one direction or the other. What he did was take the two most liberal men in the Cabinet into the White House—one his closest friend and the other the most competent man in the administration on domestic affairs—and he made a Ripon Society Republican his new secretary of HEW.”

Liberal advisers and political leaders hoped that Finch’s influence would help shape the administration’s policies. “He was the idealist inside the department,” James Farmer noted, “as well as in the administration. Now it is our hope, and I know it is his, that he can wield that leverage in the White House.” Liberal Senator Ralph Yarborough of Texas expressed hope that “the President will listen to Finch’s advice and not veto any more health and education bills.” Hugh Scott, the leading Senate Republican, suggested Finch was a “good guy….His compassion, understanding, and integrity are enormous assets to the administration.”

Other officials, however, viewed the change at HEW as an attempt to neutralize Finch, not elevate him, or at least bail him out of a situation in which he could no longer be effective. “Finch will disappear within a year,” an unidentified inside observer told the Baltimore Sun, “I don’t think he’ll have a helluva lot of influence here….It is hard to fight your way through the tough guys around the President and they will not voluntarily relinquish a spot at the roundtable to a fallen knight.”

By the summer of 1970, Finch had become embattled and beleaguered. He was torn by several things: idealistic HEW employees ambitious to bring about civil rights reforms as

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36 Ibid. Founded in 1962, the Ripon Society had come to represent the GOP’s most liberal wing, especially on civil rights. It was the first significant Republican organization to actively support the passage of the Civil Rights Act of 1964.  
37 Ibid.  
39 Ibid.  
quickly as possible, a more reserved Justice Department, and an administration overwhelmingly preoccupied with politics. Finch himself suggested that HEW’s massive bureaucracy was a “man-killer.” In addition, the complexities at HEW and the administration’s bobbing and weaving through the desegregation issue “ate away at Finch’s reputation as a ‘liberal.’” James Farmer suggested, “Because of Mr. Finch’s liberal image when he came here….young idealists [at HEW]….considered him a friend and it is the nature of dissenters to be harsher on friends than enemies, because more is expected of them. Because he was expected to have leverage in their favor, Bob became a target.” The tenuousness of Finch’s position reached a crisis in late March of 1970, when employees formally demanded clarification of the department’s civil rights policies. A letter signed by 2000 HEW employees observed that the department “had once demonstrated ‘a firm commitment to the goal of school desegregation’” but that staff and rank-and-file workers now “questioned whether this was still true.” While the number of employees who signed the letter represented only a fraction of HEW’s total staff, their very vocal and very public position helped tarnish Finch’s image.

In May, a fatigued Finch was admitted to Walter Reed Medical Center with symptoms of severe stress. Following the hospitalization, doctors ordered Finch to take a vacation outside of Washington. When he returned in June, the administration had already made plans for his departure. When Finch was replaced at HEW, the sheer size of the agency was extraordinary and maintaining control over it was a monumental task. The agency had 110,000 employees, a 51 million dollar budget and 270 programs. In addition, in June of 1970, it was also a

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“department in substantial disarray and turmoil,” as the *Washington Post* suggested. Finch’s departure from HEW came in the midst of a much broader staff shakeup of the Nixon administration.

In this environment, the Cabinet Committee on Education set about allocating the nearly $1.5 billion in funding for desegregation. Initially, Nixon appointed Vice President Agnew to head the CCE. He also named Robert Mardian, a 46-year old conservative from California, as executive director. After Roger Wilkins turned down Finch’s offer to serve as general counsel at HEW in January of 1969, Nixon had appointed Mardian to the position. Consistently at odds with more liberal bureaucrats at HEW, by the spring of 1970 Mardian was, according to the *New York Times*, the “target of civil rights groups” because of his reputation. As a result, Nixon charged Garment and Price with assisting Mardian in the CCE’s daily operations. “Several of the President’s Cabinet officers and advisors of Cabinet rank” joined Mardian, Price, and Garment on the Committee: Mitchell, Finch, Shultz, Harlow, Moynihan, Blount, and Donald Rumsfeld, the director of the Office of Economic Opportunity. Indeed, on a high-ranking committee that Nixon had selected to oversee the final phases of coordinating an end to the South’s dual school system, Nixon had selected a team of his most liberal and progressively-minded civil rights advisers.

From outside of the administration, and at Moynihan’s urging, Nixon appointed Dr. James Coleman, a noted Johns Hopkins sociologist, to work with Mardian in determining the best use for desegregation funds. In 1966, Coleman authored a government-commissioned...
report entitled “Equality of Educational Opportunity.” The Coleman Report argued that integration was a crucial aspect for student success, especially for underprivileged African Americans. Surprisingly, Coleman and Mardian “hit it off famously,” and developed a close relationship.⁴⁹ As the CCE debated the allocation of the $1.5 billion, Coleman persuaded Mardian to advocate that the “bulk of the money” be used for “integration”, a “course originally favored by nearly all liberals outside the administration.”⁵⁰ Mitchell, on the other hand, wanted to use the money in a compensatory manner to raise the level of all-black schools. In an unusual political alignment, Finch and James E. Allen Jr., Panetta’s replacement at HEW, sided with Mitchell, a move they believed would enhance educational opportunities available at all schools and leave open the possibility that some of the money could be used for busing. Privately, administration officials acknowledged that the CCE aimed to direct its funds “to promote forms of desegregation” rather than “upgrading slum schools.”⁵¹ While Ehrlichman ultimately “blocked….language expressly authorizing use of money for busing,” the CCE’s final proposal eliminated only the explicit directive that funds be used for busing.⁵² Ultimately, the CCE adopted “compromise language” which allowed districts to “use money for busing if they wish and if busing is for educational purposes and not intended ‘solely to achieve racial balance.’”⁵³

The CCE’s plan established three specific uses for the 1.5 billion dollars. First, it designated funding for ending official de jure segregation in the South by coordinating and providing support for desegregation on the ground. Second, the committee promised “technical assistance” to public schools in the North and the South that wanted to either eliminate de facto

segregation or “soften the effects of segregation by providing compensatory educational help to minority group children in racially isolated classrooms.”\textsuperscript{54} Third, funds were designated specifically to “reduce de facto segregation in the North.”\textsuperscript{55}

The CCE’s willingness to address \textit{de facto} segregation—an issue that Nixon dealt with vaguely in the March 24 statement—alienated some administration conservatives. On June 6, Agnew wrote Ehrlichman asking to be “relieved” of the chairmanship of the CCE and noting that it was “virtually impossible for this Committee to serve the ameliorating function which it was formed to accomplish.”\textsuperscript{56} He called school desegregation a “political can of worms which erodes my credibility as a spokesman for the Administration in sensitive areas and impairs the discharge of my political assignments.”\textsuperscript{57} In an exaggerated account, uncorroborated by other committee members, Agnew asserted that the committee and its staff were “thoroughly enmeshed in a bureaucratic, legalistic jungle and are so ideologically divided that they find themselves unable to come to grips with the fundamental problems.”\textsuperscript{58}

Following Agnew’s departure, Nixon asked George Shultz to head the CCE. Nixon had already appointed Schultz Secretary of Labor. A former professor of Economics at the Massachusetts Institute of Technology and the University of Chicago, Schultz was an economic conservative, but fairly progressive on civil rights issues. He had, for example, directed the

implementation of the Nixon administration’s Philadelphia Plan to increase the hiring of African Americans in construction companies with federal contracts, first in Philadelphia followed by other cities around the country. As Secretary of Labor, Shultz had earned a reputation for his ability to negotiate compromises between competing parties. He was an ideal candidate to head the CCE.

Under Shultz’s direction, the Committee undertook coordinating an end to the dual school system in the South through local involvement. “Local leadership,” Nixon suggested, would be the “key to success.” 59 According to journalist Tom Wicker, Nixon “wanted southerners to feel good about their own achievement of desegregation, not angry toward outsiders who had imposed integration on them.” 60 The Committee’s plan attempted to foster compliance in southern school districts through local State Advisory Committees (SAC). Shultz suggested that the SACs were formed to identify “the kinds of problems that are likely to arise as this process goes on” and form solutions. 61 Their primary role would be in providing “leadership and advice” to individual school boards, serving as an “early-warning system supplementing the Government’s efforts to identify potential trouble spots,” and helping the CCE decide how to spend the money allocated for desegregation. 62

The idea of establishing local advisory committees to smooth social transition in the South drew upon some precedents, chiefly self-organized groups of moderate southern whites who had tried to smooth implementation of the Brown decision. Historian Kevin Kruse has written extensively about groups assembled in the 1950s and early 1960s to advocate “open

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60 Ibid., 505.
62 Ibid.
schools” in Atlanta. Fearing that violent reactions to integration might tarnish the image of their city, those involved quelled their “personal prejudices” to “create a climate of peaceful acceptance.” By 1961, the “open school activists,” as Kruse describes them, organized themselves into an association called Organizations Assisting Schools in September (OASIS) and aimed to “help accomplish desegregation in a peaceful and orderly manner.” As Kruse suggests, the association “stressed the need for civility and compliance with school desegregation while avoiding any discussion of the merits or morality of such changes.” While the organization encouraged compliance with the law, it stopped short of promoting racially-mixed schools. In Little Rock, Arkansas, affluent white women from the suburbs organized the Women’s Emergency Committee to Open Our Schools (WEC) in 1958. The group argued that massive resistance had badly troubled the public schools while it inspired the rise of a network of subpar private segregationist schools. Taking as its central mission that of upholding the “principle of free public education and….law and order,” the women of the WEC urged segregationists to retreat. Like OASIS in Atlanta, according to historian Matthew Lassiter, WEC’s “rhetorical strategy redirected public discourse to the ways that massive resistance imposed severe penalties on white children and corporate interests” rather than framing it along moral lines.

Similarly, in Greenville, South Carolina, a racially diverse group of clergy, journalists, school board members, and business leaders formed a local committee to urge compliance with court orders. “Together we can create superior public schools in Greenville,” the committee

64 Ibid.
65 Ibid.
66 Ibid.
68 Ibid.
declared. The committee wanted Greenville to be a “model community that leads the region in education, in economic progress, in spirit.” The leader of the Greenville committee was Brown Mahon, “a conventional Southerner who was uncomfortable with school desegregation” but committed to “public education and obedience to law.” Despite fierce opposition, Greenville schools desegregated ahead of schedule “with almost dazzling ease,” as one journalist put it. Greenville Superintendent M.T. Anderson told a meeting of South Carolina mayors, “at first I didn’t think we could do it, but the community leadership, our administration and our teachers were dedicated to maintaining the public schools and we did it.” Organizations like OASIS and the Greenville committee emerged across the South in the late 1950s and early 1960s. Avoiding any discussion of the moral imperative of desegregation, the local committees encapsulated a “middle-class discourse of protecting innocent children, strengthening public education, and pursuing economic prosperity,” as Lassiter has described.

Although the Nixon administration’s local advisory committees in some ways resembled the open schools associations of the previous decade, there were obvious differences. Above all, the SACs directive came firmly and forcefully from the executive branch of the federal government. Nixon charged the SACs with “insuring a smooth transition” from segregated schools by coordinating federal resources, “building public support for orderly compliance with the law,” in addition to generating “public support for the policies of the President.” Importantly, the CCE did not have the ability to change the law, to “give support to any evasion

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69 Davies, 134.
70 Ibid.
71 Ibid.
72 Ibid., 135.
73 Lassiter, 45.
74 Memorandum for the President, from Fred LaRue, Re: Mississippi State Advisory Committee to the Cabinet Committee on School Desegregation. June 19, 1970. Folder: WHCF Subject Files, [EX] HU 2-1 Education – Schooling, 6/1/70 – 7/31/70. NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71 – 9/30/71, Box 9.
of the law” or to “interfere with Federal Departments having operating jurisdiction.” As Shultz noted, the CCE represented the solidification of Nixon’s “conciliatory efforts” but “left little doubt about his intention to enforce the law firmly.” The CCE charged the local advisory committees with “secur[ing] intelligence” and “seek[ing] support of individual members in conciliation efforts and/or problem solving.” The Nixon administration relied on the advisory committees to “have strong contacts in both the black and white communities” and to be the “most important resource in communicating with state citizens and local leaders to solve problems.”

The CCE aimed to establish state advisory committees in the seven southern states most derelict in meeting the legal requirements to end dual school systems: Mississippi, Alabama, Louisiana, Georgia, North Carolina, South Carolina, and Arkansas. While other states struggled with the process and principles of desegregation, the problem was most acute, and the risk of violent confrontation most likely, in the Deep South plus the Carolinas. The SACs were supposed to include “leading citizens of both races with recognized influence within the state.”


Members were to lead in their respective communities and had “agreed to support the concept of public education and the necessity for its continuation in the South.”

Convincing local leaders to join the committees, though, proved an arduous task. “Many [leaders] were reluctant to serve,” Schultz recalled, “the whites fearing too close an association with desegregation, the blacks concerned that the committee might be a sham.” Tom Wicker discussed the challenges faced in recruiting members, noting that whites feared they might “suffer economically, perhaps physically, for associating themselves with desegregation” while local black leaders worried they “might appear as Uncle Toms to their followers” if the state advisory committee “turned out to be just another white man’s trick to keep the black man in his place.”

Administration officials selected Mississippi as the first state to host a CCE advisory committee because they “anticipated more difficulty there than in other states.” Mississippi was “historically the most recalcitrant” of all southern states in complying with desegregation and success there could help provide a model for other southern states. Even Wicker, a constant critic of Nixon’s, was astonished by the administration’s ambition in trying to enlist opposing factions to serve on the same committee. Wicker described the first meeting of the Mississippi advisory committee with a surprised air: “Fifteen ordinary Mississippians, nine whites, six blacks, liberals, conservatives, segregationists, integrationists—having lunch with

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82 Tom Wicker, One of Us, 485.
83 Memorandum for the President, from Fred LaRue, Re: Mississippi State Advisory Committee to the Cabinet Committee on School Desegregation. June 19, 1970. Folder: WHCF Subject Files, [EX] HU 2-1 Education – Schooling, 6/1/70 – 7/31/70. NPM, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71 – 9/30/71, Box 9.
84 Wicker, One of Us, 485.
some of the highest officials in the federal government, including…Mitchell and….Shultz.”

They met at the White House in the Roosevelt Room, directly across from the Oval Office, a symbol of the importance the administration placed on the SACs.

Shultz later described the meeting as “intense” but “civil.” Huge divisions, however, were clearly evident among the Mississippians. Shultz urged the leaders to develop a tangible strategy for desegregating Mississippi schools by confronting practical issues involved in the process. “The fact is, desegregation is going to happen,” Shultz warned, “whether you like it or not. You have a great stake in seeing that this effort is managed in a reasonable way.”

Mitchell, a reputed “tough guy” in the South who was simultaneously seen as “sympathetic” to southern whites, reiterated Shultz’s advice, telling the group: “I am attorney general, and I will enforce the law.” According to Shultz, Mitchell offered “no judgments about whether this was good, bad or indifferent.”

By lunchtime on that first day, Shultz singled out the two people he wanted to lead the advisory committee in Mississippi: Warren Hood, president of the Mississippi Manufacturers Association, and Dr. Gilbert Mason, a black physician, head of the Biloxi chapter of the NAACP, and a chief petitioner in the lawsuit to desegregate the Biloxi Municipal School District. “I could see they were beginning to talk constructively to each other,” Shultz recounted. It was Mason and Hood who ultimately negotiated an agreement to form the local committee and assist the administration in enforcing the law. “Left alone [at the table], Mason and Hood agreed that they were perhaps the only men in Mississippi who could make the

85 Ibid., 484.
86 Ibid.
88 Ibid.
89 Ibid.
90 Ibid.
advisory committee work,” recounts Wicker, “if they didn’t surely no one else could, or perhaps would even try.”\textsuperscript{91} Eventually they agreed “we’re probably the only black and white men in the state who can get together on something like this.”\textsuperscript{92} As lunch ended, Mason and Hood reached the terms of an agreement to participate jointly in helping to ensure peace as Mississippi’s dual school system was deconstructed, shook hands, and made the Mississippi Committee a reality. Their act was symbolic and forged the way for the formation of committees in other states. As Shultz described, “We were in business.”\textsuperscript{93}

As the day’s meeting concluded, Nixon invited the Mississippi representatives into the Oval Office. There, he addressed the group with “a great sense of conviction and with considerable emotion.”\textsuperscript{94} Shultz recounts that Nixon gathered the guests around his desk and proclaimed, “we live in a great democracy where authority and responsibility are shared. Just as decisions are made here in this office, decisions are made throughout the states and communities of our country. You are leaders in those communities and you have to step up to your responsibilities.”\textsuperscript{95} According to Shultz, members of the Mississippi committee “left the Oval Office inspired.”\textsuperscript{96}

Decades later, Mason recounted that the committee’s makeup “pointed to the possibility for cooperation across racial lines that might build a new day in Mississippi.”\textsuperscript{97} Over the course of the summer and into the fall, the Mississippi SAC synthesized the advice of “ordinary

\textsuperscript{91} Wicker, \textit{One of Us}, 486.
\textsuperscript{92} Davies, 137.
\textsuperscript{94} Davies, 137.
\textsuperscript{96} Ibid.
\textsuperscript{97} Gilbert Mason and James Patterson Smith, \textit{Beaches, Blood, and Ballots} (Jackson: University Press of Mississippi, 2000), 186.
citizens, parents, and school officials.”98 The committee acted as a “liaison” between the CCE and “local schools, PTA groups, and others interested in strengthening public education in Mississippi.”99 In addition, the SAC conducted reviews of applications for federal desegregation funding.100 By the end of 1970, with the help of the SAC, 95 of Mississippi’s 150 school districts received financial assistance from the CCE.101

The success of the Mississippi delegation was crucial in encouraging other southern states to establish advisory committees. “Had Mississippi refused,” Wicker pointed out, “it would have been more difficult for the administration to win acquiescence elsewhere.”102 If Mississippi, allegedly the most tense, contentious, and stubborn of all southern states, could start to move, then peaceful desegregation might be possible throughout the South. Local, biracial advisory committees were formed quietly along similar lines with similar objectives—detailed plans on how to open desegregated schools in the fall of 1970 without violence—in South Carolina, North Carolina, Georgia, Arkansas, Louisiana and Alabama.

In South Carolina, the SAC “systematically campaigned for support of public education and racial peace during the transition.”103 Under the direction of its chairman, Robert S. Davis, who was the president of a printing company in Columbia, the committee “inspired a flood of television and radio messages urging people to support the public schools. Several large businesses have been persuaded to send letters to their employees urging the same thing.”104 One of the television and radio announcements in South Carolina offered three options for public schools. “We’ll have good schools, inadequate schools, or no public schools,” the ad

98 Ibid.
99 Ibid.
100 Ibid.
101 Ibid.
102 Wicker, One of Us, 486.
104 Ibid.
proclaimed. “It’s beyond our comprehension that we would have no schools. Keep your cool—support our schools.”

In addition to advertisements, the committee held four regional meetings with 89 mayors to ask them to organize meetings to discuss support of public schools. While many members of the SAC preferred freedom-of-choice plans, including the chairman, Davis suggested “integration is part of our life now and people are facing up to it. It’s going to work in our state.” They asked local business leaders to “write letters carrying the SAC message to their employees.”

Throughout the South, local media outlets combined with public personalities to push for peace and compliance through the SACS. The Reverend Billy Graham agreed to lend his voice and his fame to television spots that ran throughout the Deep South on airtime donated by station owners to the SAC’s. In one advertisement, Graham declared he was “very proud to be a Southerner.” He asserted that southerners “value their public school system” and warned of “the danger of damaging it.” He proclaimed that southerners “realize that they cannot teach their children respect for law if they themselves defy it” and concluded “I think that Southerners realize that their children’s education is at stake and that’s far too important for them to permit their fears and frustrations to endanger it.” In North Carolina, the SAC aired “‘an appeal for support of public education, based on several themes, such as religion [and] economics.’”

Local newspapers also spread the word. The *Birmingham News* argued for “the importance of

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105 Ibid.
106 Ibid.
107 Davies, 136.
108 Ibid.
109 Ibid.
110 Ibid.
111 Ibid.
public education” and warned that “Alabama can’t permit its public school system to collapse in chaos and confusion.”

The Louisiana SAC proved the most difficult to mobilize and ultimately, as Nixon recounted in his memoirs, became “hopelessly deadlocked” about how to proceed with desegregation.” The Louisiana committee was an exceptional case in terms of its composition. While other state’s SACs included figures who disagreed on the speed of desegregation, some members of the Louisiana committee were on entirely opposite sides of the desegregation divide. The committee included Frank Voelker Jr., a former chairman of the state Sovereignty Commission, which had led to the massive resistance to integration, and Arthur J. Chapital Sr., urban program director from the New Orleans branch of the NAACP. Members of the Louisiana committee, according to a news report, “had trouble agreeing on public positions because of the wide divergence of the members’ views. As a result, they have not had much to say.” Shultz recommended that Nixon himself travel to Louisiana to intervene personally in hammering out the details for a smooth transition in the state. Agnew warned Nixon not to go. “I remember the meeting in the Oval Office to discuss these proposed events,” Shultz noted. “There you will be in that room, Mr. President” Agnew told Nixon, “Half the people there will be black; half will be white. Pictures will be taken. When the schools open, there will be blood running through the streets of the South, and if you go, this will be blood on your hands. This is not your issue. This is the issue of the liberals who have pushed for desegregation. Stay away.”

112 Ibid.
Despite Agnew’s warning, Nixon traveled to New Orleans where he met not only with the leadership of the Louisiana SAC, but with members from all seven committees. According to the *New York Times,* “part of the purpose of the trip was to bolster the stature of these [local advisory] committees and make them more visible in their home states as they try to persuade reluctant whites to support public education.”\(^{116}\) New Orleans had a recent history of tensions related to school desegregation. In 1960, when courts ordered two all-white schools in New Orleans to enroll African-American students, 5000 members of the White Citizens Council and throngs of teenagers and adults descended on city hall and other municipal buildings, as violence erupted across the city.

In a public address following his meeting in New Orleans, Nixon described his visit as “preventive action” in “enforcing the law” and ensuring “justice.”\(^{117}\) As the *New York Times* reported, Nixon went to New Orleans to “reassure the South that he was at once firm and reasonable in his approach to the next big round of school desegregation this fall….he reiterated that the Supreme Court had decreed school desegregation and that he was responsible for enforcing the decision.”\(^{118}\)

After assisting the SAC with the details for opening schools in Louisiana, Nixon met with the co-chairmen from all seven states in anticipation of the fall school openings. At the end of the meeting, Nixon officially ended the moratorium on publicizing the administration’s efforts and publicly took credit. The president went in front of television cameras and announced that it was the “responsibility of those in the Federal Government and particularly the responsibility of

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the President” to uphold the law the courts had established. Nixon called the work of the advisory committees “one of the most encouraging experiences that I have had since taking office.” He credited the SAC’s with ensuring an “orderly and peaceful” transition when the school year began. “In upholding the law,” Nixon said, “a law which requires a very significant social change, one that has enormous ramifications as it affects the communities, the schools, the homes of so many people in the Southern states involved, there are different approaches….We are trying to take some preventive action and we are getting magnificent cooperation from dedicated people in the seven states involved.”

Nixon also expressed his admiration for how the South prepared for the opening of schools under the new guidelines and, characteristically, he used the opportunity to win points with the southern electorate. The president suggested that the South had set an example to the rest of the country. “This problem of race relations and particularly with regard to segregation in our schools is not a sectional problem,” proclaimed Nixon, “it is a national problem. It should be handled in a national way. I have no patience with those from the North that point the finger at the South and then overlook the fact that in many Northern cities and Northern States the problem may also be a very, very difficult one.” Still, even as Nixon’s New Orleans speech was a political opportunity—and Nixon was the ultimate political opportunist—the scene was

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120 Ibid.
121 Ibid.
profound. “From the heart of the South,” Shultz recounted, “he spoke forcefully about his determination to enforce the law, and the importance of community involvement.”

As SACs worked throughout the summer of 1970 to coordinate local plans for desegregation and to provide funds for a smooth transition, Nixon responded with unusual determination to the efforts of some white southerners to sidestep the administration. A handful of resistant southerners developed an alternate route to avoid desegregation, establishing private schools—“segregation academies”—out of the reach of the African-American population. In the aftermath of the administration’s response to Alexander, new private schools “mushroom[ed]” across the South, as Dent put it. As one teacher in Canton, Mississippi observed, some whites had “decided that the battle with the federal government is over and that there is nothing left to do but either let their kids go to school with the coloreds or pay tuition to keep them apart.”

By the summer of 1970, the tax-exempt status of these private schools had emerged as a serious issue for the Internal Revenue Service (IRS) and the administration. The battle between the IRS and private schools in the South for tax-exempt status had a history that predated the Nixon administration. Before 1965 the IRS granted tax exemptions without examining a school’s discriminatory policies. Between 1965 and 1967, the IRS stopped granting automatic exemptions. Instead, the agency allowed exemptions for schools without racially discriminatory policies. Still, if a school received no state support, it was allowed to keep its racially discriminatory policy and still receive an exemption.

During these years, from 1965 – 1967, the Johnson administration generally ignored applications for exemption from schools in the South suspected of having discriminatory admissions policies, causing a backup of applications.127 By the summer of 1967, political pressure had pushed the Johnson administration to issue exemptions to schools even with discriminatory admissions policies. Under the new policy, very few applications were denied. The Johnson administration instructed the “exemption will be denied and contributions will not be deductible if the operation of the school is on a segregated basis and its involvement with the state or political subdivision is such as to make the operation unconstitutional or a violation of the laws of the United States.”128 Deliberately ambiguous, the Johnson administration concluded that racially discriminatory policies were grounds for rejection of tax-exempt status only when a particular private school was state supported.

By 1970, the IRS faced lawsuits from numerous private schools in the South demanding a decision on their tax-exempt status. The Nixon administration began studying the matter intensely and found that, according to IRS Commissioner Randolph Thrower, “under the broad principles of the common law concept of ‘charity,’ an organization should not be entitled to recognition as a charity if in any significant way it is operating illegally.”129 Thrower defined as illegal any schools that “deny constitutional rights in its admissions policy.”130

129 Memorandum To: Honorable David M. Kennedy, Secretary of the Treasury, From: Randolph W. Thrower, Commissioner of Internal Revenue, January 20, 1970. Folder: WHCF Subject Files, 1 of 2, HU 2-1 Education – Schooling, 1/1/70 – 2/28/70. NPMP, WHCF, Subject Files, HU (Human Rights) [Ex] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 2/1/71 – 9/31/71.
130 Memo to Peter Flanigan, from Lamar Alexander, Subject: IRS practice on granting tax exemptions to private schools which discriminate racially, 1965 to present. April 9, 1970. Folder: WHCF Subject Files, Human Rights,
With private schools across the South pressing the administration for rulings on their tax-exempt statuses, the Nixon administration quickly organized a working group to examine the issue. The group presented Nixon with three options for addressing the tax-exempt situation. First, the administration could continue exemption status for any private school that received no funding from its state government—as had been the case for sixty years—until the courts ruled otherwise. Second, the IRS could grant tax-exempt status to schools willing to announce a non-discriminatory policy in admissions and deny tax-exempt status to all schools with discriminatory policies who received any type of government money. Schools without a non-discriminatory policy but also without state funding would not be ruled on at all, until the courts decided the matter. This would provide a significant loophole beneficial to a majority of private academies emerging across the South in response to desegregation. Third, the administration could issue “an unequivocal Presidential statement that tax exemption is, in the judgment of the President, federal assistance which cannot and should not be given to discriminatory private schools.”

More liberal advisers in the administration urged Nixon to take a firm stand against tax exemptions for segregated academies. Garment, for example, warned Nixon that the “granting of tax exempt status to private schools which are admittedly racially discriminatory constitutes government aid in violation of the Fourteenth Amendment.” He also pointed to the counterproductive nature of the emerging “segregated private academies” in the context of


Nixon’s overall desegregation policy in the South, suggesting they worked “in the opposite direction” of the school desegregation process unfolding through the Cabinet Committee on Education and the state advisory committees. Garment challenged the idea that private academies were institutions favored by a southern majority, suggesting instead that only “a small portion of the South as a whole” had a stake in these establishments which were “a phenomenon of marginal significance.” He argued that a policy of denying tax-exempt status to discriminatory private schools would be viewed by a majority of southerners “as a natural and reasonable policy consistent with other Federal anti-discrimination requirements.” Garment concluded that Nixon could court liberal whites and African Americans through the IRS issue and achieve a significant “political gain.”

On the other hand, many conservatives in the administration advised Nixon to let the old policy continue. “What possible good can come out of denying the tax exemption?” Pat Buchanan asked, “There is no reason for the President to take this action. It would be a political error for which we would reap absolutely nothing in return.” Dent, too, warned Nixon of the consequences of reversing Johnson’s vague policy and urged Nixon to support the second option, which would largely remove the administration from the debate and force the courts to take the


lead. “We can expect to have such action used against us among southerners interested in the private school system,” he cautioned. A shift in the policy on granting tax-exempt status to private schools would, according to Dent, “destroy some of the good climate recently created in that area of the country.” He also noted, however, the political risks inherent if the administration appeared to mandate tax exemption for schools promoting a discriminatory policy. “If IRS is authorized to approve the approximately 66 applications now pending,” Dent noted, “we will receive criticism from the liberal side for subsidizing ‘segregationist’ academies.” Dent advised Nixon to transfer the onus for any enforcement of the IRS policy to the courts, following the general strategy pattern of Nixon’s other desegregation policies, so that “the Court will be doing this so far as political blame is concerned in the South.”

Interestingly, though, not all conservative advisers in the administration were as determined to allow the discriminatory private schools to exist. Nixon was “surprised” when Bryce Harlow recommended the third option, “withdrawing from Southern schools which discriminated on account of race any tax exempt status.” Harlow argued that “the South will


respect him for it, angered though it will temporarily be.” Any anger, Harlow suggested, would “simmer down just as the initial reaction to the President’s March School Desegregation statement has subsided.” Harlow also called the second option a “deliberate dodge which has the effect of option 3 but shrinks from saying so. I do not think it will fool any intelligent Southerner.” In addition to failing to “fool” southerners, any action taken on the IRS issue that did not firmly and specifically establish the administration’s position against discriminatory policies in private schools would “abrade the President’s relations with the blacks and whites who fondly regard civil rights. As a result, I think the failure to stand up to this issue will be a total loss on all sides.” Harlow argued that any option besides the third “would constitute either a straddle or a misleading of the people in the South. I prefer that the President stand up for principle in this area.” Harlow reiterated “federal aid to schools deliberately segregated on


racial grounds is wrong constitutionally and morally...I hate to see the President equivocate that.”

Donald Rumsfeld, the Director of Office of Equal Opportunity (OEO) and still considered a liberal in this period, urged Nixon to take a firm stance against schools that segregated. He wrote the president that tax exemptions benefits “should not be granted where to do so would frustrate clearly defined public policy. The only constitutionally permissible public policy is one of racially nonsegregated schools systems and this would be frustrated by tax exemptions for racially discriminating schools. The Administration has the opportunity in this case to take a bold step in the direction of desegregated schooling and social justice.”

In clear and direct language, Rumsfeld advised Nixon to “deny tax exemptions to these schools.”

Nixon surprised many of his closest advisers when he ignored the advice of his IRS commissioner to stick with the second option and instructed his administration to construct its policy around the third option. In July 1970, at the urging of Harlow, Rumsfeld, and others, the Nixon administration very publicly established its position against granting tax-exempt status to schools with discriminatory admissions policies. Testifying before Congress, Thrower insisted

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151 In a curious circumstance, it remains unclear that Nixon ever received Rumsfeld’s memo. Rumsfeld wrote to John Ehrlichman on July 7, 1970, “when you are able to figure out why my memo concerning the income tax deductibility question for private schools never reached its ultimate destination, I would be curious to know how I can correct whatever went wrong.” In what might be considered a precursor to issues of access and a feud among advisors that would dominate the post-1970 Nixon administration, Ehrlichman noted by hand on Rumsfeld’s letter: “Cole: Do you know anything about this?”

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that the federal government could “no longer legally justify the allowance of the financial
benefits of tax exemption and, more importantly, the deductibility of contributions, to private
schools which exclude qualified students solely on the basis of race.”

The IRS decision was, as Thrower demonstrated, an effort to urge voluntary compliance with the concept of school
desegregation. “We believe that the most constructive reaction to our new position will be for
such schools to conform,” Thrower said, “to the order of July 12, 1970….that the applicant
school ‘is not a part of a system of private schools operated on a racially segregated basis as an
alternative to white students seeking to avoid desegregated public schools.’”

Moreover, Nixon sent federal officials to the South to enforce this anti-discrimination
policy, a move many southern leaders considered “arbitrary, vindictive, and anti-South.” The
move, as one scholar aptly put it, “reversed his previous private opinion, conflicted with his
Justice Department’s position in federal court two months earlier, moved him to the left of his
predecessor, and enraged his erstwhile Southern allies.” The decision was, as adviser Ken
Cole declared, “one of the biggest decisions the President made at least in 1970 and perhaps in
the four years of his first Administration.” In a candid and private reflection of his position on
the issue, Nixon noted in handwriting on a memo exchange with Ehrlichman that he expected his
decision to be politically damaging, but insisted it was necessary. “I believe we have to do what

is right on this issue,” Nixon noted “But again let us be under no illusion…we are badly hurt [politically.]”  

Despite efforts to hinder “segregationist academies,” many of the schools endured. Anti-desegregation activists across the South “hoped to force repeal of integration with mass absenteeism” from public schools. However, the response of the white population to these schools was not overwhelming. In Mississippi, for example, the new private schools served approximately 20 percent of white students in the state in the school year 1970-71. The mass exodus of whites from public schools to private academies never happened. The New York Times suggested that “the failure of threatened white boycotts of the public schools failed to materialize.” In Augusta, Georgia, “a massive white boycott of schools never got started despite the pledge of its leaders to take 50,000 children out of the schools in protest against desegregation. At a downtown rally….only 50 housewives and about 50 children, many of them preschoolers, showed up.” Alabama Governor Albert Brewer, for example, “was surprised by how few whites abandoned the public schools.”

In November of 1969, Semmes Luckett, an attorney for the Marshall County Mississippi Board of Education in Mississippi, had warned that if the administration followed through with enforcing the Alexander decision, whites would “abandon the public school system and ‘burn

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158 Davies, 138.

159 Andrews, 911-936.


161 Ibid.

162 Davies, 138.
down the schools” before they accepted integration.” By the end of August of 1970, however, unitary school systems opened across the South without violence and with minimal confrontation. The Executive Office of the President, charged with the responsibility of overseeing the execution of policy and measuring its effectiveness, reported that, as of September 4, 1970, 94 percent of the school districts in the South had opened successfully, with “serious trouble reports” in only 19 districts, a mere 0.3 percent of all southern school districts.

“Even this figure (19) may be a little high,” the memo noted, “as some of the problems have already been resolved and some of the reports of trouble have not as yet been confirmed.” Shultz recounted that “school openings were peaceful, to the amazement of almost everyone.”

As Dent and Moynihan predicted, polls showed that strong opposition to desegregation had started to fade across the South by the time schools opened in the fall of 1970. By October, whites who viewed increased school integration as positive rose to 18 percent, up from 10 percent in June. Although 80 percent of whites still did not view desegregation “positively,” whites who simultaneously professed indifference also increased. The study concluded that “voters apparently are reasonably pleased with the manner in which school integration has

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In fact, 38 percent of registered voters in South Carolina thought that desegregation was proceeding better than they had expected. Only 9 percent believed it went worse than expected and 44 percent suggested it had proceeded “as expected.” Internal administration analysis showed that “white voters” were “less pessimistic about results of school integration now as compared to the June survey findings…not as many voters believe the situation to be ‘bad.’” While most white voters across the South were still opposed to desegregation, they seemed to accept the enforcement of the law.

The success of the administration’s efforts bore out the opinion poll figures. In 1968, the number of African-American children attending “totally black schools” in the South was 68 percent. But by the fall of 1971, only a year after the southern committees started preparations for opening desegregated schools in the South, over 90 percent of African-American students attended schools in unitary systems. By 1974, only 8 percent of African-American students would be enrolled in all-black schools. In the 1968-69 school year 18 percent of southern blacks went to integrated schools; by the school year 1971-72, that number rose to over 40 percent. The South was, in fact, progressing at a far faster rate than the rest of the country.

HEW Secretary Elliot Richardson stated that there was “more pupil desegregation in our southern states than in the remainder of the Nation.” Richardson wrote to Nixon in January of

168 Memorandum from Wayne Robbins to Senator Strom Thurmond, November 30, 1970. Subject: Implication of 1970 Election Results. Thurmond Collection, Box 8, Administrative Assistant Subject File Liberty Amendment to Midair Collisions, MSS 100, Folder __. Administrative Assistant; A. Subject File; Memoranda: Folder I; September 1969 – December 1976.
171 Wicker, One of Us, 504.
1971 to enthuse about statistics which “belie distortions of the Administration’s civil rights accomplishments and provide hard evidence that impressive and widespread gains have been made in eliminating the dual school structure.” Nixon noted in handwriting on Richardson’s memo that he was pleased with the success of the desegregation process: “Excellent Job.”

The SACs accomplishment was remarkable and a product of close coordination by the White House. After years of vacillation, whites and blacks across the South negotiated a peaceful end to an entrenched southern institution, the dual school system. With George Shultz at the helm, and under the watchful eye of federal attorneys, marshals and the courts, the SACs ended decades of attempts to slow the process and put off its conclusion, and devised plans that would lead to the legal desegregation of school systems within in just a few years.

Administration officials praised the local advisory committees coordinated by the CCE. Mitchell suggested that “because of their total achievement, the desegregation process has taken place with only a minimum of disruption to public education” and without widespread violence. “I don’t believe the process would have been carried out on such an outstanding basis,” wrote Mitchell, “without the existence of the State Advisory Committees.” Shultz praised the
“accommodation, negotiation, and partnership” employed by the committees and suggested that they represented the “foundational philosophies that Richard Nixon brought to the White House thus provided the undergirding for one of the most sweeping—and successful—social transitions in American history.”\footnote{178} As Wicker later remarked, “that September, with the vital aid of the state committees under the…firm leadership of Richard Nixon, after sixteen years of effort and resistance, the root promise of \textit{Brown v. Board} was realized. The Southern states at last put an end to dual school systems.”\footnote{179} In the end, as Wicker pointed out, Nixon “got the job done” after “no one else had been able to do it.”\footnote{180}

Historian James Patterson has called the shift “extraordinary and dramatic.”\footnote{181} Dent observed that “when southern school districts opened in September 1970, a spectacular advance in desegregation was achieved—largely ‘without tensions, bayonets and bullets.’”\footnote{182} With the end of legal segregation in southern schools, Nixon thought that the urgency and pressure of desegregation would begin to subside. He noted on one of the many regular memos he received in the fall of 1970 about the progress of school desegregation in the South, “these reports have been excellent. Continue them. But from now on refer to me only when action is required—or an extraordinary matter [arises].”\footnote{183}
In the fall of 1970, the effectiveness of the administration’s strategy to bring about the end of the dual school system in the South relied on the SACs understanding of shifting regional attitudes. By the late 1960s, southerners abandoned an exclusive focus on racial issues. The New York Times suggested that white southerners demonstrated “weariness with the prolonged struggle and….look forward to its conclusion.” In addition, the rise of increasingly large urban centers in the South chipped away at the region’s traditionally dominant rural demographic and proved to be a “major contributor to the breakdown of the traditionalistic subculture that has long characterized the region.” The changing geography of the South not only influenced the attitudes of born-southerners, the phenomenon also introduced a new and progressive population to the region, transplanted from elsewhere in the country and lured by economic possibilities. As political scientists Earl Black and Merle Black have argued, southern cities “are gradually becoming zones of heterogeneity and political diversity in a region…long known to be homogenous.”

Nixon’s advisers recognized these shifting southern demographics and attempted to respond to an emerging new majority in the region. Dent suggested in the immediate aftermath of Alexander that the “one overriding proposition” for building a Republican base in the South “is to appeal to the groups that represent the political future of the region—urban and suburban moderates, newly enfranchised blacks, the young, and the aroused poor whites.” In addition, Dent warned Nixon that the South was not “one entity” and cautioned him “You cannot take all

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186 Ibid.
187 Memorandum for the President, From Harry Dent, December 1, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”
of the South—the GOP must decide which part of the South it wants.” Dent advised Nixon to focus efforts on the “Peripheral South” which was “more lucrative.” Dent also pointed to the political moderation outside of the Deep South, suggesting that “when a Republican standard bearer emerged as unsympathetic to civil rights in 1964, he won the Deep South but lost everything else, including the Peripheral South.” Other Republican strategists also offered analysis of demographic changes and opinion polls across the South which identified transforming voter tendencies. Wayne Robbins, an adviser to Strom Thurmond, suggested “We are calling for a Republican Party that will answer the needs of the new South, and then the new South will answer the call of the Republican Party. Instead of ideological posturing, the South needs a pragmatic approach to its many social and economic problems. And until the GOP provides that approach, the South will be barren soil for it.”

In November 1970, just two months after the relatively peaceful desegregation of schools, the shifting attitudes of southerners became evident at the polls. The strategy of successful Republican candidates across the South, “was not to appeal to racists,” argued Robbins. In every part of the region except the Deep South—in Virginia, Tennessee, Texas, and Arkansas, for example—“the leading Republican vote-getters have been candidates who can

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188 Memorandum for the President, From Harry Dent, December 1, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”
189 Memorandum for the President, From Harry Dent, December 1, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”
190 Memorandum for the President, From Harry Dent, December 1, 1969. Harry Dent Papers, Box 2, Subject File 1969, MSS 158, Folder “White House Files; Subject File 1969; Memos to the President: May – December, 1969.”
appeal to a broad cross-section of non-racist blocs…these men have won by stressing that they will not turn their backs on the legitimate aspirations of blacks and lower-income whites.”

Even in South Carolina, long considered a mainstay of entrenched southern segregationist traditions, the 1970 elections indicated a shift in voter sentiment. The race pitted Republican Albert Watson against Democrat John C. West, then serving as Lieutenant Governor to Robert McNair. Governor McNair, although a Democrat, was unusually moderate on racial issues. His tenure was generally unremarkable, even though he had emerged by 1970 as a moderate on school integration. The Orangeburg Massacre, the shooting deaths of three black college students protesting segregation in Orangeburg, South Carolina in 1968, had persuaded McNair of the need to quell racial tension by moving forward with desegregation and other policies to benefit the African-American community. Echoing the premonition of former Governor Ernest Fritz Hollings some seven years earlier, McNair had spoken candidly in a televised and now famous speech to South Carolinians. “We’ve run out of courts, and we’ve run out of time,” McNair suggested, “and we must adjust to new circumstances. I will oppose any attempt to close down public schools….We’ve seen what defiance will lead to. We saw it in Arkansas when General Eisenhower sent troops in. We saw it in Alabama and in Mississippi. I don’t think the people of this state would want to defy the order of the court after we’ve run the course

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194 Governor Fritz Hollings spoke in January, 1963, in his last address to the state legislature of South Carolina as outgoing governor. Making his case for desegregation in one of the more compelling and articulate speeches of the time on the issue, he stated: “South Carolina is running out of courts. If and when every legal remedy has been exhausted, this General Assembly must make clear South Carolina’s choice, a government of laws rather than a government of men. As determined as we are, we of today must realize the lesson of 100 years ago and move on for the good of South Carolina and our United States. This should be done with dignity. It must be done with law and order.” (Jack Bass and Marilyn Thompson, Strom, New York: PublicAffairs, 178.)
legally. We don’t want federal troops in South Carolina. We’ve built a reputation for obedience to the law.”

Like McNair, West was also a racial moderate, in dialogue with the NAACP, and insistent that good race relations were essential the state’s well-being. And so the Republican Watson turned to ill-disguised racism, as well as to sharp criticisms of the Democratic administration’s stance on school integration. One notorious Watson spot, for example, showed National Guardsmen firing into a group of blacks in riot-torn Watts with Watson doing the commentary. The commercial attempted to capture Watson’s commitment to iron-fisted law and order but it often had the opposite effect. “This film was the worst example of raw racism I have ever seen and was offensive to almost any decent person,” one political adviser wrote to Strom Thurmond, “No one in South Carolina equates the blacks here with the types of film showed. The S.C. National Guardsmen were furious…The ‘racist’ charge REALLY hurt!….Strom, South Carolina is much more moderate than many think. This one label cost Albert the metropolitan areas all over the state.”

Watson’s efforts to exploit racial prejudice among southern white voters ultimately failed. He lost the business community, an important constituency with a propensity to vote Republican, as well as state employees. The news media was almost entirely opposed to Watson and endorsed his opponent. Not surprisingly, the state’s significant black vote went almost

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197 Letter from Bradley, Graham & Hamby Advertising Agency, Inc. to Strom Thurmond, November 6, 1970. Thurmond Collection, Box 8, Administrative Assistant Subject File Liberty Amendment to Midair Collisions, MSS 100, Folder __, Administrative Assistant; A. Subject File; Memoranda: Folder I; September 1969 – December 1976.
thoroughly for West. In addition, Watson’s tactics alienated moderate southern whites increasingly supportive of Nixon and the Republican Party. In concluding their analysis of the 1970 election, Thurmond’s advertising experts suggested “a lot can be learned from this, namely: an appeal to race is no longer a vote-getter. Probably, historians will write about this race for a long time.”

Even the deepest and most rigid parts of the segregated South appeared on the verge of change.

As the West-Watson race demonstrated, even the Democratic Party in South Carolina had started to move in the direction of “racial reconciliation.” At the party’s state convention that same year, attendees even voted down a platform supporting “freedom of choice” in favor of a more aggressive desegregation position. The West-Watson campaign indicated to Republican strategists at the national level that their instincts about changing voter tendencies in the South were correct. As Robbins wrote Thurmond, “voters are not as receptive to emotional appeal as they have been in the past. This reflects a new generation of voters, more educated, more idealistic, more demanding, and, I believe, less conservative by traditional southern standards….we must be able to express our position in moral terms.”

Bartley concluded, in the early 1970s “New South candidates sought to appeal to ordinary white

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and black voters by combining a common-folk campaign style with the advocacy of moderately progressive policies…abated the sharp class and racial conflicts of the previous decade” and “eschew[ed] racial demagoguery.” 203 Most white southern voters were no longer interested in protecting a segregationist order. Instead, they wanted real solutions to a number of other problems affecting the South.

At the end of August 1970, the New York Times reported that 543 school districts across 11 southern states were beginning to execute plans to “eliminate all vestiges of the dual-school system that stood for generations as the spine of the South’s social order.” 204 As the legal foundations of the South’s institutionalized dual school system fell, however, a fight over defining the next phase of desegregation began. When Chief Justice John Brown of the Fifth Circuit Court of Appeals—the court charged with approving and coordinating desegregation plans in the aftermath of Alexander—spoke in the fall of 1969, he had ominously argued that the Supreme Court’s order for immediate integration provoked new questions about de facto segregation and busing. “Does the court have the power to alter natural zoning lines to require busing to achieve some characteristic of integration of a student body?” Brown asked, “What happens when buses are not provided by the school district and the residential pattern is not imposed by government edict? Does the court have the duty to require busing then?” 205

While the administration had undertaken a plan to eliminate the dual school system in the South, it did not attempt to solve the nation’s de facto segregation problem. 206 In the fall of 1970, the desegregation plans implemented by the Nixon administration occurred mostly in

majority-white rural schools. In a handful of rural southern towns with majority African-American populations, however, large numbers of whites avoided desegregation, seeking refuge in private all-white schools known commonly as “segregation academies.” More prominently, in metropolitan areas, where segregation endured primarily because of de facto residential patterns, significant racial separation remained. The New York Times reported in September 1970 that in these areas there was no “persuasive evidence that segregation’s grip on the region had finally been broken.”\(^\text{207}\)

The persistent problem of de facto segregation and its many potential cures created a “haze of confusion” in the fall of 1970.\(^\text{208}\) Numerous school districts, concentrated largely in southern cities, opened the school year under court orders to use busing to remedy racial imbalances. During the preceding summer, the Supreme Court’s position on busing still remained unclear. In September, after denying a stay to opponents of a Richmond, Virginia desegregation plan that included busing, Chief Justice Warren Burger committed the Court to hearing arguments on the constitutionality of busing in addition to a “broad range of desegregation questions,” primarily the legality of all-black schools and the validity of new state laws prohibiting zoning changes for the sole purpose of achieving racial balance.\(^\text{209}\)

In response, three districts—Mobile, Alabama, Athens, Georgia, and most importantly, Charlotte, North Carolina—invoked state laws prohibiting the use of busing to achieve racial balance in drafting desegregation plans. In Mobile, the Fifth Circuit Court of Appeals rejected a challenge from African-American parents to the city’s plan for desegregation, holding that a HEW-approved plan based on the neighborhood schools approach satisfied all of the

\(^{208}\) Ibid.
requirements of *Brown v. Board of Education*. The city left intact eight all-black schools which served 25 percent of black students in Mobile. More broadly, the ruling implied that southern districts were not required to use busing to achieve racial balance and that not all all-black schools were inherently illegal.

On the other hand, a federal judge in Charlotte ordered extensive busing to achieve a precise racial balance—70 percent white and 30 percent black—in each school throughout the city. In opposing the order, the local school board invoked a state antibusing law, which prohibited “involuntary busing as well as the use of public funds to accomplish it.”210 In April 1970, a three-judge Federal District Court panel held the antibusing law unconstitutional, suggesting it was out of compliance with the Supreme Court’s 1968 ruling in *Green* that districts take “affirmative action” to end the dual school system.211

The administration welcomed Warren Burger’s willingness to expedite this new wave of cases through the Court, claiming federal departments needed guidance on the “neighborhood schools” concept. The White House outlined its own position in a friend-of-the-court brief filed by Jerris Leonard and Erwin Griswold, the Solicitor General. The administration argued that the Constitution “does not require, as a matter of law, racial balance in all public schools or integration of every all-white or all-Negro school.”212 The administration petitioned the Court to permit school officials to assign students to their neighborhood school, as long as there was no proof of discrimination in the establishment and placement of school zones. Most importantly, it asked that the court not endorse “large-scale busing to achieve integration.”213 The White House suggested that, after the end of de jure segregation, most enduring racial separation was unrelated

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211 Ibid
213 Ibid.
to discrimination and could “best be undone through the action of the numerous public and private agencies and individuals whose daily decisions can influence the racial composition of a neighborhood.”

In sharp contrast, the NAACP Legal Defense and Educational Fund called the neighborhood school approach “unworkable, undesirable and unconstitutional.” Civil rights activists contended that every black student had a “constitutional right to attend a school that was not identifiably ‘black.’” They worried that, in making its argument to the Court, the administration signaled a willingness to declare “the desegregation job finished” in the fall of 1970, as the dual school system of the rural South collapsed. All-black schools in the cities would endure, activists feared, and the entire region would ultimately re-segregate. Republican Senator Edward Brooke of Massachusetts likewise suggested that “temporary methods to achieve quality integrated schools will be necessary” until African-Americans could achieve sustained mobility in income and housing. Along with others, he pushed the courts and the administration to provide that temporary solution in the form of busing.

In the fall of 1970, the possibility of busing in southern metropolitan areas became a source of increasing contention among southern leaders and politically dangerous for the administration. Even relatively moderate presidential allies urged Nixon to take an aggressive stand against busing. George H.W. Bush, then a United States Congressman from suburban Houston, wrote Nixon to say that he found “no public support for the proposition that we should

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\text{214} Ibid.
\text{215} Ibid.
\text{216} Ibid.
\text{217} Ibid.
\text{218} Ibid.
bus our children for the sole purpose of achieving racial balance” and argued that busing was not
only “detrimental to quality public education” but also a violation of the Civil Rights Act of 1964, which Bush had also opposed.\textsuperscript{220} Opponents of busing received what once would have seemed an unlikely political ally in the Congress of Racial Equality (CORE). When Roy Innis was elected chairman of the group in 1968, he brazenly shifted the group’s political position. Rather than seeking an integrated national community, as envisaged by Martin Luther King, CORE advocated black-nationalism, separatism, and self-determination after 1968. At the annual convention late in the summer, CORE predicted an “all-out war with the NAACP” and with the “activist-bureaucrats” at HEW and the “old line, diehard, failure-prone civil rights aristocracy.”\textsuperscript{221}

In addition, the administration’s focus on de jure rather than de facto segregation led to noticeable differences in levels of desegregation regionally. Significantly, as the South made progress towards more integrated schools, schools in the North seemed to move in the opposite direction. A HEW report suggested between the 1968 and 1970 school years, the percentage of African Americans attending integrated schools in New York City decreased from 20 percent to 15 percent.\textsuperscript{222} The United States Commission on Civil Rights quantified the comparatively rapid rate of school desegregation in the South. Between 1968 and 1972, the degree of segregation of schools in the Southeast dropped from 73.9 percent to 2.5 percent; in the border-states from 9.8 percent to 4.9 percent.\textsuperscript{223} In the Northeast, on the other hand, the degree of


\textsuperscript{222} Kenneth B. Clark, “Segregation—The Road to Desegregation,” \textit{The Crisis}, May 1974, 158.

segregation rose between 1968 and 1972 from 5.1 percent to 5.8 percent. In the United States as a whole, the degree of segregation dropped from 37.7 percent to 6.8 percent, mostly due to the drastic changes in the South.

Southern leaders increasingly urged the administration to hold the North to the same expectations as the South. In September, for instance, the Southern Governors Conference adopted an antibusing resolution and asked Congress to enact “a national policy of desegregation that would apply uniformly for all public schools.” Though reporters noted that the resolution “fell far short of the position some of its more conservative members had championed,” it was nevertheless a “victory and a retreat from the moderate position taken by the conference last year that some forms of busing were acceptable.” At the same time, Arkansas Senator John McClellan, a Democrat, accused the federal government of “monumental hypocrisy” in forcing desegregation in the South but not the North. Senator William B. Spong, Jr., another Democrat from Virginia, argued “the time has passed when one can validly argue that our major school desegregation problems are regional or sectional.” Spong concluded that George Wallace’s increasing political power in the South as a “virulent third-party” candidate was the result of the ongoing disparity in desegregation efforts in the North and the South.

At the same time as he faced pressure from southern leaders concerned with the unevenness of regional desegregation policies, Nixon was growing agitated by a lack of support from the African-American community, despite his efforts to end the South’s dual school system. After several instances of fatal police violence against African Americans in Augusta,
Georgia and at Jackson State University in Mississippi in May 1970, the presidents of fifteen black colleges blamed Nixon for inciting “anger, outrage and frustration” by treating African Americans as “dispensable.” They argued that Nixon had failed “to use [his] great moral influence to bring the people of this great nation together.” Civil rights leader James Farmer “advised the President that the feeling of despair among Blacks is stronger now than at any point in the past ten years.” Nixon’s policies were haphazard, Farmer argued, and “without any real plan.”

He urged Nixon to devise a “definite plan” for the uplift of African Americans. “If we could plan to put a man on the moon in the 60’s,” proclaimed Farmer, “We should be able to plan where we will be on integration, education, etc., in the 70’s…We should be able to measure progress.” Clarence Theodore Brown, Minorities Director for the GOP, wrote to Clarence Townes, a prominent African-American leader and an assistant at the Republican National Committee, to alert him that many African-Americans thought the administration was “insensitive to the socio-economic plight of black Americans.”

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While Moynihan had sympathized with Nixon’s disappointment at a distinct lack of support among African Americans, he urged Nixon to stay the course and move forward with programs that would benefit the black community. “We have not overcome the distrust which you acknowledged early in the administration,” Moynihan wrote. “The dignity of the republic required that the President endure the indignities of its politics. Continue to do what you think to be right with respect to racial equality.”

Nixon noted on Moynihan’s memo, “Pat I understand.”

Yet, criticism from conservatives nationwide about what they perceived to be the liberal tilt of the administration was pushing Nixon away from Moynihan’s position. The hardline conservative publication *Human Events* suggested that “the Nixon Administration….has a masochistic penchant for hiring and promoting members of the allegedly ‘Republican’ Ripon Society. Riponers, in fact, appear to saturate top government echelons with at least a dozen important members and associates having grabbed off key position at the White House itself.”

The *Washington Post* corroborated the view that Ripon Society members were in positions of increasing power within the Nixon administration. “A dozen or more Riponers are in key second- and third-level spots within the Nixon administration,” the *Post* reported, “usually fighting open but rear-guard—and sometimes even underground—actions against the John Mitchells of this general conservative administration.”

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238 Memorandum for The President from Pat Moynihan, June 30, 1970. Folder: WHSF, President’s Office Files, President’s Handwriting, June 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 16, 1970 to July 1970, Box 6.
239 Memorandum for The President from Pat Moynihan, June 30, 1970. Folder: WHSF, President’s Office Files, President’s Handwriting, June 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 16, 1970 to July 1970, Box 6.
241 Ibid.
Chapter 4

“Questionable Politically”

“In [1970], the moderates in the Nixon Administration had made their case successfully to the President; two years later the conservatives’ time would come.”

-William Safire

The issue of busing did not simply divide the country. It also divided the White House.

Dismayed conservative advisers jockeyed for increased political power. Pat Buchanan, for one, noted a “new strain of bitterness, frustration and alienation among younger conservatives towards the Administration.” He argued that conservatives dominated the Republican Party and were dismayed by the middle-of-the-road liberalism that defined the first two years of the Nixon administration. The “Republican Right” was not a “struggling minority in the GOP,” Buchanan asserted, but instead the “dominant majority, with the power to nominate and veto presidential candidates.” He cautioned that Nixon’s positions on domestic issues had incited unrest within the party as the election of 1972 approached. “We must not overlook the inevitable and considerable loss in morale to the tens of thousands of party workers,” Buchanan wrote, who were “the backbone of the GOP, one of the hinges on which the 1972 election will surely swing.” Buchanan warned that George Wallace and Ronald Reagan, each of whom represented

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a “clear alternative” and a “different road for America,” threatened Nixon from the right.⁶ “A major fight is raging” within the GOP, observed Kevin Phillips, a twenty-eight year old assistant to Nixon who had been a strategist in Nixon’s 1968 campaign, “between liberals and conservatives.”⁷ Within the ranks of the Republican Party, Phillips argued, “the great sectional, ideological and programmatic issues of the day are now being fought out and resolved.”⁸ Buchanan suggested that the ideological composition of even the “National Review….crowd” was objectionable to new conservatives.⁹

Buchanan asserted that Nixon, in his current political position, was “no longer a credible custodian of the conservative political tradition of the GOP.”¹⁰ He suggested that Nixon’s “opening to the left” was due to the “pressure of advisers” and that he nevertheless had to endure a “daily savaging…at the hands of the liberal minds.”¹¹ In a sense, Nixon had set out in his first term to prove that he could execute a handful of liberal reforms more effectively than his Democratic counterparts, including Lyndon Johnson. As a result, conservatives argued, Nixon emerged at the end of the 1960s as a liberal policymaker. “Truly, the liberals went swimming and President Nixon stole their clothes,” Buchanan wrote Haldeman early in the winter of 1971,

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“But in the process we left our conservative suit lying by the swimming hole for someone else to pick up.”

Buchanan remarked that Nixon’s pursuit of “programs and policies warmly endorsed by American liberalism” would mark the administration as “more of the same.” The administration’s domestic policies were simply “extensions and refinements of the Great Society, only more so.” While Nixon might win support from a handful of liberals, the administration would never win significant backing from that voting bloc. “The Nixon Presidency does not even remotely resemble their ideal—a Kennedy-style Presidency,” Buchanan warned, “grounded in intellectual and young-poor-black support, a presidency that wages uninterrupted war on Congressional and Southern reactionaries, not consorts with them, an Administration with a heart that bleeds a little publicly.”

Not only did Nixon’s liberal reforms have no electoral value, Buchanan argued, but they were driving marginalized conservatives away from the White House. By the end of 1971, several prominent conservatives had left the administration—Arthur Burns, Bryce Harlow, Freeman, Jack Anderson, Dick Allen, Lyn Nofziger, Tom Charles Huston, and Clark Mollenhoff. “They do not see anyone replacing the departing conservative voices,” Buchanan complained, and are “convinced that the White House staff has been structured to systematically

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exclude ‘conservative’ input in domestic policy.’” Conservatives “contend there is no
conservative view presented in the day-to-day paper going in and out of the President’s office.”

Although Nixon’s basic political instincts were conservative, Buchanan complained, “he just
does not get enough conservative proposals and conservative views” and those on the right “feel
this is the reason for what they see as the mistakes…of the Administration.”

Access to Nixon became a particularly important issue for conservatives inside the White
House. Dwight Chapin, a special assistant to the president who accompanied him daily to almost
all personal and public activities, wrote to Stephen Bull, another assistant, in the spring of 1970
and asked him to “keep an eye out for senior staff members” who “are not regularly getting in to
see the President.” He asked Bull to “alert” him when this occurred. “How power plays
within the White House,” Chapin wrote, is important. “For your private information,” wrote
Chapin, “Bryce Harlow has not seen the President [in months]. This is ridiculous and something
we must watch out for. If you advise me, I will see that the staff member is worked into the

17 Memorandum from Patrick J. Buchanan to The President, Subject: Political Memorandum, May 7, 1971. Folder
Presidential Returned Materials, Contested Materials, White House Special Files, Box 7.
18 Memorandum from Patrick J. Buchanan to The President, Subject: Political Memorandum, May 7, 1971. Folder
Presidential Returned Materials, Contested Materials, White House Special Files, Box 7.
19 Memorandum from Patrick J. Buchanan to The President, Subject: Political Memorandum, May 7, 1971. Folder
Presidential Returned Materials, Contested Materials, White House Special Files, Box 7.
20 Memorandum for Mr. Stephen B. Bull, From Dwight L. Chapin, June 19, 1970. Folder WHSF, WHCF,
Confidential Files, [CF] FG 6-11-1 White House Staff [1969 – 70]. Nixon Presidential Materials Staff, WHSF,
21 Memorandum for Mr. Stephen B. Bull, From Dwight L. Chapin, June 19, 1970. Folder WHSF, WHCF,
Confidential Files, [CF] FG 6-11-1 White House Staff [1969 – 70]. Nixon Presidential Materials Staff, WHSF,
22 Memorandum for Mr. H.R. Haldeman, From Dwight L. Chapin, Re: Reorganization. October 31, 1969. Folder:
WHSF, WHCF, Subject Files Confidential Files, [CF] FG 6-11-1 White House Staff [1969 – 70]. Box Nixon
Presidential Materials Staff, WHSF, WHCF, Subject Files: Confidential Files, 1969 – 1974. [CF] FG 6-3 Council of
President’s schedule. Let’s both try to keep an eye on this.”

Chapin was, first and foremost, loyal to HR Haldeman, who had brought him onto the staff of Nixon’s 1968 campaign after they worked together at the advertising firm of J. Walter Thompson. In October of 1972, the Washington Post linked Chapin to Nixon’s “Dirty Tricks campaign, which sought to “hamstring [Democratic presidential contender Edmund] Muskie, boost [George] Wallace and abet McGovern’s nomination.” Chapin also hired Donald Segretti, a friend of his from their days at the University of Southern California, to head up the “dirty tricks” campaign at the Committee to Re-elect the President. Chapin would ultimately serve nine months of prison time for making false statements in connection with the Watergate scandal; Segretti served four months for distributing illegal campaign materials.

Haldeman also sought to create a direct channel for conservatives to advise Nixon. “We should set up a program that allows for Kevin Phillips, John Sears, and other young intellectuals, to make recommendations,” Haldeman suggested. Harry Dent likewise suggested that conservatives “get better control over Cabinet and /or sub-Cabinet officials” who were “following their own political instincts and desires whether they be concerned with doing the President’s thing or their own thing.” These ideas coalesced when Buchanan captured the increasing determination of a number of conservative staffers—himself, Haldeman, and Dent among them—to “co-ordinate a conservative attack on the White House staff…in the hope that

27 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPLM, Nixon Presidential, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
the attacks will bring about some changes in the present staff structure [and] perhaps force the addition of political conservatives to the President’s top staff.”28 They concluded that “structure is policy” and that liberal members of Nixon’s inner circle were “responsible for the leftward direction” of an administration whose “President has basically conservative instincts.”29 Buchanan warned that disillusioned conservatives “contend that if the President is re-elected with his existing staff structure without conservative representation—then, they will have totally lost their leverage with the President and Administration.”30

Conservatives lobbied for decreasing the influence of liberal and moderate staffers. Although Garment remained at the White House, he was now “given little role” in crafting civil rights policy, as journalist James Reichley, who interviewed many members of Nixon’s staff a few years after his presidency ended, discovered.31 By portraying themselves as essential to Nixon’s reelection campaign, conservatives absorbed the attention of the president at the expense of other advisers. Haldeman despised Garment’s “overriding concern for blacks.”32 In his memoirs, Garment describes the single-minded preoccupation with reelection that began by the end of 1971. “I was not privy to the knowledge held in the inner circle,” Garment recounted. “I spent much time dispatching virtuous, ignorant little notes to the president, Haldeman and Mitchell….I was, as you might say, slightly out of touch.”33

Buchanan also encouraged “attacks” on Ehrlichman, whom he and Haldeman increasingly viewed as dangerous to their objectives for the administration.  

In an unsigned and untitled handwritten note in Haldeman’s files, a writer—most likely Haldeman—presented a plan for removing Ehrlichman. “Moving Ehrlichman doesn’t leave a hole here,” the note instructed. “His job on the D.C. [Domestic Council] is done. In some [ways] he’s actually an obstructionist.” The writer proposed banishing Ehrlichman from the White House to a position within the campaign. “Bud Krogh and Jeb Magruder recommended to Haldeman that John Dean, a friend of theirs at the Justice Department, replace Ehrlichman,” Garment recounted. Nixon ultimately named Dean counsel to the president rather than replace Ehrlichman. While Ehrlichman survived conservative attempts to push him out of the White House, momentum increased behind the overall objective of reshuffling Nixon’s staff. Ed Morgan, a White House lawyer who would plead guilty in 1974 to committing tax fraud, wrote that “keeping Finch, Shultz, Moynihan and Garment out will be tough, but I think…the President can probably best stay one jump ahead if we can keep them one jump behind.” Nixon seemed to get a hold of a memo from Ed Morgan to Ehrlichman emphasizing the need to control liberals’ access to the Oval Office and noted in handwriting that he “agreed” with this strategic assessment.

37 Ibid.
39 Memorandum for John D. Ehrlichman, from Edward L. Morgan, Subject: Desegregation. August 12, 1970. Folder: [Dana Mead][Removed from Box 18 (O.A. 21159)] Memoranda re Desegregation with President’s
No single individual better reflected the success of conservative advisers in shifting the ideological center of gravity within the Nixon administration than George Romney. Although he had been contented for the 1968 GOP presidential nomination, Romney and Nixon had a functioning political relationship. Nixon’s respect for Romney’s political instincts and his maneuvering at the GOP convention earned him an appointment as the Secretary of Housing and Urban Development (HUD) when Nixon was elected in 1968.

In his position as Secretary of HUD Romney set out to use the power of his office to promote racial equality and encourage integration. He successfully lobbied Nixon in the late 1960s to continue Lyndon Johnson’s Model Cities program, which aimed to provide economic uplift to blighted urban areas and to improve living conditions in neighborhoods dominated by African Americans. He also told the Commission on Civil Rights that he hoped to increase “housing options for low income and minority families.” Romney was enthusiastic about using federal power to push his policies. He advocated changes in zoning laws and tried to sway suburban districts to accept low-income housing. The imbalance between the lack of subsidized housing in the suburbs and its relative abundance in the city, coupled with the end of school busing programs nationally, exacerbated racial division between the suburbs and the city.

When the power of persuasion failed, Romney turned to government legislation and the courts. He viewed Title VIII of the Civil Rights Act of 1968, otherwise known as the Fair Housing Act, as the legal platform to mandate integration in segregated neighborhoods. His most ambitious policy initiative, the Open Communities program, relied on the Fair Housing Act to mandate equal access to housing and jobs for families of all socioeconomic backgrounds and


41 Dean Kotlowski, Nixon’s Civil Rights (Cambridge, Harvard University Press, 2001), 54.
all races. When the Housing and Urban Development Act was being considered by Congress in May of 1970, Romney’s Open Communities initiative was a part of the legislative package. He wrote to the heads of the House and Senate Committees on Banking and Currency to explain that the Open Communities aimed to “prohibit certain local legislative or administrative actions that discriminate against low- and moderate-income housing on the basis of its eligibility for Federal assistance.”42 In addition, the Open Communities legislation implored the Justice Department to file suits against any municipality seeking to use zoning regulations to prohibit the construction of subsidized housing. It also gave individuals who perceived discrimination in housing more power to sue in federal court.

On a number of occasions, Romney persuaded Nixon to embrace a more aggressive stance on suburban integration. When the residents of Black Jack, Missouri, for example, attempted to prevent the construction of federally subsidized housing by passing an ordinance prohibiting multifamily rental units, Romney lobbied for Justice Department action. Although initially reluctant to pursue charges against Black Jack, the Attorney General ultimately sued the city for creating illegal impediments in its zoning laws to hinder the construction of subsidized housing. “The Black Jack case marked the first time,” the historian Dean Kotlowski argues, “That the government had charged a city with using its zoning powers to discriminate on the basis of race.”43 In the President’s Report on National Housing Goals, released in April of 1970, the administration endorsed the position that “there must be an end to the concentration of the poor in the land-short central cities, and the inaccessibility to the growth of employment opportunities in the suburban areas.”44

43 Kotlowski, 64.
Where Romney had succeeded in Black Jack, however, he ultimately failed in Warren, Michigan, a suburb of Detroit. Romney pressured Warren to accept integrated housing by threatening to withhold a $3 million urban renewal grant until the municipality welcomed the construction of low-income housing. “You can try to hermetically seal Warren off from the surrounding areas if you want to,” Romney explained to the city’s leaders, “But you won’t do it with federal money.” The city’s white, mostly Catholic working-class residents publicly rebelled against HUD’s coercion. The mayor of Warren told the press that Romney was using Warren “as a guinea pig for integration experiments” and urged the suburbs of Detroit to come together to “fight this forced integration.” As the Warren situation exploded into a national story, Nixon was furious. Not only did Romney’s intervention represent an escalation in the administration’s enforcement of non-discrimination in housing, it also threatened Nixon’s courtship of white suburban voters. Furthermore, Romney failed to inform Nixon of his intentions in Warren beforehand. As political scientist Charles Lamb notes, “after a Detroit newspaper printed a HUD memorandum indicating that Warren was one of several prime target communities for aggressive enforcement of the Open Communities policy, the storm of resistance grew in Warren and its reverberations quickly reached the White House.” Nixon was compelled to clarify his position on federal monies and segregated municipalities, an issue the administration had thus far successfully avoided.

In the aftermath of Warren, Romney became a political liability to Nixon. His tactics as well as his policy objectives challenged the administration’s emerging political ethos. Conservative advisers recommended the “removal” of Romney and warned that if he was permitted to remain Secretary, “with his radical, divisive plan to relocate slum dwellers in

46 Lamb, 90.
47 Lamb, 91.
suburbia,” he would become detrimental to Nixon’s reelection prospects. Kevin Phillips suggested that “suburban integration” was a “serious Romney problem which we will apparently have as long as he is there.” Ehrlichman complained that Romney “keeps loudly talking about it in spite of our efforts to shut him up and he is beginning some administrative maneuvers in that direction.” Conservatives warned Nixon that Romney’s proposed integration of the suburbs would jeopardize Republican gains. “Suburbia is the political focal point of any majority coalition for the Republican Party,” conservative strategists wrote to Nixon “To permit Romney to proceed along his present path is political lunacy.” Buchanan recommended the White House closely supervise Romney and “exercise the kind of day-to-day supervision and restraint to keep the integrationists at HUD caged up, so that they can’t impose their ideology on the rest of the country.”

In 1970, Nixon urged Romney to leave his post as Secretary of HUD voluntarily and pursue a Senate vacancy back home in Michigan. Instead, Romney sent his wife, Lenore Lafount Romney, to run for the seat, a bid she ultimately lost to Democrat Philip Hart. Nixon

48 ACU Memo, Election 1970: Anatomy of a Disappointment, November 20, 1970. . Folder: WHSF, President’ Office Files, President’s Handwriting, November 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, November 1970 to December 1970.
51 ACU Memo, Election 1970: Anatomy of a Disappointment, November 20, 1970. . Folder: WHSF, President’ Office Files, President’s Handwriting, November 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, November 1970 to December 1970.
then offered Romney the ambassadorship to Mexico. Romney, however, stubbornly rebuffed Nixon’s efforts and remained at HUD through Nixon’s first term. “While a determined president continued to press for Romney’s resignation,” historian Dean Kotlowski observes, “an equally tenacious housing secretary clung to his office.”

Meanwhile, likely fearing public scrutiny and motivated in part by his personal affection for Romney, Nixon refrained from forcibly removing him from the Cabinet.

Although conservatives had failed to destroy Romney prior to the election of 1972 their increasing power had a dramatic influence on Romney’s positions in the aftermath of the Warren confrontation. Fearing for his job, Kotlowski observed, Romney “began to sound a more conservative tone.” He began taking positions that were a “more vague and non-committal about integrating the suburbs.”

Citing the financial risks of the administration’s housing policies Romney even announced that all new construction of subsidized housing would be suspended in favor of using existing units. As political scientist Michael Danielson has noted, the use of existing housing “posed little threat to most suburban communities where homes were priced far beyond the reach of lower-income families” and effectively kept poor minorities out of the suburbs, a remarkable departure from the policy Romney had espoused before the election.

In changing course, journalist James Reichley suggests, Romney “passed up whatever opportunity he may have had to lead the public toward some at least partial remedy to the potentially catastrophic problem of racial separation in the nation’s major metropolitan areas.”

While Romney was one of only a handful of pro-civil rights advisers to survive the initial purge

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53 Kotlowski, 61.
54 Kotlowski, 67.
57 Reichley, 204.
of liberals in the Nixon administration, he ultimately grew frustrated with his inability to push progressive housing policies and the necessity to change his positions in order to protect his job. Romney resigned his post and left the administration on Inauguration Day, 1973.

In the fall of 1970, as desegregation emerged as an issue inextricably linked to other socioeconomic problems, many Americans seemed at odds and disgruntled by the speed and magnitude of social change and looked to political leaders to quell anxieties left in the aftermath of the turbulent 1960s. In order to gauge voter sentiment about these issues, several administration officials banded together with other GOP operatives to establish the Middle America Committee. The group was composed of “staffers who understand politics,” Dent wrote to Nixon to inform him of the project, “and are very much interested in [using] the Middle America group for the President and the long range advantage of the Republican Party.” The group included some of Nixon’s most conservative political advisers including Pat Buchanan, Harry Dent, Clark Mollenhoff, Martin Anderson, Tom Huston, Bud Krogh, and Lyn Nofziger. While the group admitted that they aimed to keep membership “confined to conservative-oriented thinkers” they also sought “candid discussions” and denied that they would “provide the President with a one-sided view.” Significantly, the group was to be kept “secret” from everyone except Nixon’s highest level aides. According to its own description, the Committee was “composed of White House staffers who understand politics and are very much interested in

58 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
59 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
60 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
reaching the Middle America group for the President and the long-range advantage of the Republican Party.”

The group also suggested it might “ask for assistance from outside sources and others within the White House from time to time, but this will be done in a way that will not reveal the committee’s existence or compromise candid discussions within the committee.”

The Middle America Committee set about devising a strategy to court the “large and politically powerful white, middle class.” This constituency, the committee argued, was “deeply troubled primarily over the erosion of what they consider to be their values.” They were disillusioned by “high taxes, spiraling inflation and enforced integration” as well as the “rewarding of the very poor and very rich,” as Dent explained to Nixon. The Middle America Committee called this constituency the “decent law-abiding, forgotten Americans.”

The committee urged Nixon to “concentrate on trying to visit blue-collar areas and follow through with a tough pitch for law and order and emphasis on the good old values.” If Nixon “defended their values” and espoused “good moralistic and time-honored values of the good old

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62 Ibid.
63 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
64 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
65 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
66 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
67 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
days,” he would win their support for himself and for the GOP for decades to come. While Nixon himself did not seem to have direct involvement in the authorization or function of the Middle America Committee, he was consistently informed of their findings and advice. On one edition of the group’s minutes, Nixon scribbled in a handwritten note to Haldeman, “H-lets keep this project alive.” Nixon was aware that only certain members of his staff were aware of the secret group, to the exclusion of other top staffers, but also, according to historian Jefferson Cowie, Nixon himself was responsible for launching the group. The strategy proposed by the Middle America Committee soon spread throughout other staffers in the White House. One memo to Haldeman from Charles Colson, special counsel to Nixon, proposed that the “social issue” strategy would be effective in organizing the Northeast for the 1972 campaign “at least with certain groups.” The memo suggested that the people most engaged by the social issue strategy would be “urban, middle income, white ethnics. To exploit the potential, we need to cultivate states are winnable if we have the right people and organize them properly.”

The Middle America Committee was largely a response to several important books published in 1970. Political scientists Richard Scammon and Ben Wattenberg famously captured the national mood in their influential book The Real Majority. Internal administration communications mentioning the work speak to the importance it had on Nixon’s advisers.

68 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
69 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
Buchanan, for example, expressed concern that the book tipped off Democrats to the GOP’s strategy, “what [Republicans] knew in 1966 and 1968.” Ehrlichman wrote to Nixon that Scammon and Wattenberg “defined the social issues.” Scammon and Wattenberg’s social issues, Ehrlichman explained, were “not a straight right/left or liberal/conservative issue.”

While economic attitudes and class predominantly shaped the political preferences of previous generations of American voters, Scammon and Wattenberg argued, “that seems to be changing.” Although economics remained important, “the battlefield shows signs of splitting into two battlefields: the old economic one and the new social one that deals with crime, drugs, racial pressure, and disruption.” They cautioned Democratic office-seekers to pay attention to the transforming positions of the American public and argued that building a party where the “major components” were “all the young, all the poor and all the blacks” would not “make much electoral sense.” Instead, they suggested, Democrats should focus on building a new alliance which included the country’s emerging majority, the “middle-aged middle-income, high-school educated, white Protestant” who “works with his hands” and is “decreasingly ethnic.”

Although Scammon and Wattenberg urged candidates to pay attention to the budding importance

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77 Ibid.

78 Ibid., 58.

79 Ibid., 67.
of the “social issues” in American politics, and while they argued that the country had moved rightward since the 1960s, they asserted that voters generally coalesced around a relatively centrist political philosophy. The “winning coalition in America,” they proposed “is the one that holds the center ground on an attitudinal battlefield.”

Scammon and Wattenberg sought to define the majority of American voters in the early 1970s as moderate, emphasizing that economic priorities remained an important factor in the formation of voting alliances, but also arguing that social issues increasingly motivated voters. Kevin Phillips’ *The Emerging Republican Majority* appeared at the same time as *The Real Majority* and also attempted to capture the shift in attitudes of American voters. Like Scammon and Wattenberg, Phillips argued “the nature of the new majority” was “largely white and middle class.” He suggested that it was “concentrated in the South, the West and suburbia.” While Phillips asserted that the group was “largely conservative” he also indicated that it included a “number of unconservative outlooks as well.” For example, in a speech entitled “Middle America and the Emerging Republican Majority,” Phillips depicted his “Middle Americans” as supportive of “social security, Harry Hopkins, and the WPA,” while the “richest precincts in America, Beacon Hill, Scarsdale, East Side Manhattan, and Philadelphia’s Society Hill”

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80 Ibid., 80.
maintained a “record of opposing popular change” like Roosevelt’s New Deal programs. While his definition of the country’s emerging majority overlapped with Scammon and Wattenberg’s observations—he agreed with their characterization of the emerging electoral demographic—Phillips minimized the importance of economics in voter motivation. In the past, Phillips wrote, the “elites engendering popular revolt were economic elites, landed or industrial elites committed to economic conservatism. Thus, popular change had to come from the Left. No more. Technology and economic growth have raised the old working-class constituency to a new affluence, enlarging the old middle class into Middle America.” With the diminishing importance of class solidarity, Phillips asserted, social issues materialized as the primary determination of voter preference.

On one level, the proposals of the Middle America Committee appeared to be a synthesis of the observations of Phillips, Scammon and Wattenberg, as well as other political observers from across the political spectrum. Yet, the committee’s recommendations diverged significantly from the findings in The Real Majority—and closely resembled Phillips’ assertions—in one crucial area. Whereas Scammon and Wattenberg urged politicians to “listen to the center” and to be “responsive to the real majority of voters—without being repressive to minorities,” the race issue provided the most galvanizing, defining, and valuable force in the formation of a new political coalition for Nixon’s increasingly powerful conservative advisers. Nixon “seems to think he is carrying the load for all minorities,” Dent wrote in the Middle

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86 Scammon and Wattenberg, 304.
Phillips argued that the “typical white working-class voter is bluntly conservative on racial issues” as he urged Nixon to instruct the administration to “sharpen its identification with the economic and social wellbeing of poor and working-class whites” by ending the Philadelphia Plan and providing aid to parochial schools. Phillips asserted that the administration had been “inept and ambiguous” in its handling of the emergent social issues and suggested that initiatives to expand welfare, the Philadelphia Plan, suburban integration and the Scranton commission had all hurt Nixon politically. He warned that the administration would be unable to build a “lasting GOP coalition for want of a positive philosophy” if it failed to shift its ideological center and would never develop a “program to replace liberalism’s failure to meet Middle America’s needs.”

Although the group did not remain a significant voice inside the administration’s political strategy apparatus, its ideas became central to the mission of conservatives in the White House. Conservatives lobbied for a thorough transformation of Nixon’s civil rights policies and sought to destroy the institutions that had made civil rights advances possible. A 1970 memo from Ed

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87 Memorandum from Harry Dent to The President, Subject: First Meeting of Middle America Committee, October 16, 1969. Folder: WHSF, President’s Office Files, President’s Handwriting, October 16 thru 31, 1969. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, September 1969 to November 1969, Box 3.
89 The Scranton Commission, otherwise known as the President’s Commission on Campus Unrest, was established by Nixon in June of 1970 to study the increasingly violent demonstrations on college campuses. The Scranton Commission found that escalations in the war in Southeast Asia correlated directly with escalations in confrontations on campuses and that the revelation of military intervention in Cambodia reignited unrests on American campuses.
Morgan to Ehrlichman, even before the desegregation of southern schools was complete, called for the “winding down and closing out” of the Cabinet Committee on Education, and the network of local advisory committees coordinated by the president and various members of his staff which successfully assisted in implementing desegregation in southern school districts. Morgan suggested his intent to put them “out of business by no later than the end of the year, if not sooner.” Qualifying his comments Morgan noted it was not the actual CCE that he sought to eliminate, “it’s the staff.” Buchanan suggested that the “federal machinery” which had helped usher in a new era in civil rights “needs to be dismantled.” It was “not enough,” Buchanan continued, “to execute publicly, every two years, a Leon.”

Just as conservative advisers emphasized that Nixon could capitalize on the “bitterness” of working-class whites towards programs which benefited African Americans they urged other GOP candidates to practice a similar politics of divisiveness. Those who did not, as illustrated in the New York Senate race in 1970, subjected themselves to the wrath of the Nixon machine, even if they were Republicans. In a strategy memo, Haldeman recommended that the White House send someone to council James L. Buckley, the brother of William F. Buckley, Jr. and the Conservative Party candidate, on political strategy. Haldeman argued that “it would seem to be

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95 Ibid.
obvious that if he ran a total pro-Nixon campaign, particularly avoiding an attempt to appeal to either the Jews or the Blacks but rather going for the Catholic Democrats and the Nixon Republicans and really playing this up, that he would have a very strong opportunity of slicing up all of that vote and leaving [opposing candidates] to divide the Jews, Blacks, and left-wing Democrats.”

Buckley was running against Richard Ottinger, a liberal Democratic Congressman, and Charles Goodell, a former GOP Congressman whose politics had evolved from conservative-to-liberal after being selected by Governor Rockefeller to fill the Senate vacancy left by Robert Kennedy’s assassination. Goodell’s vigorous antiwar position most irked Nixon, who pledged: “We are dropping Goodell over the side.” The White House sent Vice President Agnew to campaign against Goodell. While no endorsement of Buckley ever came from the White House, as historian Richard Reeves has noted, Agnew called Goodell the “Christine Jorgensen of the party,” a popular culture reference to a man who had, as widely reported, undergone a sex-change operation. Similarly, Nixon chose not to support George Romney’s wife, Lenore Romney, who was the GOP candidate for senate in Michigan in 1970. “She’s not one of us,” Nixon insisted. With the assistance of the White House, Buckley won the Senate seat, though his tenure lasted only a single term.

Though there was a consensus among observers that the country’s political center was shifting in the early 1970s, most argued that the nation remained relatively moderate. Yet, conservative advisers in Nixon’s White House contended that American preferences had moved

97 Reeves, 245.
98 Ibid., 268.
99 Ibid., 245.
sharply to the right in the early 1970s. Consequently, Buchanan criticized the moderate, middle-of-the-road approach that dominated the president’s positions on domestic policy for the first years of the presidency. He described Nixon’s ideology as “neither liberal nor conservative… a hybrid, whose zigging and zagging has succeeded in winning the enthusiasm and loyalty of neither left nor right, but the suspicion and distrust of both.”

Buchanan recommended a distinctly new “ideological direction” for Nixon. He argued that in 1972 the president had to present voters with an alternative to George Wallace, rather than engage a centrist Democratic candidate. Buchanan promised Nixon that if he embraced the conservative cause he would “be assured an unoccupied niche in America’s history books and a following of millions of men and women to honor his memory.”

In some ways, Buchanan was trying to get Nixon to be Ronald Reagan.

Ehrlichman, for his part, warned Nixon that conservatives were seeking to “move” him “into adoption of a totally ‘conservative’ domestic program.” The shifting priorities of the American electorate, he insisted, were not “straight right/left or liberal/conservative” and

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approaching the increasingly important concerns in a partisan manner would “impair rather than enhance [Nixon’s] use of the social issue.” Ehrlichman accused Phillips of misinterpreting the Scammon analysis to “lever us to substantive positions more in agreement with his views, on the questionable basis of ‘mid-1970 opinion polls’ not otherwise identified or detailed.” He insisted that Scammon’s findings showed that Nixon’s handling of social issue politics in the first campaign and the initial years of the presidency was sound, and he urged Nixon to “finesse the social issues like school integration by indicating Republicans are all for civil rights and actually move ahead—but at a slower, more ‘reasonable’ pace…[Be for] moderate integration and against busing.”

Ehrlichman instructed Nixon to “go to the center.” The social issue, Ehrlichman instructed, should be used as part of a “centrist strategy” not a “liberal or conservative” one, and used to appeal to “the broad middle of the voting spectrum and well may repel those on the right and left wings.”

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was to find the most centrist policies possible, to “insure some balance.”

Ehrlichman warned against moving the party from the center to the “fringe” and recommended that Nixon’s political strategy include trying to “co-opt the opposition’s issues.”

Ehrlichman suggested that conservatives misconstrued the political context of the moment and misinterpreted the nature of the conservatism ramping up in American society. “Young [Kevin] either….misunderstands or misuses the concept,” argued Ehrlichman, “to impeach some non-conservative initiatives deliberately designed to furnish some zigs to go with our conservative zags.”

Ehrlichman suggested that Phillips had betrayed the intended political balance Nixon sought among his advisers, the inclusion of “Moynihans with our Dents” and warned Nixon of Phillips’ intent to move him away from his moderate political posture on domestic issues.

Safire wrote that Phillips’ proposed strategy of exploiting the conservative tendencies of white ethnics across the country fabricated a non-existent political scenario and he implored Ehrlichman to help the administration avoid “an imposed ‘Nixon Philosophy.’”

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that there was a danger that the Phillips’ analysis would be “interpreted by the Democrats as the ‘Nixon political line.’” Safire challenged Phillips’ thesis that an “era of Republican dominance is in the offing because the President is putting together strength in the South, Midwest, and California and writing off the Northeast to the Democrats.” He labeled Phillips “dangerous” because his position within the administration “appears to put our stamp of approval on its content.” Safire was concerned that Phillips’ view was so extreme that liberals would be able to suggest that Nixon had “admittedly sold out to the Right.” While the concept of Phillips’ coalition “makes a lot of sense to a lot of people,” Safire feared that liberals would hold it out as the “gospel according to Nixon and use it as a rallying point to appeal to centrists.” Importantly, Safire argued that “the President must not tip his hand as to this ultimate political strategy.” He suggested that Nixon was “not a sectional President” and that in 1968

Nixon was the only candidate to carry “a major state in every region.”

In other words, Safire feared that conservatives would destroy the principle and possibility of the majority Nixon hoped to win in the 1972 election. “A tacit ‘writing off’ of any area,” Safire wrote, “is a big political mistake dispiriting to the Republican troops in that area.” He urged Nixon to campaign in Pennsylvania, New Jersey, and New York rather than freezing out the areas of the country where he confronted the most significant political opposition. “The President…encourages debate within the party, but points out that he talked of a ‘new alignment’ of his own last year,” Safire tried to remind Nixon, “which is more closely attuned to his own thinking.”

Safire warned that extremists were pushing the administration “to the right, when we belong in the center with a solid appeal in both directions.” He encouraged Nixon to position himself “above the customary liberal-conservative ferment within his Administration.” Safire urged moderate advisers to defy conservatives and express “a different political strategy, reaching out for the poor, young and black” in order to show that “a ferment of ideas [which

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leaves] the President a captive of neither side.”125 Safire prodded Nixon by reminding him of his political philosophy. “[You are] not a man who believes that national unity is a prerequisite to progress,” Safire explained. “Progress comes first, and then will lead to a form of unity, or at least a reduction in the level of bitterness.”126 Safire characterized Nixon as “a man willing to fight for the kind of progress for which the time is ripe.”127 He proposed that “the representative of ‘all the people’ must not play it so cool as to refuse to do the battle for their interests, and those interests are controversial.”128 Finally, Safire argued that the “posture” should not be “Unitarian, apolitical, ameliorating, lofty —the posture of a Chairman of the Board,” but rather a willingness to do battle for important programs. “We should begin twisting arms and publicly fighting for the Family Assistance package,” Safire wrote, referring to the Family Assistance Plan (FAP), the administration’s welfare reform program that would have provided childcare services, work opportunities, and the federal guarantee of a minimum income for every America. The FAP would ignite a “controversy on the right” that would “position us firmly in the center, and we will have something to crow about.”129

129 Memorandum for the President, from Bill Safire, Re: Approaches to 1972, November 11, 1970. Folder: WHSF, President’ Office Files, President’s Handwriting, November 1970. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, November 1970 to December 1970.
In some ways, Nixon seemed to side with Ehrlichman and Safire. He noted in handwriting on one memo, “I agree with [this].”\(^\text{130}\) However, as Ehrlichman proceeded to detail his opposition to the specifics of the conservatives’ “new center” arguments, the metamorphosis in Nixon’s thinking was clear. “Phillips criticizes four policy positions…Welfare…our welfare effort has been a good zig, without damage on the Social Issue, with promise of strong blue-collar appeal,” Ehrlichman wrote at the same time as suggesting the Philadelphia Plan represented a “slow and reasonable approach to civil rights.”\(^\text{131}\) Ehrlichman advised Nixon that the administration’s “domestic course is down the center” and conveyed to Nixon his recent confusion over the political philosophy at the core of the administration’s policy. “If you intend the pure conservative line which Phillips peddles,” Ehrlichman suggested, “someone had better straighten me out.”\(^\text{132}\) Here, Nixon noted in handwriting that the initiatives “may be questionable politically unless make emphasis on work requirement.”\(^\text{133}\)


Chapter 5

“The Responsible Act”

“[Nixon] wanted to have a domestic policy and the idea of being a Disraeli conservative clearly appealed to him…Nixon in no way had been punitive toward people in [my] experience with him. He had great sympathy for everyone who was down and out…”

-Daniel P. Moynihan

On April 20, 1971, the Supreme Court handed down the crucial decision from a slew of cases it had taken on the busing issue the previous fall. In Swann v. Charlotte-Mecklenburg Board of Education, the Court unanimously affirmed that busing was a constitutional remedy to “dismantle the dual school systems” in the South unless the “time or distance is so great as to risk either the health of the children or significantly impinge on the educational process.”

While the Court endorsed busing as an acceptable instrument for achieving desegregation, it did not mandate the elimination of all-black schools or require racial balance. In his opinion, Warren Burger insisted that the Court’s decision was not one which required “a fixed racial balance or quota.” Still, the Court suggested that the “existence of all-black schools” was suspicious and “created a presumption of discrimination.” If judges suspected discrimination, they were permitted to use “racial quotas as a guide in fashioning desegregation decrees.”

In the case of Charlotte, the Court upheld the Federal District judges’ order that required “massive

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5 Ibid.
crosstown busing of children in an effort to approximate in each elementary school the ration of 71 percent whites and 29 percent blacks that exists in the entire school system.\textsuperscript{6}

In crafting its decision, the Court deliberately refrained from ruling on whether northern \textit{de facto} segregation required remedial action. While lawyers for southern districts argued that the “privilege” of neighborhood schools enjoyed in the North should also be afforded to the South, the Court only considered cases where segregation was the result of provable discrimination and primarily targeted southern schools.\textsuperscript{7} Burger suggested that the Court was not addressing the “school segregation” that resulted from “other types of state action, without any discriminatory action by the school authorities.”\textsuperscript{8} As a result, \textit{Swann} presented a confusing combination of conclusions with distinct regional discrepancies and often vague criteria for determining action. As historian Matthew Lassiter argues, the case “represented an uneasy compromise forged by a deeply divided Supreme Court” which “allowed busing opponents to complain with accuracy that the Constitution had different meanings in different political jurisdictions.”\textsuperscript{9}

At first, civil rights activists seemed satisfied with the Court’s decision. Julius Chambers, who argued the Charlotte case on behalf of the NAACP Legal Defense and Educational Fund, concluded “what the Court told us yesterday was that the problems we have can be remedied through legal means. This was the thing we were fighting for, to show black as well as whites that the system is responsive.”\textsuperscript{10} Jack Greenberg, director of the NAACP Legal Defense and Educational Fund, said the Court’s decision would help remove “all vestiges of state-imposed

\textsuperscript{6} Ibid.
\textsuperscript{7} Ibid.
\textsuperscript{8} Ibid.
segregation.” It was, he admitted, “a stronger decision than I had expected.” The Court “said in effect that this is going to be an integrated country,” Greenberg applauded. It had “given thrust and direction to integration, and the country is going to have to move ahead in that direction.” The decision also improved the opinion of the civil rights community towards the administration. At Greenberg’s organization, the NAACP Legal Defense Fund, attorneys were “overjoyed with the Supreme Court decision,” the Baltimore Sun reported. In July, the NAACP’s chairman, Bishop Stephen G. Spottswood, suggested that although “the racial sky is not nearly exactly light and clear” it was “not as murky and dark as it was a year ago.”

Spottswood praised the Nixon administration for taking “certain steps” and announcing “policies in certain phases of the civil rights issue which have earned cautious and limited approval among black Americans.” Roy Wilkins cautiously warmed to Nixon, instructing that the African-American community could no longer “live in a vacuum.” He is “still my President,” Wilkins professed, “I am not slamming the door on him.”

In the South, reaction to Swann was mixed as school districts scrambled to interpret the tangible impact of the decision. One New York Times reporter described the mood as a “curious blend of astonishment, anger and optimism among some white parents and educators that it will

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17 Ibid.
18 Ibid.
19 Ibid.
have little or no effect.” 20 Few southern school officials believed Swann compelled districts to file new desegregation plans to even out racial distributions in schools as long as there was no proof of discrimination. The chairman of the Raleigh, North Carolina school district, for example, suggested that although 80 percent of the district’s black pupils attended black schools “nobody has yet said there is anything wrong with it.” 21 The assistant attorney general of North Carolina agreed. “I think Raleigh is in excellent shape,” he said, “The thing they harped on in Charlotte was that there was discrimination. That’s not the case in Raleigh.” 22 In the aftermath of Swann, a handful of civil rights activists feared that the decision might allow districts like Raleigh to take no further steps towards achieving a more equal racial balance in schools. Stephen Pollack, for example, a former Assistant Attorney General for Civil Rights, noted astutely that the Court “did not go into the deeper causes of segregation such as zoning of neighborhoods and the effects of various problems that have contributed to the concentration of Negroes in the central cities.” 23

The Nixon administration thought the end of the dual school system in the South in the fall of 1970 would lead to diminishing concern over racial integration in schools. In a sense, between the fall of 1970 and the spring of 1971, many ordinary southerners increasingly tolerated measures to equalize the racial balance of schools beyond the end of officially sanctioned de jure segregation.

Some southerners appeared relieved that the Court had ruled on the busing issue and expressed confidence that another crisis over school desegregation was avoided. In Charlotte,

21 Ibid.
22 Ibid.
despite sporadic antibusing mobilization, there was “a feeling that the worst was over” now that the Supreme Court had declared “the Charlotte model was ‘reasonable, feasible, and workable.’”

24 A resident of Lansdowne, North Carolina—a white suburb known for deep antibusing sentiment—suggested “I’m surprised to hear myself saying this. But in years to come I think we’ll see that it’s something that had to be done, and wouldn’t have been done if left to the people.”

25 The Baltimore Sun reported that “in the South” Swann “may mean a peaceful urban revolution in September.”

26 Even Nixon’s failed Supreme Court nominee Clement Haynesworth, serving on the Fourth Circuit Court of Appeals, noted that the courts had been waiting for the Supreme Court’s decision to deal with a backlog of cases and resigned himself to the outcome. “We have held these cases until we received some guidelines,” Haynesworth noted, “Now we can proceed to dispose of them promptly.”

27 The Sun reported that the “consensus” in the South “was that the desegregation process would go far more smoothly in coming months than it had in past periods of drastic change during the fifties and sixties.”

28 As moderates won the governorships of every southern state except Mississippi and Alabama, the possibility that the South would abide by Swann and usher in a new and more equal racial reality was not farfetched.

In the North, civil rights activists began a process that would extend well into Nixon’s second term, devising methods to compel desegregation within the framework of Swann. The NAACP Legal Defense Fund initiated a “new campaign” in the North “to apply the Court’s

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25 Ibid.
mandate to cities that have some aspects of *de jure* segregation.” Jean Fairfax, the liaison between the Fund and federal agencies, suggested that the NAACP was “now committed to mounting a Northern campaign.” In Detroit, the group filed a suit in federal District Court “demanding busing” and arguing that “school segregation was abetted by actions of politicians and educators in Detroit—the nation’s fifth largest city.” Greenberg urged the White House to take an active role in implementing reforms in the aftermath of *Swann*, suggesting “the Justice Department has a very clear responsibility in enforcing the law.” Fairfax insisted that HEW was charged with the responsibility of guiding compliance with Title IV of the 1964 Civil Rights Act.

Initially, the administration reacted to *Swann* in the same manner it had dealt with *Alexander*. Nixon’s Press Secretary, Ron Ziegler, announced that the Supreme Court’s decision was “now the law of the land. It is up to the people to obey that law.” Behind the scenes, however, advisers and the President scrambled to understand the tangible impact of *Swann* and synthesize the range of national reaction. Ray Price wrote to Nixon the day after the decision to reassure him that the administration could work within its framework. “I gather you’re pretty unhappy with the Supreme Court decisions announced yesterday,” consoling Price wrote consoling Nixon, “[I] would strongly urge that we look at the brighter side….Despite the thrust of reporting on them, it seems to me….that they represent some very significant victories and

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29 Ibid.
30 Ibid.
31 Ibid.
32 Ibid.
33 Ibid.
that they also leave some important areas of what might be called constructive flexibility."35

Price continued, “our most important objective in this area has got to be preservation of the vital
distinction between *de jure* and *de facto* segregation, and heading off what would be the utterly
disastrous consequences if the Court were to hold that *de facto* was unconstitutional and there
was a positive requirement in *de facto* situations to achieve an arbitrary racial balance.”36 Nixon
acknowledged Price’s recommendations, commenting in handwriting: “Ray, Very perceptive
analysis.”37 Garment cautioned Nixon that the Supreme Court’s decision might look like a
“major rebuke to us.”38 He advised Nixon to adopt a policy of “vagueness and ambiguity” and to
observe closely the country’s reaction.39 “Only when such ‘vagueness’ is present can potential
enemies agree on immediate actions and policies,” Garment explained. He advocated an
approach that would allow for the “postponement of any ‘final solutions.’”40 Here, too, Nixon
noted in handwriting, “Len—Excellent analysis; E[hrlichman]—This seems to be a good tack for
us to take.”41

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35 Memorandum for The President from Ray Price, Subject: School Desegregation Decision, April 21, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
36 Memorandum for The President from Ray Price, Subject: School Desegregation Decision, April 21, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
37 Memorandum for The President from Ray Price, Subject: School Desegregation Decision, April 21, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
38 Memorandum for The President from Len Garment, April 22, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
39 Memorandum for The President from Len Garment, April 22, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
40 Memorandum for The President from Len Garment, April 22, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
41 Memorandum for The President from Len Garment, April 22, 1971. Folder: WHSF President’s Office Files, President’s Handwriting, April 14 thru 16, 1971. NPMP, WHSF, Staff Member and Office Files, President’s Office Files, President’s Handwriting, March 10, 1971 to May 16 1971, Box 10.
On May 14, 1971, HEW issued its first recommendation in the aftermath of *Swann*. In it, the department urged a lower court to “approve ‘extensive’ busing to achieve a city-wide mixture of the Negro and Mexican-American minorities with the White Anglo majority” in Austin, Texas. The HEW plan, according to the *Washington Post*, “would have dramatically altered the schools’ racial ratios so that instead of predominantly one-race schools, the extensive cross-town busing would have integrated each school in proportion to the city’s overall population—64.6 percent Anglo, 20.4 percent Mexican-American and 15 percent black.” Attorney General Mitchell seemed to endorse HEW’s plan, characterizing it as “broad enough to satisfy the Supreme Court mandate and, hopefully, to meet the educational needs of the community.” He continued by saying “hopefully, we can work out new plans for other affected Southern cities quickly.” Stanley Pottinger, the new director of the Office of Civil Rights at HEW said the action represented an important “first indication” of the administration’s commitment to act on the *Swann* decision.

To many, the swiftness and depth of HEW’s intervention in Austin represented a breakthrough in the administration’s efforts to implement aggressive desegregation plans in cities through the courts. A *Washington Post* reporter wrote “From the beginning, the main emphasis of the administration….has been to shift the burden of enforcement away from HEW….and back into the federal courts.” Clarke Reed speculated that the administration was pleased with the Court’s demands in *Swann* because the decision provided political cover as desegregation efforts moved to urban areas. “The Court did [Nixon] a favor,” Reed said, “It

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45 Ibid.  
bailed him out. He’s totally escaped.”

Dent, who often fought to soften administration demands on the South, seemed confused and resigned. “I don’t know what you’re doing and I don’t want to,” Dent told senior advisers. “Just please do it this year and not next [during the presidential campaign.]”

Indeed, the administration soon used the courts’ rulings as convenient political cover. In July, for instance, an incensed House of Representatives overwhelmingly passed a resolution requesting that HEW Secretary Elliot Richardson “furnish Congress with information on the extent of busing supported by his department.” Richardson was able to respond that there was “no program administered by this department either designed or used to support, promote or require the busing of school children to achieve racial balance.” While he appeared to contradict HEW’s own recommendations in Austin, Richardson, in a political dodge, implied that the courts were to blame.

On July 19, 1971, a federal judge “rejected” HEW’s plan for Austin and reinstated the local school board’s original plan for desegregation, which pledged to bring students of all races together in newly constructed centers for “fine arts, social sciences, avocations and science and to bus elementary school pupils to them for periodic ‘intercultural’ experiences.” He wrote that the “central thrust of the school district plan is to eliminate the mutual fears that lie at the heart of racial prejudice, and the discriminatory attitude that flows from such fears through educational activities specifically tailored to reach this objective.”

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48 Ibid.
49 Ibid.
51 Ibid.
52 Ibid.
suggested that there were “severe practical limitations” to HEW’s plan in Austin, mainly the
difficulty and time requirements of daily busing.54

Mitchell told Nixon he “must appeal” the decision because it was “inconsistent” with the
Supreme Court’s April ruling in Swann.55 “Part-time desegregation,” Mitchell argued, “does not
meet the test of the Supreme Court mandate to put an end to the dual school system.”56 The
Washington Post reported that “failure by the Justice Department to take the case to the Fifth
U.S. Circuit Court of Appeals would be widely considered an indication that the Nixon
administration will not push strong implementation of the Supreme Court’s ruling last April 20
upholding busing and pairing as legitimate means of desegregation.”57 An official in Fort Worth,
Texas, a city with a similar desegregation controversy brewing, spoke for many by noting, “if the
government says it’s satisfied with the Austin decision, it’s sure not going to tell the rest of us to
desegregate with massive busing plans.”58

The reaction ignited by the Austin controversy, coupled with the possibility that HEW,
Justice, and the courts might pursue widespread and aggressive busing to shift the racial balance
of urban schools, fueled a change in public opinion. By the end of the summer, a Gallup Poll
suggested that “a good majority of Americans opposed busing to achieve integration.”59 Dent
warned Nixon that he was “heading for political trouble [in the South]….on school busing. This
is the #1 question and concern.”60 He pointed out that “the busing will come in the cities where

56 Ibid.
58 Ibid.
60 Memorandum for The President from Harry S. Dent, Subject: School Busing and Politics in the South, June 4,
NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71 –
9/30/71, Box 9.
we won the Southern states in 1968. The impression being created is that we are going maximum instead of minimum.”

Conservatives within the administration exacerbated an increasingly tense situation by using busing to push race into the national spotlight. As they sought to regain power within the White House, conservatives anticipated the issue would push racial resentment into the national spotlight and energize the grassroots right. As early as the spring of 1970, Buchanan framed the issue as a matter of government intrusion. He suggested that the country wanted to know “what the President intends to do when local, state and Federal courts—and the Supreme Court—accept or impose plans that trample all over the President’s philosophy.” Buchanan also contended that busing was a class issue which targeted poor whites and, as a result, the “national mood was clearly against it.” As Buchanan put it, “You wealthy white folks out in the suburbs are secure, the poor white trash that lives next to the blacks in the South and the Pollocks, Italians, and Irish in the cities who live next to the Negro community—you folks are going to get integrated. This is a plan for Segregation for the Rich—and Integration for the Poor.” Buchanan railed that it was “wrong to compel some fellow making $8 grand a year—who doesn’t want to be anywhere near blacks—to send his kid to a school established for the basic purpose of racial mixing.”

Dent, too, argued that some “concerned citizens” had gone “beyond blaming the court and expect the President to speak out or do something.”Footnote 66 Busing, Dent warned, was being met “with resistance even from moderates and some Negroes.”Footnote 67 Conservative advisers sought to capitalize on a growing number of citizens who, though still in a minority, increasingly felt threatened by busing. As one citizen of Winston-Salem, North Carolina wrote in the New York Times, “It is incredible to me….to think that America’s children could be moved about on the basis of race. It smacks of Nazism to us. It is the reverse of what we believe about blacks—that they are people like anyone else.”Footnote 68

In July of 1971, the conservative Kevin Phillips analyzed the results of a Gallup Poll in a Washington Post op-ed titled “Dixie Cools Toward Nixon.” In the piece, Phillips argued that Nixon was “in trouble” nationally as a result of his diminishing support in the South.Footnote 69 The poll showed that Nixon—who in December of 1969 maintained a 14-point lead over potential presidential rival Democratic Senator Edmund Muskie—now trailed by four points.Footnote 70 Phillips suggested “the reason for President Nixon’s….slide is probably the Supreme Court’s school busing decision” and that the administration “speedily implemented” the decision.Footnote 71 He warned the administration had “exceeded the court mandate in the first action it took under the new busing rules.”Footnote 72 By 1971, Phillips, now out of the administration and pursuing a career as a journalist, was increasingly a source of frustration for both liberal and conservative advisers in


Footnote 72 Ibid.
the White House. Just months before the *Washington Post* piece was published, Haldeman wrote to Buchanan, asking him to convey to Phillips that “it would be helpful if his doom crying were abated” and noting that Phillips was “approaching [the election] from an entirely too pessimistic view.”

William Safire worried that Phillips had been “pushing us over to the right, when we belong in the center with a solid appeal in both directions.” Ehrlichman wrote to Nixon warning him that Phillips was trying to “move you into adoption of a totally ‘conservative’ domestic program.” He cautioned Nixon that would “impair rather than enhance” his prospects for reelection.

Nixon formed a special committee to consider a definitive position on the political implications and prepare a statement. “The issue is an immensely complicated one,” the *New York Times* suggested, “but the statement when it comes, should reveal more about the President’s political calculations for 1972 than any single trip to the South.” On August 3, 1971, Nixon revealed the administration’s position on the Austin decision. While he asserted that the lower court’s acceptance of a token intercultural desegregation plan for Austin was unacceptable, he also insisted that the Justice Department would “disavow” the HEW plan for desegregation there. Nixon condemned HEW’s use of “crosstown” busing to achieve racial balance in schools. “I am against busing as that term is commonly used in school desegregation

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cases,” Nixon proclaimed. “I have consistently opposed the busing of our nation’s school children to achieve a racial balance, and I am opposed to the busing of children simply for the sake of busing.”

His administration would continue to “enforce the order of the Court, including court-ordered busing” but advised that he had “instructed the Attorney General and the Secretary of [HEW] that they are to work with individual school districts to hold busing to the minimum required by the law.” In a bold gesture towards opponents of busing, Nixon also asked Congress to amend his request for the $1.5 billion—Congress was yet to approve this sum Nixon originally requested in forming the Cabinet Committee on Education—and “expressly prohibit the expenditure of any of those funds for busing.”

The *New York Times* called the “sudden and dramatic” statement a “stunning reversal of what Administration critics had been willing to concede, until then, was a realistic attitude by the White House toward the Supreme Court’s unanimous decision in April upholding busing as a tool of desegregation.” In the end, the editors warned, the statement “signaled a major change by the White House” from its initial position on busing in the immediate aftermath of *Swann*. Senator Walter Mondale accused Nixon of “attempting to pit public opinion against the rule of law announced by the Supreme Court.” Senator Jacob Javits called Nixon’s statement “regrettable” and asserted that busing was an “essential element in attaining both desegregation and quality education.” “It’s shocking, it really is,” lamented an employee from the Justice

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78 Ibid.
79 Ibid.
80 Ibid.
81 Ibid.
82 Ibid.
84 Ibid.
Department’s Civil Rights Division. “I can only hope that the end result won’t hurt quality integrated education.”**85**

Even in the South, the statement frustrated some school officials who made attempts to comply with *Swann*. A school board member in Jackson, Mississippi complained that Nixon “did a darn good job of messing things up for us. People here were finally psyched up to accept busing and integration. But now the President has given fire to the conservatives who are for private schools.”**86** One HEW staffer complained that Nixon’s new qualification that the $1.5 billion in assistance not be used for busing caused southern school officials to contact HEW “asking what the hell is up.”**87** Many districts presented plans to HEW, according to the official, which included busing paid for by federal funds. “If they have to take out that money,” the official noted, “they will have to re-jiggle their budgets to get rid of or reduce other programs if they are under court order to bus.”**88**

Following Nixon’s August 3 statement, rumors surfaced that Richardson had considered resigning his post at HEW over the Austin flap. While he denied the charge, Richardson’s public statements only increased the ambiguity around the administration’s policy. Richardson insisted that Nixon’s August 3 statement reiterated a commitment to “achieve desegregation but to do so by holding ‘busing to the minimum required by law.’”**89** He alleged that Nixon “believes it is a good thing in principle for children to attend school in their neighborhoods.”**90** Nixon’s statement was “not a repudiation of [HEW] or his policies,” according to Richardson, but rather “a necessary effort by Mr. Nixon to clarify—for the benefit of the district courts and officials in

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86 Ibid.
87 Ibid.
88 Ibid.
90 Ibid.
charge of desegregation policy—the President’s fundamental opposition to busing as a technique to achieve racial balance in public schools.”

By the summer of 1971, Richardson was increasingly baffled by public opinion towards the administration’s civil rights record. Richardson wrote to Nixon that school desegregation statistics from the fall of 1970 “believe distortions of the Administration’s civil rights accomplishments and provide hard evidence that impressive and widespread gains have been made in eliminating the dual school structure.”

Richardson added that he was “dismayed by the extent to which suspicion and disbelief about our progress in school desegregation still pervades the media.” In addition, by the summer of 1971, Richardson was at odds with a number of presidential advisers and frustrated at the direction in which conservatives had started to push Nixon.

Down the ranks at HEW, Nixon’s August 3 statement “confused” staffers who considered Swann a mandate to incorporate busing into desegregation plans for the metropolitan South. One official at HEW exclaimed, “Sure, we’ve been funding busing all along, and all of a sudden we can’t do the things we were doing.” Another HEW official noted that employees “feel the rug has been pulled from under them.” At the Office of Education, another said “all hell broke loose” after the August 3 statement. “It seems,” a fourth noted, “as if the President wants to punish the whole Office of Education for some unknown sins.”

91 Ibid.
95 Ibid.
96 Ibid.
97 Ibid.
HEW itself had experienced a dramatic transformation since the first months of the administration. In one sense, Nixon’s efforts to neutralize HEW by moving the center for desegregation operations to the White House—and subsequently to the courts—had limited the reach and effectiveness of the department. Many of the young and enthusiastic civil rights activists determined to forge ahead with measures to ensure racial equality were gone. They had been “purged,” as the New York Times reported, in “a series of dismissals and resignations earlier in the Nixon term.”98 By the summer of 1971, HEW was “hardly stacked with zealous activists.”99

On August 11, in order to prevent resistance from the now much smaller army of idealistic staffers who remained at HEW, the administration threatened bureaucrats at HEW and the Justice Department. Press Secretary Ron Ziegler stated that Nixon “made it clear, orally and in writing, that he did not want the Justice Department or the Department of Health, Education, and Welfare to suggest any more than the minimum required by law.”100 In Ziegler’s words, staffers at both departments were required to fall in line with the administration’s wishes. They “are going to be responsive,” Ziegler instructed, “and those who are not responsive will find themselves involved in other assignments or quite possible in assignments other than the Federal Government.”101 An administrator at HEW appeared to respond to pressure from the White House, reassuring Ehrlichman the “press has….been eager to discover and illuminate a breach between OE [the Office of Education at HEW] and the President on the issue of busing. We have not let such a breach appear.”102

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99 Ibid.
100 Ibid.
101 Ibid.
While HEW employees grieved over the diminishing of the scope of *Swann*, southern opponents of busing criticized Nixon for not repudiating *Swann* strongly enough. Jack Davidson, the superintendent of the Austin school district, joked “Man in White House speaks with forked tongue.” Other southern white leaders warned that the busing issue had created a dangerous political environment for the GOP. Republican state chairmen from southern states “privately warned the President that the integration issue was destroying his Southern base.”

Intent on forcing the administration into an even more rigid position against busing, Alabama Governor George Wallace tried to provoke a judicial crisis. He instructed a school board in Alabama to ignore a court-ordered desegregation plan, arguing that the use of busing had to be “adjudicated” even further. Wallace announced that he would withdraw antibusing orders in Alabama only if ordered to do so by the courts, a step that would require a lawsuit from the federal government. “We southerners have always been law-abiding folks,” Wallace insisted. “Of course, that’s not what the news media tells everybody, but we are.” Wallace’s provocation was a clear attempt to pit the federal government against state and local municipalities. In the aftermath of his 1968 presidential run, Wallace had evolved politically in ways that posed increasing danger to Nixon’s reelection bid. In the early 1970s, he moved away from blatant segregationist arguments and presented a more moderate image. On race and civil rights, Wallace suggested that African Americans should have the same rights as all other Americans and equal opportunities for social and economic mobility. By 1972, Wallace emphasized that his objection was not to desegregation itself, but rather to government-sponsored forced desegregation. He also attacked Mitchell for “failing to carry out the

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106 Ibid.
President’s mandate against busing.”\textsuperscript{107} He said “the only way we’re going to bring any solution to this problem is for people in these prestigious offices to come out strong and tell Nixon and other bureaucrats exactly where they stand.”\textsuperscript{108} As he downplayed racial politics, Wallace discovered the “social issues”: pornography, drugs, protest demonstrations, riots and crime.\textsuperscript{109} As journalist Rick Perlstein suggests, Wallace’s new rhetoric was geared towards “upwardly mobile professionals” who had “moved from city to suburb for a better and safer life for their children; he wasn’t just for rednecks anymore.”\textsuperscript{110}

In October of 1971, as the country simmered over the unconcluded busing controversy and the ambiguous August 3 statement, Nixon nominated William Rehnquist to the United States Supreme Court. The nomination, in many ways, was meant to be a corrective for earlier errors. Early in his first term, Nixon put Warren Burger on the Court, to replace the retiring Chief Justice Earl Warren. Though Nixon hoped that Burger would be conservative, he ultimately emerged as a moderate-liberal justice. Abe Fortas’ resignation from the Court in 1969 provided Nixon with a second appointment. With this nomination Nixon sought to appease southern conservatives. He nominated Clement Haynsworth from South Carolina, whose confirmation was impossible after it was alleged that he failed to recuse himself from cases involving his own finances. Nixon nominated another southerner, Georgian Harrold Carswell, whose segregationist past doomed the nomination from the start. A resentful Nixon accused legislators of rejecting Haynsworth and Carswell because of their southernism and their conservatism, Ultimately, Nixon nominated another relatively moderate jurist, Harry Blackmun, with Burger’s

\textsuperscript{107} Ibid.
\textsuperscript{108} Ibid.
recommendation. Blackmun won confirmation easily when the Senate voted in favor of confirmation 94 – 0 on May 12, 1970. Like Burger—Burger and Blackmun became known as the “Minnesota twins”—Blackmun emerged as a moderate voice and in 1973 wrote the majority’s opinion in the landmark case protecting abortion rights, Roe v. Wade.

Conservatives wanted Nixon to find “strict constructionists….ethnics and Catholics” who would help “cement the New American Majority,” as Buchanan wrote.\(^{111}\) When Justice Hugo Black and Justice John Harlan simultaneously retired in the fall of 1971, conservative advisers pushed Nixon to ignore the “mounting lobbies of women, blacks and labor” and to make his decision quickly to avoid “more time to build public support” for the appointment of minority candidates.\(^{112}\) Nixon’s initial list of six potential nominees was leaked to the American Bar Association (ABA) and reflected not only his desire to shape the Court in a conservative mold but also his convoluted new political direction. The list included Democratic Senator Robert Byrd, for example, who Nixon described as “a real reactionary.”\(^{113}\) Nixon noted that Byrd, the Senate whip, had been a member of the Klu Klux Klan and described the nomination as one that would “send [the Democrats] a message.”\(^{114}\) Nixon also listed Herschel Friday, an attorney who had defended Little Rock in the 1957 school desegregation case, Charles Clark, a judge on the Fifth Circuit Court of Appeals who had defended Mississippi governor Ross Barnett against charges of contempt of court for trying to block James Meredith from desegregating the University of Mississippi, Judge Sylvia Bacon, who served at the Justice Department, helping to


\(^{113}\) Perlstein, 605.

\(^{114}\) Ibid.
write the DC crime bill which advocated “preventive detention and ‘no-knock’ search provisions,” Judge Mildred Loree Lillie from Los Angeles, a California Court of Appeals Judge, and Judge Paul Roney of Florida, chose to replace Carswell on the Fifth Circuit Court of Appeals.¹¹⁵ The ABA suggested the list “lacked stature.”¹¹⁶ Chief Justice Burger even threatened to resign if any were actually appointed to the Court.¹¹⁷ “Fuck him,” Nixon responded to Mitchell, who had delivered the news, “Fuck the ABA.”¹¹⁸ Nixon’s reaction soon became public when his statement to Mitchell was leaked, most like by Ehrlichman, to John Osborne at The New Republic.¹¹⁹

Nixon ultimately nominated former ABA president Lewis Powell and William Rehnquist, then an assistant attorney general at the Department of Justice. Neither one, Nixon said, would “twist or bend the Constitution in order to perpetuate personal, political, or social views.”¹²⁰ After Mitchell’s failed suggestions, Nixon “went elsewhere for his recommendations,” biographer Stephen Ambrose writes, “to Mitchell’s chagrin and embarrassment.”¹²¹ White House Special Counsel Richard Moore put forward both names.¹²² Powell’s conservative credentials were impeccable. Shortly before his nomination, for instance, he wrote a famous memo to the Chamber of Commerce in which he asserted that “the American economic system is under broad attack….from the college campus, the pulpit, the media, the intellectuals and literary journals, the arts and sciences.”¹²³ Powell suggested the administration

¹¹⁵ Fred P. Graham, “President Asks Bar Unit to Check 6 For High Court,” New York Times, October 14, 1971, 1.
¹¹⁷ Ibid.
¹¹⁹ Ibid., 383.
¹²² Ibid.
¹²³ Perlstein, 605.
“ideologically monitor” universities and the media.\textsuperscript{124} Despite his conservatism, Powell was a respected and accomplished jurist. In addition to having served as president of the ABA, he was also the former president of the American Trial Lawyers Association and a member of President Johnson’s National Crime Commission. On December 6, 1971, Powell was confirmed by the Senate by a vote of 89 to 1.

Initially, the \textit{New York Times} reported that both Powell and Rehnquist had “reputations….as advocates of firm law enforcement, but each is regarded as a moderate on civil rights issues.”\textsuperscript{125} That assessment had some merit in Powell’s case. Although he had belonged to segregated clubs and worked at an all-white law firm in his home state of Virginia—common enough in the pre-civil rights era—he had, as the \textit{Times} reported, led “efforts to achieve peaceful desegregation of the public schools in Richmond when he was president of the city’s Board of Education in the 1950s.”\textsuperscript{126}

On the other hand, civil rights activists contended that Rehnquist had consistently opposed civil rights measures. As a judge in Phoenix, Rehnquist tried to slow down efforts to eliminate \textit{de facto} segregation in the city and opposed a directive to eliminate racial discrimination in housing. Clarence A. Mitchell, the Director of the Washington bureau of the NAACP, testified before the Senate Judiciary Committee that Rehnquist, a poll watcher for Goldwater in 1964, sought to “delay and prevent Negroes from voting in heavily Democratic black neighborhoods” and threatened to produce witnesses “who could testify that Mr. Rehnquist’s ‘challenging’ operation was used to bog down the lines of voters and frighten some

\textsuperscript{124} Perlstein, 605.  
\textsuperscript{126} Ibid.
Negroes into leaving the polls.”¹²⁷ Mitchell told the Committee that Rehnquist’s nomination had “placed….the foot of racism….in the door of the temple of Justice.”¹²⁸

An article in Newsweek that ran soon after the nomination accused Rehnquist of resisting progress on desegregation. The article suggested that, while clerking at the Supreme Court for Justice Robert H. Jackson, Rehnquist sent a memo to Jackson entitled “A Random Thought on the Segregation Cases.” In it, Rehnquist argued that the “separate but equal” standard established in Plessy v. Ferguson in 1896 “was right and should be reaffirmed.”¹²⁹ Rehnquist asserted that “to those who would argue that ‘personal’ rights are more sacrosanct than ‘property’ rights, the short answer is that the Constitution makes no such distinction….in the long run it is the majority that who will determine what the constitutional rights of the minority are.”¹³⁰ Historian Matthew Lassiter points out that Rehnquist “left a lengthy paper trail of hostility towards racial integration, including states’ rights arguments against the Brown decision and the Civil Rights Act of 1964.”¹³¹

After a long battle in the Senate, though, Rehnquist’s critics were unable to mount a significant opposition and he was confirmed on December 10, 1971 by a vote of 68 to 26. Nixon, unsatisfied and, perhaps, playing to the conservative white South, criticized the Senate for dragging its feet on Rehnquist’s nomination “in order to give the critics time to try to knock down the new nominees.”¹³²

Had the senate truly dragged its feet, more evidence would in fact have come to light that placed Rehnquist at the very center of the busing controversy. In the spring of 1972, too late to

¹³⁰ Ibid.
¹³¹ Lassiter, 313.
make a difference, the *New York Times* unearthed several damning memos. As an Assistant Attorney General for Legal Counsel at the Justice Department, Rehnquist had written two memos in the spring of 1970 outlining a potential constitutional amendment “to prevent any sort of forced busing to achieve racial balance in a given school district.”¹³³ Rehnquist argued that a constitutional amendment to ban busing was superior to antibusing legislation because it provided a permanent prohibition rather than a solution subject to the changing political composition of the legislature. “Embodiment of the validation in a statute would invite unnecessary detail,” wrote Rehnquist, “and would likewise invite frequent reopening of heated debates on the subject.”¹³⁴ An amendment would permanently exclude the courts from most decisions regarding busing. The amendment would have “the collateral effect of inserting Federal courts still further into the business of operating schools,” Rehnquist wrote, “rather than at least partially withdrawing them from that business.”¹³⁵ The administration requested similar memos from other officials at HEW and the Justice Department to gather “thinking” on the busing issue “to be fed into the debate then going on within the Administration.”¹³⁶

Rehnquist’s proposed amendment, the *New York Times* observed, would protect “freedom of choice” but also “explicitly prohibit school districts from denying this choice to blacks or any group of pupils except on grounds of school capacity, unavailability of transportation or other ‘nonracial consideration.’”¹³⁷ While Rehnquist stipulated that the freedom of choice option would also be available to African Americans, access would be practically impossible. Overall, Rehnquist’s memoranda deferred to pre-*Alexander* language to

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¹³⁴ Ibid.
¹³⁵ Ibid.
¹³⁶ Ibid.
¹³⁷ Ibid.
justify the perpetuation of a dual school system. “Does the Constitution require a school district to take affirmative steps to achieve ‘racial balance’ among its schools,” asked Rehnquist rhetorically, “even though the ‘inbalance’ existing stems from residential segregation or other factors for which the school board is not responsible?”

In his memoirs, Nixon dismissed charges that he was “packing the Court with ultraconservatives.” Still, by the fall of 1971 his efforts to reshape the Court were undeniable. When Secretary of State Henry Kissinger asked Haldeman about Rehnquist’s credentials as a conservative, Haldeman responded that he was “way to the right of Buchanan.” Nixon wrote that, aside from his conservatism, “Rehnquist’s most attractive attribute was his age: he was only forty-seven and could probably serve on the Court for twenty-five years.”

Fred Graham wrote in the New York Times that “no president has been so candid about his desire to stack the Court with his brand of Justices, so lucky in having vacancies to fill, and so dogged in nominating men of his own stripe.” Lassiter points out that, with the Powell and Rehnquist nominations, Nixon “decisively altered the ideological direction of the Supreme Court.” While Burger and Blackmun had disappointed conservatives by embracing markedly moderate legal positions, Powell and Rehnquist quickly redirected the ideological trajectory of the Court for the first time since the New Deal era. “I consider my four appointments to the Supreme Court to have been among the most constructive and far-reaching actions of my presidency,” Nixon later wrote. “Some critics have characterized my appointments as an effort to create a ‘Nixon Court.’”

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138 Ibid.
140 Perlstein, 605.
143 Lassiter, 314.
144 Small, 609.
true that the men I appointed shared my conservative judicial philosophy and significantly affected the balances of power that had developed in the Warren Court.”

On November 5, 1971, the House of Representatives, more than a year after he initially requested it, granted Nixon’s request for $1.5 billion to aid in school desegregation. In allocating the funds, however, the House noted of its opposition to busing and explicitly forbade the use of federal funds “to pay for extra buses and drivers for desegregation.” The House included three amendments in the funding bill. The first prevented the use of federal funds for busing; the second prevented the federal government from forcing local governments to spend their own money for busing; and the third delayed court-ordered busing until all appeals from affected school districts had a chance to work their way conclusively through the courts. While southerners and many Republicans were expected to support the antibusing amendment, they were joined by a surprising number of liberal Democrats from the North, who sensed rising antibusing sentiment among their constituents. Indeed, in the fall of 1971, Congress reflected a nationally emergent antibusing sentiment.

House Judiciary Committee Chairman Emanuel Celler of New York called the atmosphere in the chamber one of “haste, excitement, and hysteria.” Elliot Richardson suggested that debate over the bill was “designed simply to express an attitude.” As the Boston Globe described, “Southerners clapped and cheered as Northerners with a long history of opposing antibusing amendments when only the South was affected by them trooped down the

147 “North, South Team up In House to Delay Integration by Busing,” Boston Globe, November 5, 1971, 1.
148 Ibid.
149 Ibid.
aisle to vote for the amendments.” Representative Edith Green, a Democratic from Oregon and a pioneer for gender-equality legislation, proclaimed “we cannot go back 100 years to make up for the errors of our ancestors. The evidence is very strong that busing is not the answer to our school problems.”

Representative Shirley Chisholm, a New York Democrat, expressed offense at the actions of the House. “Let me bring it down front to you,” Chisholm scolded. “Your only concern is that whites are affected. Come out from behind your masks and tell it like it really is. Where were you when black children were bused right past the white schools?” Others worried that busing was unavoidable and that the House’s action only shifted the financial burden to local school districts. Louisiana Democratic Representative Hale Boggs warned the House “you’re not doing anything to stop busing. You’re just forcing the local people to pay for it. It will tie every school district in the country to a hopeless situation.”

Late in November, the busing issue began a definitive migration northward when HEW released an 18-month study of the public school system in Boston. HEW concluded that city officials, through laws and regulations, caused segregation in Boston schools. Nearly 80 percent of Boston’s 26,000 non-white students attended primarily non-white schools. HEW suggested Boston maintained “two separate racially identifiable school sub-systems, one predominantly white and the other predominantly nonwhite.” The accusation of official action in the segregation of schools compelled HEW to issue the “first major challenge of so large a Northern school system.”

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150 Ibid.
152 Ibid.
153 Ibid.
154 Ibid.
$10 million federal fund cutoff.\textsuperscript{157} The \textit{Wall Street Journal} pointed out that it was the department’s “most substantial desegregation step involving Northern schools.”\textsuperscript{158} Stanley Pottinger suggested that HEW’s actions in Boston were indicative of the direction of the department. “In the last two years we’ve been devoting more time and people to Northern cities,” Pottinger explained.\textsuperscript{159}

Also in the fall of 1971, District Judge Stephen J. Roth observed that Detroit’s public school system was deliberately segregated and “spread the blame to practically all of society.”\textsuperscript{160} Roth wrote that “government actions and inactions at all levels, Federal, state, and local, have combined with those of private organizations such as loaning institutions, real estate associations and brokerage firms” to cause insurmountable neighborhood segregation and thus segregated schools.\textsuperscript{161} Roth implied that “the entire machinery of the state had worked to create a living pattern that fostered segregated schools.”\textsuperscript{162} Roth indicated that combining African-American schools in the cities with white schools in the suburbs through busing remained a viable option for achieving an improved racial balance. Nathaniel Jones, general counsel of the NAACP, said the decision was “of major significance of bringing about integration in the North.”\textsuperscript{163} In terms of future court decisions, Jones pointed out that Roth’s opinion showed that it was possible to argue in court that neighborhood segregation was “deliberate,” that “racial patterns are not happenstance” but instead “grow out of state action and are really the result of long history of

\textsuperscript{161} Ibid.
\textsuperscript{162} Ibid.
\textsuperscript{163} Ibid.
acts of commission and omission.” Many observers pointed out that, in addition to its importance in challenging the foundations of the neighborhood schools concept, Detroit also marked a distinctly different approach to reform than that which led to the end of the dual school system in the South. There, in an “industrial state with a liberal tradition,” the Civil Rights Movement and its allies, and “not outside pressure,” established the “groundwork” pushing for busing orders to achieve a more equal racial balance in schools.

On January 9, 1972, a federal judge gave the state of Virginia a September deadline for “merging” majority African-American schools in the city of Richmond with white schools in the suburbs. The previous April, Judge Robert Mehrige, Jr.’s busing order within Richmond was met with resistance and failed to produce significant integration. Eight months later, Mehrige wrote that including the suburbs was “the only remedy promising immediate success” in ending segregation in public schools. In a 325-page opinion, the judge argued that the “consolidation” of the city and suburban districts was a “reasonable and feasible step toward the eradication of the effects of the past unlawful discrimination.” Mehrige’s plan involved the busing of 78,000 of the newly merged system’s 106,000 students. The significance of a plan that crossed district boundaries was immense and unprecedented. “If sustained on appeal,” the Washington Post reported, “the ruling….could open the way to city-suburban school system mergers in many metropolitan areas made up of largely black cities ringed by predominantly white cities and suburbs.”

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164 Ibid.
167 Ibid.
168 Ibid.
169 Ibid.
As it worked its way through the appellate process, Mehrige’s decision provoked significant reaction nationwide. Tangibly, in school desegregation suits across the country, petitioners began asking the courts to adopt similar consolidation and busing plans. Even more importantly, the Richmond case exacerbated the “fears” of whites in the suburbs. In a similar finding in April, Pottinger reported that the Office of Civil Rights had investigated, but could not prove, that the “New York City Board of Education had fostered segregation when it drew boundaries for decentralized school districts in Manhattan.” He suggested that New York City was “the most difficult and baffling place’ to integrate that his office had encountered.”

In January of 1972, the public overwhelmingly supported an end to officially mandated dual school systems. Within months of the Swann decision, for example, 75 percent of the country favored desegregation, while only five percent opposed it. Even in the South, 65 percent favored desegregation while only 30 percent opposed it. One poll noted that “racially integrated public schools are favored by over two-thirds of every political and demographic group in the country except Wallace voters.” But busing to achieve racial balance was a much

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172 Ibid.
more divisive topic. Nationally, only 20 percent favored busing to achieve racial balance, while 76 percent opposed it. 175

Importantly, blacks took a different stand than most whites. “All political, geographic, and demographic groups,” Nixon’s pollsters pointed out, “are opposed to busing by large margins….except blacks.” 176 Indeed, 60 percent of African Americans favored busing to achieve racial balance, while 38 percent opposed it. 177 Additionally, the minority opposition to busing among African Americans declined when busing was “perceived to be the only alternative for blacks to achieve equal educational opportunity.” 178 While African Americans were far more concerned with quality education than with integration or busing, they increasingly viewed busing as the only means of improving their social, economic, and educational situation. 179 “The key to black attitudes on busing,” one pollster suggested, “appears

to be whether or not they believe they can get equal education in their own neighborhood schools now.”

Advisers urged Nixon to avoid inflaming African-American sensitivities over the busing issue. Teeter warned Nixon “there is a fine line between being against bussing and being ‘anti-Negro’” and advised the President to treat the subject with “great care.”Garment echoed this sentiment, warning Nixon that the issue was “bitterly divisive” at a moment when “tempers on the subject are already too high.” African Americans were likely to interpret opposition to busing as “a cover for discrimination.” Price remarked that the greatest domestic achievement of the first years of the administration was to “get the country through the school desegregation thicket as peacefully as we have.” While there remained anger, insecurity, and hostility, “there is far less than there was, and far less than there would have been if the whole thing hadn’t
been handled as skillfully and understandingly as it was.”

Garment warned Nixon that he had
to make sure he did not appear “against blacks.”

By the summer of 1972, both liberal and conservative advisers had urged Nixon to court some portion of the black vote. Committee to Re-elect the President (CREEP) developed a “Strategy for the Development of the Black Vote in 1972” which aimed to “secure for the Republican Party a significant number of Black votes in the 1972 Presidential election.” The Democrats had an “almost unchallenged monopoly” of African-American voters in previous presidential elections. Nixon could win an increasing number of black votes by “convincing
them of his concern for their well-being” and effectively communicating his contributions to their uplift. Campaign strategists hoped to increase Nixon’s share of the black vote by 50 percent in 1972, from 12 percent in 1968 to at least 18 percent in 1972. They argued that “the Black vote at every strategic level and section of the country should not and cannot be
gotten.”

Simultaneously, the South emerged at the intersection of Nixon’s southern- and black-voter strategy. Strategists pointed out that 42 percent of southern African Americans approved

References:

of Nixon. A Gallup poll noted that these voters could be attracted to the GOP ticket “not necessarily at the expense of the [white] Southern vote.”191 Nixon could get more black votes in 1972 than in 1968 without “alienat[ing] white voters in the South or elsewhere.”192 Surprisingly, even Buchanan endorsed this strategy and advised Nixon to try to raise his percentage of the African-American vote to 20 percent. Buchanan noted that this “could provide a critical margin in major states in 1972.”193 Buchanan, too, could be practical—politically savvy he was, as evidenced by his rapid rise on the White House staff—when practicality translated into votes. Moderate white voters “in the center,” Buchanan argued, would welcome a presidential gesture towards the African-American community.194 A stinging and nasty racism undoubtedly underlay many of Buchanan’s views. In addition to consistently supporting the separation of blacks and whites rather than integration in his conversations with Nixon, he was also invested in the inherent inferiority of African Americans. He wrote to Nixon, for example, that “heredity, rather than environment, determines intelligence….Every study we have shows blacks 15 I.Q. point below whites on average.”195 He continued, “If there is not refutation, then it seems to me that a lot of what we are doing in terms of integration of blacks and whites….is less likely to result in accommodation than in perpetual friction—as the incapable are placed consciously side-by-side with the capable.”196 Still, unlike Phillips, Buchanan’s race-baiting in the campaign arena only

191 Memorandum for Patrick J. Buchanan from Kenneth L. Khachigian, Subject The Black Voter, July 26, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [--1971], Box 4.
192 Memorandum for Patrick J. Buchanan from Kenneth L. Khachigian, Subject The Black Voter, July 26, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [--1971], Box 4.
193 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [--1971], Box 4.
194 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [--1971], Box 4.
195 Reeves, 378.
196 Ibid.
went so far as it translated into tangible political gains. “There is no reason for us to kiss off the Black vote in 1972,” wrote a member of Buchanan’s staff.\(^{197}\)

Dent, too, was convinced that Nixon should continue to go after “small breakthroughs with the blacks” and argued that in the South specifically “the evolution of more whites into moderates and thus a disdain for the racist party label.”\(^{198}\) Dent cited polls suggesting 88.3 percent of voters in the South “want the party’s appeal to be unquestionably to all voters, black and white.”\(^{199}\) In fact, Dent noted, “93% of the Republicans favor that change.”\(^{200}\) When Raymond Alexander Harris, Chairman of the South Carolina GOP, suggested that the party continue to “seek the votes of all who believe like we do,” implying the protection of the racial status quo, his position received only a four percent approval among members of the South Carolina State GOP committee.\(^{201}\) Nixon instructed his staff continue to “woo” African Americans.\(^{202}\) “Continue to pay attention to them,” Nixon told Ehrlichman, “Do what is right. Keep some of them around. Let’s help the Negro colleges. If we don’t alienate them like Goldwater did, we should get about twenty percent of their vote.”\(^{203}\)

The thrust of the Nixon campaign vis-à-vis blacks was ambiguous from the start, as various factions within the administration wrestled with the potential political gains and losses of courting an African-American vote. Even as advisers across the political spectrum urged Nixon to court portions of the black vote in order to shore up election prospects in particular states, the

\(^{197}\) Memorandum for Patrick J. Buchanan from Kenneth L. Khachigian, Subject: The Black Voter, July 26, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [---1971], Box 4.
\(^{203}\) Ibid.
campaign was also restrained in its outreach to the African-American community. The CREEP strategy memo advised Nixon to “avoid any grandiose, radical scheme to attract fresh Black votes” and urged the “judicious use of traditional political approaches.”

Nixon’s more conservative advisers disparaged African Americans at the same time that they sought black support. In the same memo that Buchanan outlined exuberantly his hopes for 20 percent of the African-American vote, he urged Nixon to use the campaign as the opportunity for “an historic confrontation.” He asked Nixon to defy “the new stereotype that all blacks are oppressed and downtrodden” because it is “as noxious and silly as the old stereotype that all blacks are shiftless and lazy.”

He instructed the president to campaign in black communities by “telling them the truth” rather than “giving them the bedside b.s. about their woes, which everyone else delivers.” Buchanan suggested that Nixon “go over the heads of the black leaders who despise us to the average Middle American black” and provide “a recitation of black achievement in this country, without reiterating all the ‘poverty, racism, ghettos, oppression, hunger, slums, alienation,’ garbage.” The majority of African-American voters, Buchanan argued, would

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205 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Highby – 1971 to Timmons [--1971], Box 4.

206 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Highby – 1971 to Timmons [--1971], Box 4.

207 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Highby – 1971 to Timmons [--1971], Box 4.

208 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Highby – 1971 to Timmons [--1971], Box 4.
“come away with more respect for RN, for standing up to standard ploy of giving the Blacks the moon.”

The administration’s actions in the aftermath of Swann, the public’s reaction to HEW’s aggressive enforcement, Nixon’s ambiguity, and the peculiar posturing of Congress combined to position busing as the most politically sensitive issue nationally by the winter of 1972. There was a “no more complicated and explosive issue,” Garment noted in the winter. There was “a lot of anger and a lot of dissatisfaction” in the country, “which was now targeted at busing.”

A “whole range of unarticulated racial feelings,” Garment observed, had become “caught up in the question of busing. The problem is as complex as any that ever confronted a President, and it requires a complex answer.”

As tensions over the busing situation continued to escalate, Nixon charged Ed Morgan with forming a committee to draft a white paper to stake out the administration’s position. Nixon told reporters the committee would study “whether a constitutional amendment or legislation was needed to negate the trend of recent Federal court decisions requiring extensive busing to achieve integration.” Here, Nixon proclaimed definitively his position against busing, saying “my views on busing are well known. I favor local control of local schools. I

209 Memorandum for the President, From Patrick J. Buchanan, to the President, Subject: Blacks in 1972. August 7, 1971. Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [--1971], Box 4.
oppose busing for the purpose of racial balance.”\textsuperscript{214} Having established that the administration was against busing, as Ziegler pointed out, “the question….is what is the best solution to the problem—constitutional amendment or other course of action.”\textsuperscript{215}

Tom Wicker noted that Nixon’s announcement was a telling indication of how, in only a few months, the busing issue had become a political firestorm. “That the President lends his prestige even to the possibility of a Constitutional amendment,” wrote Wicker, “suggests the extent to which the busing issue has aroused the public and given goose bumps to politicians.”\textsuperscript{216} Wicker wrote that “even some more liberal political leaders are reported to be wondering whether anti-busing action may not be necessary if the public is to retain any support for school integration.”\textsuperscript{217} Len Garment was likewise resigned to some kind of governmental action against busing. “There is no alternative to a laborious Administration effort,” Garment wrote, “under close supervision, to find ways of slicing the Swann requirements as closely as possible, getting some agreements, but working to calm things down.”\textsuperscript{218}

As the busing issue emerged as a matter of significant racial divisiveness, a group of advisers warned Nixon against a constitutional amendment to ban busing because it would appear as a betrayal to African Americans. Given the quality of all-black schools, it would be ethnically wrong to outlaw a mechanism that might afford African-American students the opportunity for a quality education. Pollster Robert Teeter told CREEP that banning busing was problematic because black schools remained “educationally inferior” to white schools in the

\textsuperscript{214} Ibid.
\textsuperscript{217} Ibid.
\textsuperscript{218} Memorandum for Bob Haldeman from Len Garment, Subject: A Constitutional Amendment on Busing, August 12, 1971. Folder, WHCF, SMOF, Garment, Alpha-Subject Files, Busing—Constitutional Amendment [2 of 3] [CFOA 10177]. NPMS, White House Central Files, Staff Member and Office Files, Leonard Garment, Alpha-Subject Files, Busing – Constitutional Amendment [CFOA 10177] [1 of 3] Busing – Consultations with Black Leaders [CFOA 10177] Box 53.
same area. Teeter suggested that Nixon should redirect his attention to affirming “support for the principles of equal educational opportunity and integration.” If the country could, according to Teeter, “provide maximum educational opportunity for all school children, white and black” busing would not be necessary.

In addition, supporting a constitutional amendment to ban busing would cost him politically with the black community. Garment wrote that African Americans would interpret a constitutional amendment as an effort to repeal Brown “as the final, conclusive proof that all their worst appraisals not only of the Administration, but of the white man, were valid” and “[light] the fuse on a very large bomb that’s likely to explode in our face.” Garment urged him to handle the issue with “the greatest of care and “thorough consideration of both foreseeable and possible consequences.” Why, he asked, would Nixon want to “jeopardize the domestic calm painstakingly achieved over the past three years with a short-term political

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gimmick that is almost certain to fail, and pose even bigger problems if it ‘succeeds?’”

Similarly, Alexander Bickel, a constitutional expert at Yale Law School who emerged as a frequent White House adviser on busing, warned that a constitutional amendment would “be viewed as a renunciation of Brown” and signify to African Americans “the end of the Second Reconstruction” and “a replay of the Compromise of 1877,” the backroom deal that had ended the post-Civil War Reconstruction. Bickel cautioned that “no amount of analysis and no resort to facts can dispel the shock of an action that would be inescapably symbolic.”

Other advisers warned that a constitutional ban on busing threatened recent progress on school desegregation and the country’s improving race relations. On the ground members of the CCE’s local advisory committees wrote in the spring of 1970 that “the southern leaders who have sought to bring their communities along in peaceful compliance with plans which they themselves find distasteful,” would be “undercut” by a constitutional amendment. Similarly, the United States Commission on Civil Rights argued that it would “have the effect of undermining the desegregation effort” and would “almost certainly confuse the American public and erode the position of those school officials who have put themselves on the line to

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implement the law of the land. The President does not offer an alternative to implement the
desegregation of the Nation’s schools.”

Inside the White House, Garment and Price warned of its impact on reversing the process
of desegregation that was underway. An amendment would, Garment suggested, have a negative
impact on “whites who have, in one measure or another, allied themselves with the black cause”
and “enormously complicate the problem many communities are facing. It would be seen as the
Administration building a roadblock to desegregation. It would largely undo the
Administration’s efforts of the past two years.” It would diminish “many of the tools designed
to eliminate the dual system…since they require the recognition of the racial identity of
students.” Price also opposed an amendment and noted that “every school system that has
desegregated under court order would have to rip up its plan and start over again. It would make
voluntary plans illegal.” Outside of the White House, Senator Edward Brooke argued that
“busing must continue to be an available mechanism for desegregation.” He suggested that
eliminating busing as a potential mechanism for desegregation would “handicap” the

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228 Statement of the United States Commission on Civil Rights Concerning the Statement of the President on
Busing. August 12, 1971. Folder, WHCF, SMOF, Garment, Alpha-Subject Files, Busing—Constitutional
Amendment [2 of 3] [CFOA 10177]. NPMS, White House Central Files, Staff Member and Office Files, Leonard
Garment, Alpha-Subject Files, Busing—Constitutional Amendment [CFOA 10177] [1 of 3] Busing—Consultations
with Black Leaders [CFOA 10177] Box 53.
229 Memorandum for John Ehrlichman from Leonard Garment, Subject: The Brock Constitutional Amendment, June
9/31/71. NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1, 1/1/70 – 2/28/70 to [EX] HU 2-1, 7/1/71
– 9/30/71, Box 9.
230 Memorandum for John Ehrlichman from Leonard Garment, October 7, 1971. WHCF, SMOF, Garment, Alpha-
Subject Files, Busing—Constitutional Amendment [1 of 3] [CFOA 10177]. NPMS, White House Central Files,
Staff Member and Office Files, Leonard Garment, Alpha-Subject Files, Busing—Constitutional Amendment [CFOA
231 Memorandum for Leonard Garment from Ray Price, Subject: Busing Amendment, December 3, 1971. Folder,
WHCF, SMOF, Garment, Alpha-Subject Files, Busing—Constitutional Amendment [2 of 3] [CFOA 10177].
NPMS, White House Central Files, Staff Member and Office Files, Leonard Garment, Alpha-Subject Files, Busing—
232 Letter from Edward Brooke to The President, February 15, 1972. Folder: WHCF Subject Files, [EX] HU 2-1
Education & Schooling, 1/1/72 – 2/29/72. WHCF Subject Files, [EX] HU 2-1 Education & Schooling, [EX] HU 2-1
Education and Schooling, 10/1/71 – 12/21/71. NPMP, WHCF, Subject Files, HU (Human Rights) [EX] HU 2-1,
10/1/73 – 12/30/73 to [EX] HU 2-1, 1/1/73 – 3/1/74.
desegregation effort and “undermine the commitment begun in 1954.” He urged Nixon to “reject all proposals for amending the Constitution … such an amendment could only be viewed as an end to our nation’s commitment to equality of opportunity for all our citizens.”

Garment warned Nixon that a constitutional amendment against busing would revive violence and racial tension in the country, and result in a “paroxysm of uncertainty and turmoil.” He argued that it would be met by “civil resistance” on “a scale and with consequences that most people are not willing to undertake—particularly as the country shows signs of pulling itself together in economic as well as social terms…I truly believe this course spells political as well as social disaster.” Similarly, Vice President Agnew told NBC’s Today show that he opposed a constitutional amendment because “these things are capable of being handled within the normal statutory framework and constitutional framework of our existing Constitution.” Buchanan, however, dismissed these proposals as impractical and ineffective, and argued that there was “a little something in it for everybody; it is not leadership; it is not


direction; it is an attempt to find a compromise between irreconcilables; an attempt to develop a pretty abstract structure which seems to fit every need.”

Others, chiefly concerned with political efforts in the South, urged Nixon to lobby for a constitutional amendment. Tom Turnipseed, who had recently defected as George Wallace’s campaign manager, warned that Wallace “has now seized on the busing issue as his best hope for restoring his popularity in Alabama, collecting money, winning national attention, and possibly launching another presidential bid.” Turnipseed told Dent that “the one sure way to stop Wallace is to deflate him on the busing issue as soon as possible. One way he discussed was a Constitutional amendment against busing. This information has been passed to the Attorney General.”

Turnipseed cautioned Nixon that an amendment was the only way to preempt imminent attacks from Wallace. Strom Thurmond likewise told Nixon to take a “courageous stand in favor of this amendment.” Endorsing a constitutional amendment to ban busing for the purpose of achieving racial balance in schools, wrote Thurmond, “would be in harmony with your position in support of the neighborhood school concept.”

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Constitution to overcome the busing decision or support one….Try to go along with local school board plans.”

As White House advisers debated the merits of a constitutional amendment, public protest intensified. On February 17, a motorcade of 3300 cars traveled from Richmond to Washington to encourage lawmakers to devise a prohibition against busing. Most cars bore signs reading “Help Save Our Freedom” and “Save Our Neighborhood Schools (SONS) Fight Busing.” As the administration deliberated, Senator Henry Jackson of Washington introduced a constitutional amendment intended to “prohibit mandatory busing of children by declaring that every parent has the freedom of choice and the right to have his or her children attend their local neighborhood school.” For months, with aspirations of being the Democratic presidential nominee, Jackson had been reinventing himself as a tough liberal with the strength to beat Wallace in more conservative primary states and challenge Nixon as the law-and-order candidate in a general election. Buchanan warned that Jackson “has clearly seen the opening on the President’s right” and was “running as a ‘law and order liberal’….He is clearly going for the ‘Agnew constituency’ if you will.” The first section of Jackson’s proposed amendment stipulated that “no person shall be denied the freedom of choice and the right to have his or her children attend their neighborhood public school.” The amendment would reduce integration already underway and produce a constitutional ban on dismantling any northern de facto segregation. In addition, Jackson argued that his proposal actually provided the opportunity for

more racial equality by ensuring the “right to equal educational opportunity” and barring “economic discrimination.”

Liberal lawmakers tried to deflate the potential for a constitutional amendment and Jackson’s proposal by working to negotiate a legislative solution. Republican Senator Hugh Scott and Democratic Senator Mike Mansfield crafted an amendment to the higher education bill of 1971 to establish congress’s position against busing but simultaneously discourage a constitutional amendment. The Scott-Mansfield amendment would limit the use of federal funds for busing, prohibit the transport of students to inferior schools, and postpone court decisions involving transport across district lines.

After the Senate overwhelmingly passed the Scott-Mansfield amendment, both liberals and conservatives criticized the amended bill. Mondale pleaded with lawmakers that “busing is the means—and at times the only means—by which segregation in public education can be reduced. If we bar the use of reasonable transportation as one tool for achieving desegregation, we will set in concrete much school segregation which is the clear and direct product of intentional government policy.” Senators John Sherman Cooper and Abraham Ribicoff “denounced” the Scott-Mansfield amendment and said that it represented “an erosion of a once strong national coalition for racial justice.” Ribicoff suggested “this amendment represents a step on the road backward toward separate but equal schools, toward freedom of choice, toward all the theories we oppose when put forth by the southerners. The Scott-Mansfield amendment is a public notice that we have given up the struggle to end discrimination.”

248 Ibid.
252 Ibid.
In addition, Mansfield and Scott had temporarily squashed the attempt by more conservative senators to push through a powerful antibusing amendment to the same legislation. Michigan Senator Robert P. Griffin sponsored an amendment that stipulated “no court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion or national origin.”

Alan Cranston, a Democrat from California, suggested the Scott-Mansfield amendment was “an ingenious amendment that will enable those who vote for it to oppose the other, much stronger amendments.” Senator John Stennis, a Mississippi Democrat, said the amendment “doesn’t add a single thing to the situation. It doesn’t clear up anything. It rather freezes in busing in the south.”

As the White House committee sorted through various opinions on the appropriate means to limit busing, Morgan wrote to Ehrlichman that he was “not having a lot of luck” and that his group had “tried several outlines…but they didn’t say much. We began writing a narrative, and we sank of our own weight.” Simultaneously, Garment wrote that “the problem is as complex as any that ever confronted a President.” The connection between busing and so many issues confronting the American public in the early 1970s rendered it extraordinarily complex. Morgan explained you “cannot get a good job without a good education; you cannot get a good education if you do not go to a good school; you cannot go to a good school if you do not live in a

253 Ibid.
254 Ibid.
255 Ibid.
256 Memorandum for John D. Ehrlichman from Edward L. Morgan, February 14, 1972. Folder WHCF, SMOF, Garment, Alpha Subject Files, Busing—Constitutional Amendment [1 of 3] [CFOA 10177]. Nixon Presidential Materials Staff White House Central Files, Staff Member and Office Files, Leonard Garment, Alpha-Subject Files, Busing – Constitutional Amendment [CFOA 10177] [1 of 3] Busing – Consultations with Black Leaders [CFOA 10177], Box 52.
neighborhood unless you have enough money to rent or buy a house in that neighborhood, and you cannot earn enough money to live in that neighborhood unless you have a good job, and you cannot get a good job unless you have a good education.” If schools where blacks composed the large majority were not going to improve—and they had not over the course of the late 1960s—the only alternative was the busing of African-American children to predominantly white schools with better academic records. “To many people,” the New York Times observed, “there is more involved in the conflict than the integration or segregation of the schools. Some minority leaders see it as the only area in which any significant movement is taking place in the prolonged effort of the civil rights movement to achieve an open, nondiscriminatory society and support it for that reason.”

In truth, defining civil rights discrepancies and their remedies—finding solutions to the country’s enduring racial problems—was increasingly difficult after 1970. Busing exemplified this challenge as leaders from a broad range of political persuasions attempted to clarify the long-term objectives, potential effectiveness, and consequences of a policy. In meeting with the committee, Nixon seemed vexed. “One could end up, if rational, on neither side of the [busing] issue,” Nixon concluded. Nixon brooded that “the responsible act won’t be applauded by either side.” Nixon suggested that “naturally…. the liberals will jump on anything if it is

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258 White Paper Thoughts, from Ed Morgan. Folder WHCF, SMOF, Garment, Alpha Subject Files, Busing—Constitutional Amendment [1 of 3] [CFOA 10177]. Nixon Presidential Materials Staff White House Central Files, Staff Member and Office Files, Leonard Garment, Alpha-Subject Files, Busing – Constitutional Amendment [CFOA 10177] [1 of 3] Busing – Consultations with Black Leaders [CFOA 10177], Box 52.


260 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.

261 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the
useful to them, so it’s impossible to satisfy the Civil Rights establishment.” He also noted that “by being responsible he will get little credit—he’ll be accused of playing politics.” He moped that he would “get little credit” for doing the responsible thing. A frustrated Nixon observed that “a Wallace or a Jackson can treat the matter in simple terms of political expediency” but that as President he “must take a responsible position.”

Nixon appeared more frustrated than he had during the southern desegregation campaigns two years earlier. Before, he had viewed the process of legislating and enforcing desegregation as finite. When the South’s de jure dual school system collapsed, Nixon thought that he had met his obligation. After schools in the South opened without violence and under new HEW guidelines in the fall of 1970 and 1971, “Nixon was glad [school desegregation] was over with,” recounted Safire, “and glad he had been able to stay in the center.”

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262 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward].

263 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward].

264 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward].

265 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward].

Mostly, Nixon seemed frustrated with continued demands from civil rights leaders. In his memoirs, he recalled his “disappointment” at the lack of strong support for his administration from black leaders despite ongoing progress on civil rights. African-American leaders, he wrote, “minimize[d] the results we have achieved…or complain[d] that we had not gone far enough. Once again, I had to wonder whether the black leadership was not more interested in dramatic tokenism than in the hard fight for actual progress.”267 In a memo sent by John Ehrlichman preparing Nixon for a meeting with the Urban League in 1971, a handwritten note seemed to capture his exasperation. Nixon wrote that the administration had “been doing good things in this field for 2 years, with no credit—Our main effort in the next two years should be the publicity side. E and Len—But when are we going to get some real publicity on what we have done?”268

Despite his frustrations, by March of 1972, Nixon seemed increasingly opposed to a constitutional amendment to ban busing, which he noted would amount to an “empty act” that “won’t work and won’t address the problem.”269 Although he believed that forced busing was “wrong,” he told Safire privately that personally he hoped for a gradual racial balancing in schools across the country.270 He suggested he was “enormously concerned with quality education and expressed the view that legally segregated education is inferior education and that

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268 Memorandum for The President from John Ehrlichman, Subject: Urban League Meeting Follow-Up, January 11, 1971. Folder: WHCF, President’s Office Files, President’s Handwriting, January 1971. NPMP, WHSF, Staff Member and Office Files, President’s Handwriting, January 1971 to March 15, 1971, Box 9.
269 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1] / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.
270 Safire, 480.
he didn’t want to suggest any solution that would, in effect, ‘turn back the clock.’”

For a moment, Nixon seemed resigned to absorbing the political fallout from opposing a constitutional amendment. Busing was a “difficult issue and we must do it right,” Nixon instructed the committee, “We can’t just do something or do nothing in order to have an issue for the election. We don’t live in a vacuum….We must not exacerbate the problem but work it out.”

He feared an escalation in racial tensions nationwide, observing that “the problem is that inevitably the emotions that can be let loose lead to something even worse, so we must do the responsible thing.”

Nixon ultimately favored a compromise on the busing issue that the committee proposed in the form of a temporary moratorium. “We cannot appeal to extremists on either side of this issue but must take a responsible position” Nixon insisted. “Nothing good can come in an election year—but if a moratorium can get us by the election, then Congress would probably move more reasonably.”

In addition to providing a prohibition against busing to satisfy an

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271 Memorandum for The President’s File, from Edward L. Morgan, Subject: Meeting with members and staff of the Cabinet Committee and Consulting Private Attorneys, re: Busing. March 10, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.

272 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.

273 Memorandum for the President’s File, from Edward L. Morgan, Subject: Meeting with the Cabinet Committee on Busing, March 6, 1972. (Followed by meeting with Council of Black Appointees representatives, Cabinet Room. May 31, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.

274 Memorandum for The President’s File, from Edward L. Morgan, Subject: Meeting with members and staff of the Cabinet Committee and Consulting Private Attorneys, re: Busing. March 10, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special
American voting populace increasingly opposed the practice, Nixon also argued that a moratorium would provide political cover to both congressional allies and enemies. “A moratorium might preempt radical legislation passed by the Congress under pressure from ‘the people back home,’” Nixon told the committee.²⁷⁵ In an ominous acknowledgement, however, while Nixon thought the moratorium provided some time for the administration to stake out its position, he also knew it was “only a partial answer to the problem.”²⁷⁶

In its first two years, the Nixon administration enforced court orders to remove impediments to a unitary school system in the South and endorsed other measures in employment and housing that benefited African Americans. All the while, Nixon’s popularity across the country remained high. Throughout 1969, Nixon’s approval rating hovered around 60 percent and never dropped below 56 percent; in November, 1969, 67 percent of Americans approved of Nixon’s performance.²⁷⁷ In September 1970, his approval rating stood at an impressive 56 percent. While for much of 1971 Nixon’s approval remained in the low 50s and even registered 49 percent a few times, by May of 1972 it had returned to a healthy 62 percent.²⁷⁸

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²⁷⁵ Memorandum for The President’s File, from Edward L. Morgan, Subject: Meeting with members and staff of the Cabinet Committee and Consulting Private Attorneys, re: Busing. March 10, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.
²⁷⁶ Memorandum for The President’s File, from Edward L. Morgan, Subject: Meeting with members and staff of the Cabinet Committee and Consulting Private Attorneys, re: Busing. March 10, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special Staff Files, [Jerry Jones] Personal Data Questionnaire of Louis Patrick Gray III to [Walter Minnich] Carroll, Louis [Narcotics Trafficking] Box 4.
²⁷⁷ Gallup.
²⁷⁸ Gallup.
“The emotional school busing issue isn’t cutting the President’s popularity much so far,” the Wall Street Journal reported in March of 1972.\textsuperscript{279}

As the election of 1972 approached, however, Nixon found himself forced to defend his policies on busing to leaders on both the left and the right. The judiciary, the legislature, and the White House all seemed to be moving in inconsistent directions on the busing issue. The courts, specifically, pushed forward—assertively, in many instances—in ways that forced the White House to address the busing issue head on, an approach the administration rarely took on civil rights issues. As William Safire later remarked, “several courts had raised the hackles of the Silent Majority with decisions considered extreme.”\textsuperscript{280} Intent on adding Democrats in the Midwest and Northeast to his voting coalition, but maintaining support in the South, Nixon’s balancing act on busing had just become much more difficult.

\textsuperscript{280} Safire, 243.
Chapter 6

“Better Education for All of Our Children”

“I am convinced that while legal segregation is totally wrong, forced integration of housing or education is just as wrong.... I come down hard and unequivocally against busing for the purpose of racial balance... We cannot sweep this issue under the rug. It is going to explode all over the landscape during this next year.”

-Richard Nixon

In the spring of 1972, George Wallace made busing a central issue in the Democratic primary campaign in Florida. Busing was, he told a meeting of the Florida Jaycees—a civic organization for community and business leaders—conceived of by “some social schemer up there in Washington.”2 On a campaign stop in the Florida Panhandle, Wallace continued with his attempt to link the federal government and busing, calling bureaucrats in Washington “eggheads” for proposing busing plans to achieve integration.3 Wallace promised that, with a primary victory in Florida, Nixon would be “taking the batteries out of all them buses the next day.”4 Rallying a crowd of supporters in Daytona Beach, Florida, Wallace accused all of the other candidates for the Democratic presidential nomination of “voting to achieve racial balance through busing.”5 Every candidate, Wallace announced, “voted against neighborhood schools. Every Senator in this race voted against freedom of choice. Every Senator voted to treat people in the South differently than they treat them up north.”6 Wallace warned voters that busing was

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6 Ibid.
“trifling with the health and safety of your child.” In short, as William Safire noted, Wallace busied himself during the 1972 Democratic primary campaign with “teaching the assembled Democratic establishment in a Florida primary the political meaning of ‘forced busing.’”

On March 15, 1972, Wallace won Florida’s Democratic primary, with 42 percent of the popular vote and captured 75 of 81 of the state’s delegates. A pair of referenda on the ballot demonstrated the potential potency of the busing issue. While 79 percent of Floridians voted in favor of providing equal opportunity for quality education, 74 percent voted to prohibit the “compulsory busing of schoolchildren.” Voters in Florida reflected the increasingly conservative mood of much of the nation in the early 1970s. The *New York Times* editorialized that the busing referenda in Florida, coupled with Wallace’s primary victory was “certain to affect those who plan their candidates’ strategies, Republican and Democratic alike. Widespread fear of busing is an undeniable fact throughout the country. Irrational anxieties have been reinforced by occasional abuses of busing, without sufficient regard for educational and social realities.”

In addition to busing, a third referendum on the Florida ballot on school prayer reflected another rightward move on other social issues. Voters in Florida supported an amendment to the Constitution to allow prayer in public schools 79 percent to 21 percent. As Safire observed, “the center was in the process of shifting….in two short years times had changed….The tide of public indignation was rising, and with it the gorge of the President of the United States.”

Daniel Patrick Moynihan echoed Safire’s observation pointing out that the “balance of American

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7 Ibid.
13 Safire, 480.
politics was shifting toward the conservative side….the movement that [strategists] sensed was underway and has continued to gather strength.”

While many observers anticipated Wallace’s victory in the Sunshine State, the margin shocked the political establishment. “The Florida primary has exploded like a bombshell in the midst of the Democratic Presidential race,” marveled the Chicago Tribune, “sending the ostensible front-runner reeling and shattering the hopes of those who sought to keep the party on a course of doctrinaire liberalism.” Edmund Muskie, who led the Democratic field in early polling, received just 9 percent of the Florida vote. In addition to burying Muskie, Wallace also moved ahead of other establishment candidates like Senator Hubert Humphrey and Senator Henry Jackson, who finished second and third respectively. Muskie told reporters that the results “reveal to a greater extent than I had imagined that some of the worst instincts human beings are capable of are too strong an influence in our elections.”

After Florida, George Wallace seemed determined to strengthen his national appeal and transform his image from a die-hard segregationist incapable of winning a national election to a more mainstream politician. “I’m not a demagogue that preys on the fears of the people,” Wallace insisted after winning Florida, “I represent the average man who is sick of a government that has been remote from him.” He campaigned on a range of issues—inflation, high taxes, and the rising crime rate, for example—not just race. Wallace swept to victory in other southern Democratic primaries, winning 68 percent of the vote in Tennessee and 50 percent in North Carolina. Wallace’s popularity also rose outside of his traditional powerbase in the South.

17 Ibid.
He managed a primary victory in Maryland, winning a plurality with 39 percent of the vote and an even greater one in Michigan, 51 percent. After those victories, the *New York Times* wrote that, to an increasing number of Americans, Wallace represented “the little man’s defiance of the big, impersonal government, the troubled parent’s defiance of court-ordered school busing, the conservative voter’s defiance of Republican and Democratic party promises.”

Faced with Wallace’s increasing national popularity and reinvented political profile, Nixon intensified his own criticism of judicial overreaching on busing orders and expressed doubts about busing as a legitimate instrument for remedying educational inequalities. On March 16, 1972, the day after the Florida primary, Nixon outlined a new initiative to deal with busing in an address to the nation, which contained both proposed limitations on busing as well as funding to improve educational opportunities. Following the advice of his Cabinet Committee on Busing, he called on Congress to pass a moratorium to “halt all new busing orders by Federal courts” until July 1, 1973. Additionally, Nixon asked Congress to make busing a “limited, last-resort desegregation tool” and to construct a detailed framework to guide the courts in future busing decisions.

In addition to limiting the ability of the courts to order busing, Nixon also asked Congress to set aside $2.5 billion for the Equal Educational Opportunities Act—to be proposed in May—to ensure that “every state or locality….grant equal educational opportunity to every person regardless of race, color or national origin.” For Nixon, who called this proposal a way to “end segregation in a way that does not result in more busing,” busing could be a non-issue and the

22 Ibid.
neighborhood schools concept could function if quality education was consistently available.\(^{24}\) He noted the White House “would focus our efforts where they really belong—on better education for all of our children rather than on more busing for some of our children.”\(^{25}\)

Crucially, in his March address, Nixon also ruled out the possibility that his administration would pursue a constitutional amendment to ban busing, arguing that it was not “an answer to the immediate problem we face of stopping more busing now.”\(^{26}\)

Judge Stephen Roth’s decision in Detroit the previous September—which reserved busing between city and suburbs as a potential remedy for what he ruled as intentional segregation—was undoubtedly on Nixon’s mind. Following his statement, he instructed all federal agencies to enforce “the spirit as well as the letter” of the administration’s new policy, pending a legislative response from Congress.\(^{27}\) Specifically, he directed the Justice Department to intercede in cases where lower courts had issued directives beyond what lawyers at Justice considered the mandate of the Supreme Court.\(^{28}\) Almost immediately, acting Attorney General Richard Kleindienst, still awaiting Senate confirmation after Nixon had chosen him to succeed Mitchell after he departed to run Nixon’s reelection campaign, promised that the Justice Department would “intervene in a number of pending desegregation cases in an attempt to turn back extensive busing.”\(^{29}\) On March 23, Kleindienst followed through with the promise and asked a district judge to defer further action in the Detroit school desegregation case until Congress acted on Nixon’s request. In addition, he told the House Judiciary Committee that

\(^{24}\) Ibid.
\(^{26}\) Ibid.
\(^{27}\) Thomas Oliphant, “Seeks $2.5b Aid for Poor Schools: Nixon Urges Congress to Ban all New Court-Ordered Busing,” *Boston Globe*, March 17, 1972, 1.
\(^{28}\) Ibid.
Nixon’s proposed legislation would allow for “reopening” all school desegregation cases.30 “If you’re going to have the national standard,” Kleindiesnt argued, “then you’ve got to have a right to reopen cases.”31

For many journalists and politicians, Nixon’s words and the deeds of the Justice Department marked a distinct new turn in the administration’s school busing policy, and more broadly, its attitude towards school integration. The New York Times noted that Nixon “allied himself more explicitly than ever before with those who wish to call at least a temporary halt to the recent wave of busing orders in the lower courts, and, instead, provide compensatory relief to minority schools.”32 The United States Civil Rights Commission identified Nixon’s statement as a “major governmental shift.”33 The Commission was wary of “an assault on school desegregation” which would “have the effect of providing solace, comfort, and support to those who opposed all civil rights advances in the past and who may now attempt to roll back the progress made in other areas.”34 Emanuel Celler, a Democratic representative from Brooklyn, accused the administration of trying to circumvent the judiciary saying “the busing moratorium bill….appears to reflect….lack of confidence in the integrity of the federal courts to properly implement constitutional protection.”35 William McCulloch, a Republican congressman from Ohio, charged that the administration was “asking the Congress to prostitute the courts by obligating them to suspend the equal protection clause…..so that Congress may debate the merits of slowing down and perhaps even rolling back desegregation in public schools.”36

31 Ibid.
34 Ibid.
36 Ibid.
Bureaucrats within government were also furious. While HEW employees had protested vocally when Nixon tried to slow the desegregation of schools in the South, this time Kleindienst incited lawyers at the Justice Department into an “uproar.”37 Arthur Chotin, an attorney at Justice, publicly derided Nixon and proclaimed he was “sickened” by the statement.38 In a letter to the Washington Post, Chotin remarked, “Were all [the martyrs of the civil rights movement] murdered in cold blood so that the President might throw us back into a darker age?”39 At the beginning of May, seven attorneys, including Chotin, resigned citing “a series of actions and inactions by this Administration over the past three and one-half years, which we believe have divided and polarized the American people.”40 Additionally, 40 African-American appointees in the Nixon administration, operating under the name “The Council of Black Appointees,” submitted a letter to Nixon criticizing his position on busing and the recent intervention of the Justice Department in busing cases. “Intervention….had a chilling effect on black people and others,” they warned, “inasmuch as its made to appear that the resources of the federal government, under your leadership, are coming down on the side of those who stand in opposition to the constitutional rights of minority school children. Should further intervention occur, this chilling effect can only increase to the freezing point, polarizing blacks and whites on opposite sides of an ever-widening gulf, educationally, economically and politically.”41

In addition, civil rights leaders feared that Nixon’s statement and the actions of the Justice Department would turn back the clock on school integration. Roy Wilkins accused Nixon of allying with “the supporters of racial segregation” and asserted he was “leading the mob

39 Ibid.
which is tearing at the concept of equal protection of the law.”\textsuperscript{42} Wilkins predicted that Nixon’s “personally biased and blatantly political solution” would lead to a “constitutional crisis.”\textsuperscript{43} Nixon had, according to Wilkins, used the “full power of the Justice Department to deny black children fair hearings and long overdue remedies in the federal courts. This is a stunning example of government sanctioning hysteria and chaos.”\textsuperscript{44} Former Supreme Court Justice Arthur Goldberg said Nixon’s proposal would “restore the separate but equal concept.”\textsuperscript{45} Senator George McGovern of North Dakota lambasted Nixon’s statement, telling a crowd of 2,000 supporters at the University of Illinois Champaign “what we have just witnessed is the collapse of moral leadership by the President of the United States.”\textsuperscript{46}

Some political leaders opposed to Nixon’s proposals challenged the sincerity of the president’s antibusing position and charged that Nixon had gone too far in attempting to out-maneuver Wallace. Melvin King, a spokesman for Boston’s chapter of the NAACP, suggested that Nixon was “attempting to out-Wallace Wallace.”\textsuperscript{47} Clarence Mitchell accused Nixon of “standing in the doorways of the schools like George Wallace saying black children can’t come in until 1973, and maybe never.”\textsuperscript{48} Charles Morgan, Jr., the Southern regional director of the American Civil Liberties Union, warned Nixon that any attempt to beat Wallace at his own game would prove fruitless. “Richard Nixon should realize,” Morgan said, “that the only way to get to the right of George Wallace is to go swimming in the Gulf of Mexico.”\textsuperscript{49}

National political observers agreed that Nixon’s direction on busing was a clear attempt to halt Wallace’s momentum in anticipation of the 1972 presidential campaign and win votes in regions of the country, including Detroit, increasingly at odds over court-ordered busing. “It was a blatant piece of free campaigning,” the Boston Globe reported, “He has adopted the busing issue as a prime vote-getter in his campaign for reelection. And what is not so clear is where this leaves Alabama Governor George C. Wallace, who many have thought that he had the issue all to himself.”

Don Oberdorfer sensed that Nixon’s strategy would work, editorializing in the Washington Post “whatever its repercussions in the legal, racial and social areas, President Nixon’s plans to stop new school busing is likely to be of considerable benefit to him in winning reelection this November.” In his memoirs, John Ehrlichman seemed to substantiate these claims. “Whether Congress passed the busing moratorium,” Ehrlichman reflected, “was not as important as that the American people understood that Richard Nixon opposed busing as much as they did.” Nixon “had to be positioned where the majority of Americans would agree with him.”

At the same time as civil rights leaders criticized what they perceived as Nixon’s attempts to slow down busing—from the White House initially and subsequently through a legislative framework—certain leaders in the South, where the institutionalized dual school system had come apart at the seams in the first two years of the administration, criticized Nixon for not making his position on integration retroactive. The most vocal opponents of school desegregation insisted that the administration’s position on busing was a double standard, which

53 Ibid.
would protect segregation in the North while providing no remedy to reverse the desegregation that had already occurred in the South. Republican Congressman Fletcher Thompson of Georgia, for example, said Nixon “favors the North over the South” adding “I simply cannot support a moratorium that would apply only to new busing.”\textsuperscript{54} Senator Sam Ervin of North Carolina said Nixon’s policy would “continue the status quo” in the region and Strom Thurmond regretted that the proposal would “not stop unreasonable busing.”\textsuperscript{55} Reg Murphy, the editor of the \textit{Atlanta Constitution}, who often could sense the pulse of the South better than almost anyone, warned that if “Justice Department lawyers go into Detroit or San Francisco first to oppose busing,” as Nixon had promised. “It will ring hollow in southern towns which already have gone through the agony of resolving the problem.”\textsuperscript{56} Wallace himself stoked tensions with a particular sense of urgency. “People want action now and not talk,” he proclaimed, “Stop trifling with the safety of black and white children.”\textsuperscript{57} Declaring that Americans were “tired of all the talk and want immediate action,” he pushed Nixon to use “his executive power to instruct the Justice Department to reopen all schools under a freedom of choice plan.”\textsuperscript{58}

Significantly, despite these protests, Kleindienst had made clear the administration’s intentions to ask Congress for legislation that would allow for the reopening of existing busing orders. Southern leaders also overreached in their public pronouncements about busing. The South had not experienced widespread busing, even at the height of changes to the region’s dual school system. Between 1967 and 1970 busing only increased by 3 percent in Southeastern states, less than other regions of the country “where there was little or no desegregation.”\textsuperscript{59}

\textsuperscript{55} Ibid.
\textsuperscript{56} Ibid.
Across the South, busing remained limited even as the dual school system ended. As the racial balance of many schools increased, in fact, the rate of busing decreased.\textsuperscript{60}

In many ways, the furor over Nixon’s March statement, from both civil rights progressives as well as leaders in the South, was not indicative of the larger national mood on busing. While Wallace had used the busing issue successfully to win the Florida primary, and although political leaders kept the issue in the national spotlight, to many voters nationally antibusing fervor had diminished by the spring of 1972. In the \textit{New York Times}, Tom Wicker, who provided extensive coverage of the administration’s efforts to end the South’s dual school system, observed in April that “the sound and fury seem to have gone out of the busing issue, at least temporarily” and noted that “the public temperature around the issue….declined.”\textsuperscript{61} Inside the White House, pollster Robert Teeter wrote to John Mitchell “nationally, bussing remains the least [important] of all issues tested.”\textsuperscript{62} Among Republican voters nationwide, an internal GOP poll indicated that 58 thought busing was “not very important” or “not a problem” at all.\textsuperscript{63} Ray Price noted that there was “far less” anger and frustration around busing.\textsuperscript{64} Len Garment argued there was “a national sense of inevitability [about busing], an increased acceptance in the North as well as the South” would mute “anxiety and resistance.”\textsuperscript{65} He noted that Americans opposed

\textsuperscript{60} Ibid.


\textsuperscript{64} Memorandum for Leonard Garment from Ray Price, Subject: Busing Amendment, December 3, 1971. Folder, WHCF, SMOF, Garment, Alpha-Subject Files, Busing—Constitutional Amendment [2 of 3] [CFOA 10177]. NPMS, White House Central Files, Staff Member and Office Files, Leonard Garment, Alpha-Subject Files, Busing – Constitutional Amendment [CFOA 10177] [1 of 3] Busing – Consultations with Black Leaders [CFOA 10177] Box 53.

\textsuperscript{65} Memorandum for The President from Len Garment, Subject: School Desegregation, January 19, 1972. Folder: WHCF Subject Files, [EX] HU 2-1 Education & Schooling, 1/1/72 – 2/29/72. WHCF Subject Files, [EX] HU 2-1
to busing would recognize that the “civil resistance” necessary to halt changes in busing and desegregation would be “on a scale and with consequences that most people are not willing to undertake—particularly as the country shows signs of pulling itself together in economic as well as social terms.”

By the spring and the summer of 1972, American voters were preoccupied with an array of other issues other than busing. Teeter noted that “drugs, crime, taxes, and Vietnam,” not busing, had emerged as the leading issues concerning voters. Even among African Americans, typically the greatest supporters of busing, other priorities emerged by the spring of 1972. “Discrimination and racial conflict are still major issues,” suggested a CREEP memo entitled *The Black Vote* “but other issues are: A high rate of unemployment; Inadequate housing; quality of educational opportunities; crime in the black community; heroin traffic in the Black community.” An August poll taken in Michigan, as the battle around Judge Roth’s order unfolded, showed that only 29 percent of voters in that state considered busing one of the central issues in the election; by the beginning of October, this number dropped to 13 percent. Reflecting the sentiments of many of the nation’s voters, in Michigan Vietnam emerged as the main concern of 47 percent of those polled with the economy a close second. 

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In addition to the empirical evidence gauging the attitudes and priorities of American voters, Nixon’s impetus to push an antibusing position—and to place busing in the national spotlight—changed dramatically on May 15, 1972, when George Wallace was suddenly removed from the national political stage. The day before primary elections in Maryland and Michigan, Arthur Bremer, a lonely social outcast who had considered an assassination attempt against Nixon, attempted to gun down George Wallace, wounding him badly, causing paralysis from the waist down, and abruptly ending his aspirations for national office. From a political point of view, Wallace’s inability to campaign actively for the Democratic nomination aided Nixon enormously. Content that he would not lose antibusing and anti-integration Republicans in his base to Wallace, Nixon could safely focus on pursuing swing voters. At the end of May, polls showed Nixon with a national job approval rating of 60 percent, beating McGovern, the likely Democratic nominee, 53 percent to 34 percent.

With the GOP base safely in Nixon’s camp and reassured by high approval ratings in Wallace’s absence, advisers urged Nixon to aim for a “major landslide,” as Buchanan put it, by courting constituencies who were not part of the traditional Republican base.70 “We, by and large, have the South now,” Buchanan wrote to Nixon, “In the North, it is Catholic, ethnic, urban, Jewish, middle-income, working class Democrats who are the swing votes, the ones who will decide by how large a margin we will win this one.”71 In the lead up to the 1972 election, Buchanan viewed antibusing as a “strictly Republican appeal” which was only “useful for rallying the troops, nothing more,” a exercise that was no longer necessary with Nixon as the

70 Memorandum to the President from Patrick J. Buchanan, Subject: The Vice President and the Campaign, July 23, 1972. Folder WHSF, SMOF: Pat Buchanan, July 1972. Box 2. NPLM, Nixon Presidential Returned Materials, Contested Materials: WHSF, Box 1.
GOP base’s only option. 72 “We should, on the campaign trail, avoid I think, the epithet and make our charges based strictly on the record,” Buchanan instructed, “So that McGovern is forced to respond to what he himself said—not to what we called him.” 73 Buchanan concluded, “mean-spiritedness has no place in this campaign.” 74

Buchanan’s argument—that Nixon should avoid inflaming sensitivities on busing and other racial issues—was driven not only by a desire to win votes in the Midwest and Northeast, but also by a ramped up effort to win the votes of African Americans, a prospect the Nixon camp flirted with throughout his presidency. “[I] strongly recommend that we take out ads in all major black publications attacking McGovern for taking blacks for granted,” noted Buchanan in a memo to Haldeman and Charles Colson, special counsel to the President, “These ads would serve to force McGovern to spend money to answer them—and they might well weaken him in the black community as McGovern has never been strong there personally. This is the one major voting block where McGovern wins overwhelmingly—and some hard negative ads might convince blacks either to ‘go fishing’ or cut McGovern.” 75 Similarly, Jeb Magruder, the deputy director of Nixon’s reelection campaign, wrote to Kleindienst that “most Black voters do not normally split the ticket, but have shown they will when attractive alternatives are presented…We need to intensify our voter education so that more will be inclined to split the

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72 Memorandum to the President from Patrick J. Buchanan, Subject: The Vice President and the Campaign, July 23, 1972. Folder WHSF, SMOF: Pat Buchanan, July 1972. Box 2. NPLM, Nixon Presidential Returned Materials, Contested Materials: WHSF, Box 1.
73 Memorandum to the President from Patrick J. Buchanan, Subject: The Vice President and the Campaign, July 23, 1972. Folder WHSF, SMOF: Pat Buchanan, July 1972. Box 2. NPLM, Nixon Presidential Returned Materials, Contested Materials: WHSF, Box 1.
74 Memorandum to the President from Patrick J. Buchanan, Subject: The Vice President and the Campaign, July 23, 1972. Folder WHSF, SMOF: Pat Buchanan, July 1972. Box 2. NPLM, Nixon Presidential Returned Materials, Contested Materials: WHSF, Box 1.
ticket in 1972...We should consider campaign strategies which effectively communicate meaningful Administration accomplishments to Black voters.”

As Nixon’s advisers debated eliminating busing altogether from the campaign, and even as they discussed pursuing not only traditionally white Democratic constituencies in the Midwest and Northeast but also African American voters, Nixon’s charge to Congress two months earlier simmered in Washington. Two days after the assassination attempt on George Wallace, the House-Senate conference committee settled on a massive education bill. On May 25, the Senate voted 63 to 15 to pass the legislation and send it to the House of Representatives. At the beginning of June, 88 Republicans in the House of Representatives joined 130 Democrats to pass the law, which became known as the omnibus education bill. The legislation contained two major sections, one dealing with busing and the other with the funding and availability of higher education. Rather than the moratorium Nixon had requested—which would have halted all new busing—the bill established a freeze on any court order requiring the transfer of students between schools “for the purpose of achieving a balance among students with respect to race” until the appeals courts ruled on the orders or until July 1, 1973, whichever happened first.

The second part of the bill presented a paradox. While the legislation created additional obstacles for African-American students, it simultaneously guaranteed the educational rights of other protected classes. In addition to providing an unprecedented sum of federal money for higher education, it also explicitly banned discrimination against women in college admissions. Democratic Senator Jacob Javits captured this contradiction with acuity, suggesting the bill was “a historic piece of legislation for what it does for higher education” but also “a historic piece of

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legislation for what it does against the interests of minority children and the Constitution of the United States."\textsuperscript{78}

Despite the fact that Congress had followed through on a Nixon’s demand for a moratorium, and although many of Nixon’s advisers seemed content to allow busing to fade from public view as the campaign ramped up, the White House nonetheless publicly chided Congress. The administration insisted it had sought a moratorium to apply to all busing decisions—not only orders explicitly intended to balance students based on race—and halting all new orders. In addition, the administration claimed it was incumbent upon Congress to provide the courts with a framework for busing decisions. “Congress has not given us the answer we requested,” Nixon scolded. “It has not provided a solution to the problem of court ordered busing; it has provided a clever political evasion. The moratorium it offers is temporary; the relief it provides illusory.”\textsuperscript{79}

In some ways, the public criticism leveled by the administration against Congress was neither deep nor sincere. In discussing the weakness of the bill with reporters, Gerald L. Warren, the deputy press secretary, was quick to suggest “I would not want to leave you with the impression that there is active consideration of veto of the bill.”\textsuperscript{80} In fact, Nixon had wanted a relatively moderate bill all along. In March, he explained at a private meeting of the Cabinet Committee on Busing and consulting attorneys that his moratorium proposal was designed to avoid a more drastic response to the busing crisis, to “preempt radical legislation” that Congress might pass “under pressure from ‘the people back home.’”\textsuperscript{81}

\textsuperscript{78} Ibid.
\textsuperscript{81} Memorandum for The President’s File, from Edward L. Morgan, Subject: Meeting with members and staff of the Cabinet Committee and Consulting Private Attorneys, re: Busing, March 10, 1972. Folder: WHSF SMOF, Special Staff, [Dana Mead] [Removed from Box 10] Memos for the President’s Files and Notes, Busing Legislation 1972 [FG 6-11-1 / Mead, Dana] [FG 6-11-1/ Morgan, Edward]. NPM, WHSF, Staff Member and Office Files, Special
By the time Congress passed the omnibus education act, not only had busing subsided as a nationally prominent issue, but no substantial amount of busing had actually taken place. In other words, Congress was reacting to a straw man. The *New York Times* observed that the “fear and angry opposition that has swept through the nation in recent months regarding busing for school desegregation stems more from busing orders that are anticipated than from those that have taken effect.”

A “city-by-city check” showed that “little forced busing has been put into effect by court or government order when compared to the nearly 20 million pupils transported at public expense for all other purposes and the steady increase in busing that has taken place for decades without public opposition.”

As the legislation awaited Nixon’s signature, national attention returned to Detroit, where Judge Roth followed up with detailed busing orders to remedy what he had established the previous September as intentional segregation. On June 14, Roth ordered the busing of 310,000 students between Detroit’s public schools and 53 districts in the suburbs for the purposes of achieving integration “the most sweeping school busing order in the nation’s history,” according to the *New York Times*. Michigan Governor William Milliken, digging in against the order immediately, called the directive “disruptive” and “counterproductive.” In Washington, the country’s highest-ranking official on education, United States Education Commissioner Sidney Marland, reacted uneasily calling Roth’s decision “drastic” and “extreme.”

After Roth issued his order in Detroit, Nixon postponed signing the omnibus education bill, suggesting he wanted further time to study whether the antibusing provisions of the

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83 Ibid.
legislation—the Broomfield Amendment—would effectively halt Roth’s order. On June 20, Ehrlichman met with Nixon in the oval office to discuss the legislation, busing, and other domestic policy issues. As Ehrlichman briefed Nixon on the effectiveness of the Broomfield Amendment in halting Roth’s order in Detroit, Nixon appeared distracted. Three days earlier, on June 17, five men had been arrested at the Watergate Hotel, including a former employee of the CIA and GOP security staffer named James McCord. On June 19, John Mitchell, now the head of Nixon’s reelection efforts, assured the press that the burglars “were not operating either in our behalf or with our consent” in the alleged bugging attempt.87 “There is no place in our campaign, or in the electoral process, for this type of activity and we will not permit or condone it,” Mitchell insisted.88

In the Oval Office, Nixon interrupted Ehrlichman’s briefing on the busing legislation, furious about the “unfairness” of the accusations against him in the Watergate case.89 “We’ve reduced the number of wiretaps by fifty percent in this Administration,” Nixon insisted, “Robert Kennedy tapped the most when he was Attorney General. It’s been a steady downtrend since then.”90 He told Haldeman to “be on the attack for diversion, and not just take it lying down.”91 After a prolonged discussion of the accusations made against him in the Watergate case and a response strategy if the investigation continued, Nixon briefly returned to the busing issue, remarking only “I want a one-minute statement prepared making the point that busing is an inadequate answer to the problem of school segregation.”92 In the midst of the birth of the

88 Ibid.
89 Ehrlichman, Witness to Power, 349.
90 Ibid.
92 Ehrlichman, Witness to Power, 349.
Watergate scandal, Nixon had made up his mind to sign the omnibus education bill, though he did so without much public fanfare.

On June 23, Nixon signed the education bill into law, while condemning Congress for the bill’s weak antibusing provisions. “Confronted with one of the burning social issues of the past decade and an unequivocal call for action from the vast majority of the American people,” suggested Nixon, “the 92d Congress has apparently determined that the better part of valor is to dump the matter into the lap of the 93d.” Nixon ordered Ehrlichman to call on Congress to produce additional antibusing proposals—more along the lines of his March moratorium—promising to “go to the people” over the course of the campaign to ask for support for a constitutional amendment if Congress failed to act.

In keeping with his routine of making harsh public statements protesting busing and condemning legislators and judges for soft antibusing positions, but simultaneously failing to pursue tangible policies that matched the intensity of his rhetorical opposition, to many observers Nixon’s statements were more political than substantive. Carl D. Perkins, for example, the chairman of the House-Senate conference committee that had originally sent the bill to the Senate and the House, accused Nixon of playing politics in expressing his dissatisfaction with the bill. “He [Mr. Nixon] just wants to keep the busing issue alive,” Perkins said, “He played politics with it as far as he could and he’s trying to keep it up.” The editorial board of the *New York Times* called Nixon’s public opposition a “carefully staged Presidential pique….part of a shrewdly calculated script.”

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94 Ibid.
95 Ibid.
Following Nixon’s public protests at the end of June, he seemed content to allow busing to dissipate as an issue of importance over the course of the summer. In public appearances, press releases, news conferences, and public speeches, Nixon did not mention busing at all in May, only three times in June, never in July, and only once in August and September. Watergate, too, seemed to lay dormant for much of the summer of 1972. Nixon’s approval ratings and election prospects seemed unaffected by the initial revelations. In May, his approval rating was 62 percent, and at the end of June, it hovered around 59 percent. He was also polling in the high 50s in a possible national election against McGovern.

On August 14, without much fanfare from the White House, the Justice Department officially intervened in Detroit, asking the Court of Appeals to stay Roth’s order. “There is nothing in this record,” argued lawyers at the Justice Department, “that would suggest that the basis for involving the school districts was anything more than their racial compositions vis-à-vis the Detroit system and their geographic location in proximity to Detroit.” In other words, there was no proof that the suburbs had discriminated intentionally against African Americans and therefore there was no basis for busing orders to remedy the situation.

At the same time, Congress responded to Nixon’s chiding of earlier months. In August, a Democratic House of Representatives considered a bill outlawing “long-distance” busing for elementary school students, placing restrictive limits on busing for all other students, and detailing with precision qualifications for a limited number of students eligible for busing. The bill’s sponsor, Albert Quie, a Republican from Minnesota, defended the bill and seemed to downplay its heft, saying it “just limits the most emotional part—the crosstown busing that

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97 Gallup.
people find so objectionable.” On August 18, the House of Representatives—the same body that had just months before passed Title IX of the Higher Education Act and the Equal Employment Opportunity Act—passed the bill by a margin of 282 to 102. The bill went even further than the original moratorium that Nixon had pictured.

Civil rights progressives were furious and argued that the bill was essentially racist. Clarence Mitchell, the head of the Washington office of the NAACP, introduced the imagery of a lynch mob to express his dissatisfaction, claiming “the only thing that is missing is the rope. The Ku Klux Klan ought to make all those who voted for this bill honorary members.” Representative Parren Mitchell, a Democrat and African American from Maryland and Clarence Mitchell’s brother, took to the floor of the House to accuse his colleagues of being “hypocrites, bigots, and racists.” As members sat in “stunned silence,” Mitchell, who had been a close adviser to President Johnson when he passed landmark civil rights legislation, called the United States a “sweet land of bigotry” and warned “you are setting the stage tonight for the second post-Reconstruction era in this nation.” Representative Ronald Dellums, another Democrat and African American from California, “sputtered with rage” and labeled congress “selfish, self-centered politicians who lack the courage to exert political leadership.” In October, the Senate postponed a vote on the dramatic busing legislation, effectively killing the bill.

Just as the Justice Department requested a stay from the Court of Appeals and the House of Representatives passed harsh antibusing legislation, the GOP was making opposition to busing an official part of its platform at the party’s August convention. There, the GOP adopted a strict and thorough antibusing platform, which “opposed….busing for racial balance” claiming

100 Ibid.
101 Ibid.
103 Ibid.
104 Ibid.
that it would produce “division within communities and hostility between classes and races.”

The party was, the platform suggested, “irrevocably opposed to busing for racial balance.” The platform also suggested that the party would support a constitutional amendment to achieve those goals if it was necessary. In a sign of the different coalition politics Nixon was attempting in 1972—a symbol of how far he had come from his aggressive and focused pursuit of the South in 1968—the platform also committed the GOP to “completing the process of ending de jure school segregation.” The GOP platform, which contrasted significantly with the Democratic commitment to “continued use of busing to achieve racial balance” came without any actual policy advancements over the summer.

The day after the convention concluded, on August 24, Nixon seemed to confuse the magnitude of his own antibusing position. In what seemed like an effort to soften the harshness of the GOP’s platform, Nixon delivered a public address—the only time he publicly mentioned busing in August—easing sharp rhetoric on the busing issue. Nixon qualified his statements of from March, contending that his moratorium was aimed at avoiding “excessive” busing, and was not an all-out assault on busing.

While Congress, the Justice Department, and the Courts sparred over Roth’s orders in Detroit and negotiated parameters of busing as a legitimate means to achieve integration, the presidential campaign tore on without much discussion of the issue. Though McGovern was against busing, like Nixon, he did not make it a central issue in his campaign. By the end of

108 Ibid.
October, the *New York Times* reported, “[Busing] is rarely mentioned in the Presidential race, even though the candidates are opposed on the issue. Even in Michigan, where at one time busing seemed to be the only issue, surveys have indicated a declining concern about it.”¹¹¹ Busing was “not expected to have a major impact on the outcome of the elections, except in isolated instances.”¹¹² By October 26, the paper observed that busing had “faded into the background in most of the current election campaigns.”¹¹³

Busing was not the only issue on which Nixon was quiet throughout the summer of 1972. Nixon’s strategy to defeat McGovern included an effort to act presidential and avoid campaigning generally. As was the case in 1964 and 1968, no debates between Nixon and McGovern were held during the 1972 campaign. Nixon biographer Stephen Ambrose suggests strategy meant “being presidential, staying in the White House, and having others do the speaking and attacking.”¹¹⁴ In his memoirs, Nixon admitted that was his approach. “It was clear that the less I did, the better I would do,” Nixon wrote.¹¹⁵ This strategy infuriated McGovern, who tried repeatedly to engage Nixon in debate on a variety of issues. “For the first time in the history of this country,” exclaimed McGovern, “we have had a presidential campaign with only one candidate.”¹¹⁶

In addition, while Americans were concerned about various issues, Vietnam and the economy especially, it did not appear to them Nixon and McGovern were that far apart. The *New York Times* wrote at the beginning of October that “‘The issues,’….are not at issue in the 1972 presidential campaign….Gallup analysts found….Democrats and Republicans appear to

¹¹² Ibid.
¹¹³ Ibid.
¹¹⁶ Ambrose, 646.
feel the same way about the same issues.”

One pollster, Louis Harris, was struck by how similar Nixon and McGovern voters were. “Most of them don’t cut the normal way. This doesn’t mean that people aren’t concerned about the issues,” said Harris, “It means that people aren’t putting a political cut in the issues the way they usually do.”

George Gallup, Jr., the chief editor of the Gallup Poll, suggested “From my own interviewing, it’s very clear that the voters don’t perceive Senator McGovern clearly on the major issues. The thing that concerns people is not his stand on issues but his credibility. They need to be persuaded of that before they examine his positions.”

In addition, Nixon’s campaign sought to portray McGovern as the candidate of the left-wing fringe, though he was, in reality, far more moderate. Buchanan argued that Nixon’s campaign should focus on the “extremism of the McGovern positions and statements, and the ‘elitism’ of the New Left controllers of the Democratic Party.”

Famously, McGovern was labeled the candidate of “acid, abortion, and amnesty” by journalist Robert Novak, who claimed he was anonymously quoting a Senator—later discovered to be Republican Hugh Scott of Pennsylvania—a label that stuck throughout the campaign.

At times, McGovern seemed like he was trying to appeal to liberals and conservatives simultaneously. In a famous Playboy Magazine interview, for example, McGovern showed his ultimately unsuccessful attempts to balance the two political poles. He was unwilling to condemn the perceived excesses of the 1960s left, but reluctant to embrace them either. “I think a sense of decency,” McGovern stated “not prudishness nor sanctimonious self-righteousness but

118 Ibid.
119 Ibid.
120 Memorandum to the President from Patrick J. Buchanan, Subject: The Vice President and the Campaign, July 23, 1972. Folder WHSF, SMOF: Pat Buchanan, July 1972. Box 2. NPLM, Nixon Presidential Returned Materials, Contested Materials: WHSF, Box 1.
old-fashioned concern and love for others, will be essential in the next President.”\textsuperscript{122} His reluctance to condemn the perceived eccentricities of the 1960s cost McGovern the Democratic Party’s traditional middle. “Just as many liberal Democrats had refused to work for or even endorse Hubert Humphrey in 1968,” historian Melvin Small writes, “many moderate and conservative Democrats sat out McGovern’s campaign.”\textsuperscript{123} Even George Meany, head of the AFL-CIO, declined to use the organization’s vast resources to help McGovern.

In addition, Vietnam and the economy also had prominent roles in helping to decide the election. In late October, Secretary of State Henry Kissinger told reporters that a peace agreement in Vietnam was within reach and an agreement could be “easily settled.”\textsuperscript{124} On November 2, 1972, just days before the election, Nixon took to the airwaves to confirm the “major breakthrough toward achieving our goal of peace with honor in Vietnam.”\textsuperscript{125} Nixon announced a “substantial agreement on most of the terms of a settlement” which would include a ceasefire and the return of all American prisoners of war.\textsuperscript{126} McGovern called Nixon’s announcement a “cruel political deception.”\textsuperscript{127} Nixon was “pretending” to be close to a peace agreement for political gain, McGovern asserted, when he had in fact “closed the door to peace once again.”\textsuperscript{128} Desperately trying to convince voters in the week before the election of his own virtue on the issue of Vietnam and Nixon’s deceit, McGovern pleaded that Nixon had “no plan

\textsuperscript{123} Melvin Small, \textit{The Presidency of Richard Nixon} (Lawrenceville: University of Kansas Press, 2003), 259.
\textsuperscript{126} Ibid.
\textsuperscript{128} Ibid.
for ending this war….He’s going to stay there. He’s going to keep our troops there. He’s going to keep the bombers flying.”

In addition to Vietnam, the economy emerged as the major issues in the campaign. A weak economy in the summer of 1971 prompted Secretary of the Treasury John Connally to craft a policy that slowed inflation, established wage and price controls, and cut taxes. In perhaps his boldest move, Connally devalued the dollar, allowing it to float against other international currencies. The administration’s reformed economic policy undoubtedly provided at least a temporary economic surge. Nixon took even more dramatic steps to ensure a strong economy for the 1972 election and shore up political support. Over the course of 1972, federal spending increased by 10.7 percent, growth made possible, in part, by artificial and unnecessary spending to stimulate the economy. Melvin Laird, the Secretary of Defense, famously recalled that the Department of Defense “bought a two-year supply of toilet paper.” In addition, the money supply—which averaged a yearly increase of 5.2 percent from 1965 to 1970—rose 9 percent in 1972.

McGovern was also hurt by the Democratic Party’s own reforms. The primary season of 1972 presented the first real test of the newly established convention and nomination rules drafted by the McGovern-Fraser Commission in the aftermath of the chaotic 1968 convention. Under the new scheme, 60 percent of the delegates to the party convention had to come from open primaries; a remainder came from caucuses. While the guidelines added an increased level of stability to the nomination process in 1972, the Democratic Convention proved anything but orderly. After a hostile and difficult day that resulted in McGovern’s nomination, in which

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129 Ibid.
131 Ibid.
132 Ibid.
“passions ran high” and television viewers saw what McGovern himself called “a lot of aggressive women…militant blacks…long-haired kids,” delegates nominated thirty-nine candidates for vice president during the largely ceremonial vice-presidential appointment session. When the dust finally settled, McGovern gave his acceptance speech at 2:48 in the morning, long after most viewers had retired for the evening.

McGovern’s attempts at nominating running mate also proved disastrous. After a series of high profile Democrats rejected McGovern’s invitation to become the party’s vice presidential nominee, the campaign settled on Thomas Eagleton. Soon after the convention, the press discovered that the campaign’s haphazard vetting of Eagleton failed to reveal a history of mental health issues. Eagleton had received electro-shock therapy for “severe manic-depressive psychosis with suicidal tendencies.” Sargent Shriver ultimately replaced him on the ticket, though Eagleton’s reluctance to resign dragged the matter out until August—nearly three weeks after his selection at the convention—allowing generous time for political damage to the campaign.

The combination of McGovern’s incompetence, a growing economy, and Nixon’s ability to avoid controversy on the campaign trail combined to grant him extraordinary victories at the polls. On November 7, 1972, as new details about the Watergate break-in emerged, Nixon won the third largest popular majority of any presidential contest in the twentieth century with 60.7 percent of the popular vote, coming within a percentage point of Franklin Roosevelt’s 1936 defeat of Al Landon (60.8 percent) and Lyndon Johnson’s 1964 defeat of Barry Goldwater (61.1 percent). 47 million Americans voted for Nixon, compared to McGovern’s 29 million. In the Electoral College, every state in the country except Massachusetts committed to the incumbent

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133 Small, 258.
135 Ambrose, 651.
president. Nixon became the first GOP presidential candidate in history to carry a majority of Catholic voters. 68 percent of white voters voted for Nixon; only 13 percent of nonwhites. Among first-time voters, Nixon won 46 percent of the vote. While McGovern won the youth vote and the Jewish vote, along with African Americans, the majorities of all three groups voted in fewer numbers for him than they had for Humphrey in 1968.\textsuperscript{136}

Support for Nixon across the South was staggering. In both the border-states that had voted for him in 1968 as well as in the Deep South Nixon won huge victories in counties both rural and metropolitan, and among all classes and income levels of white southerners. For the first time since 1944, the South voted as a bloc, giving the incumbent a larger victory there than in any other region of the country. Nearly 71 percent of all southern votes ended up in the Nixon column.\textsuperscript{137} Nixon added to his solidifying suburban majority many of those southerners who had voted for Wallace in 1968. While the McGovern campaign chose not to compete in most southern states—many moderate Democrats in the region “renounced the nominee as the representative of the ‘non-American left-wing fringe,’” as the Democratic Governor of Louisiana Edwin Edwards suggested—Nixon’s sweeping victory there represented an historic election for the Republican Party.\textsuperscript{138}

At the same time, no other Republican candidate had ever won the bulk of blue-collar votes. Nixon’s “new majority” strategy appeared to have worked, though based on Vietnam and the economy, rather than issues of busing and civil rights. Nearly one-third of all Democratic voters cast a ballot for Nixon in 1972.\textsuperscript{139} Right-leaning advisers insisted the victory was an endorsement of a particular brand of conservatism rather than a much more varied appreciation

\textsuperscript{136} Ibid.
\textsuperscript{138} Ibid.
\textsuperscript{139} Ibid.
for the broad range of policies constructed in Nixon’s first years in office and George McGovern’s weaknesses. Buchanan argued that Nixon’s reelection proved that Americans wanted a war against the left and that it marked the “second-straight time that voters had chosen a political figure who the American Left view[ed] as an arch-enemy.” He called Nixon’s 1968 election “the first major defeat inflicted in ten years upon the political and intellectual regimes that dominated life in the United States throughout the past decade.” Buchanan argued the “liberal left” had “dominated the cultural, social, intellectual, and political life of the United States to an unprecedented degree and their hegemony left us a nation in social chaos and endless war.”

To be sure, something significant had changed by the fall of 1972. In many ways, the election seemed more about ideology than about issues. Though busing had mostly stayed out of the 1972 campaign, it would become the issue that most accurately reflected the growing ideological divisions of the country. In his second term, Nixon would expand those rifts. Despite Nixon’s gains, in 1972, there was a confusing new political trajectory in the country’s electorate. The ambiguity, paradoxes, and disorderliness of southern politics had been exported to the rest of the nation. This vagueness was characterized, in part, by a weakening party identification and low voter turnout. Fred Dutton, a political observer who wrote Changing

Sources of Power, argued in the early 1970s that “a sharply heightened dislike, then disbelief, of politics and politicians, gathered, developing into a deep-seated ‘sense of estrangement.'” 143

The possibility of a new political party that might identify with this emerging majority was increasingly possible, Dutton argued. The conundrum of political identity was even reflected in Congress. As Small documents, from December 1972 through March 1973, “at least forty congressional Democrats…negotiated with their counterparts about what sort of deals they might obtain if they switched parties to give the Republicans a majority in the House.” 144 While the GOP did not necessarily represent the embodiment of their views, their political and social agendas were far closer to Nixon’s than to those of the Democratic Party of George McGovern. 145

Nixon himself, despite enormous victory, seemed to grapple with understanding the nation’s direction. He seemed confounded by the role of party, the idea of political loyalty, and the importance of ideology. Certainly, he sensed the gathering story around him. On September 29, the Washington Post uncovered a secret fund managed by Mitchell for performing surveillance on Democrats and in early October, the FBI discovered a link between the Watergate break-in and Nixon’s campaign.

On election night 1972, after victory was assured, Nixon wrote in his diary that an “inexplicable ‘melancholy….settled over me on that victorious night.’” 146 In later years, Nixon wrote that the 1972 campaign “should have been the most gratifying and fulfilling of all my campaigns.” 147 Instead, he remarked, it was “one of the most frustrating, and, in many ways, the

144 Small, 243.
145 Small, 243.
least satisfying of all.”\textsuperscript{148} With his traditional paranoia he annotated Pat Buchanan’s news summary the day after the election, “the opposition line will be: 1. McGovern’s mistakes lost it and not his views and not RN’s strength. 2. The low vote proves no one liked either candidate. 3. RN let down his party.”\textsuperscript{149}

As his second term began, Nixon formed plans to channel his ambiguity on issues like busing into an orderly assault on the policy and politics of his rivals. He recalled in his memoirs that he “planned to give expression to the more conservative values and beliefs of the New Majority throughout the country” as he prepared to “use [his] power to put some teeth in my new American Revolution.”\textsuperscript{150} Moynihan, who left the administration before the election to serve as the United States Ambassador to India, brooded that while in the first administration “Nixon had had the objective of taking a semi-collectivist society and making it work” he now “had…come around to attempting to dismantle some of the Great Society programs.”\textsuperscript{151}

As the election of 1972 approached, conservative advisers had started to take advantage of Nixon’s increasing skepticism about winning support from African Americans. Buchanan, Dent and other conservatives urged Nixon to “take a hard-line conservative position, even to the extent of admitting that his administration had made mistakes in carrying out school-desegregation.”\textsuperscript{152} After the election, conservatives began to impel Nixon to magnify antagonism between middle-class whites and African-Americans which, as Moynihan had pointed out in his famous “benign neglect” memo, had intensified by 1972. A subordinate staffer wrote to Buchanan with his findings that “many whites resent the fact that Blacks

\textsuperscript{148} Ibid.
\textsuperscript{150} Nixon, \textit{Memoirs of Richard Nixon}, 761.
\textsuperscript{152} Carter, 396.
complain, taking the attitude: ‘why are they so ungrateful?’ After all, they say, it is their tax
dollar which goes to many Black poverty programs and welfare, etc. At least RN has guts
enough to say to them: wait a minute, you are not as bad off as everyone says you are. And most
of all, whites resent the racist label, so it is logical for RN to put that issue into perspective.”

153 Memorandum for Patrick J. Buchanan from Kenneth L. Khachigian, Subject The Black Voter, July 26, 1971.
Nixon Presidential Materials Staff, WHSF, Staff Member and Office Files, Patrick J. Buchanan, Staff Memoranda
Received 1971 – 72, Subject – Name File, Higby – 1971 to Timmons [--1971], Box 4.
Chapter 7

“All Power and Responsibility in Washington”

“Richard Nixon’s domestic achievements, as Mark Anthony predicted, will probably be interred with his bones. Perhaps someday someone will notice that all aspects of Watergate required only the tiniest percentage of the time and attention of the President and his staff. Then he may wonder what else was going on in 1972, 1973 and the years that went before. There will be the occasion then for an archeological disinterment of all the domestic staff’s efforts and a rediscovery of Nixon’s credible domestic work.”

- John Ehrlichman

Three days after Nixon’s reelection, Pat Buchanan wrote an extensive memo to the president outlining a vision for the second administration, which called for reigniting the busing issue and slowing down civil rights. Buchanan argued that integration exacerbated existing racial tensions. “Forced integration,” he said, “injured the cause of racial harmony and social peace.” The controversy over busing, he insisted, reflected “a deep fissure in American society—that goes beyond the political into the realm of the social and cultural.” Buchanan maintained that achieving social peace required allowing for an “open society” with “both integrated communities and ethnic communities.” He argued that “government at the national

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level” should “get out altogether of the business of mandating the racial composition of either neighborhoods or schools.”

Buchanan framed a strategy for reshaping government’s role in civil rights activities by targeting agencies that had traditionally pushed for integration and other initiatives that benefitted African Americans. He accused “HEW, OEO [Office of Equal Opportunity], and other giveaway agencies,” of attempting “to change the racial topography of the nation.” He argued that the federal government was “unresponsive both to the people whom it exists to serve and to the Presidents whom the people elect to administer it.” Buchanan wrote that conservatives would no longer be the “the niggers of the Nixon administration.” Buchanan discussed a “purging of the disloyal and recalcitrant” staffers and an “infusing of new blood,” not only in federal agencies, but also in the highest staff levels at the White House. Buchanan demanded the “conspicuous removal” of “all appointees who resisted the philosophical direction of the Administration.”

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bureaucrats, Buchanan cited an “over-riding need for this Nixon Administration to create a new ‘cadre’ of Republican governmental professionals who can survive this Administration and be prepared to take over future ones.” Buchanan saw himself at the top of the conservative power structure in the second administration, telling Nixon he had been “asked to do too little” and had become “involved too late” in decision-making during the first administration. “In the next Administration,” Buchanan wrote Nixon, “I would like to be structured into the decision making process, in such a fashion as to influence the direction of domestic and political and social policy.”

In many ways, Buchanan’s strategy of slowing down civil rights gains and halting integration was a political maneuver intended to solidify the incorporation of new Republican voters into Nixon’s coalition. Buchanan urged Nixon to reward those constituencies who had voted for him in the 1972 election—namely white Democrats in Midwest and Northeast—and penalize those who did not, especially African Americans and other racial minorities. He “unapologetically” expressed opposition to the “‘second generation of civil rights demands,” urging Nixon to resist efforts to advance “the political and social interests of the ‘fashionable minorities’—principally blacks and women—and to embrace instead the ethnics and working class Americans who had just voted Republican for the first time.” He warned Nixon not to

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“accede” to the persuasion of liberal leaders to promote African Americans and women to “top-level positions” in government. “We will be wasting our energies on a politically sterile and foolish game,” warned Buchanan, “Our future is the Democratic working man, Southern Protestant, and Northern Catholic—and ethnic.” Buchanan noted that “women’s libbers and black activists, and Mexican-American poverty concessionaires” did not vote for Nixon in 1972. He recommended funneling federal programs away from “exclusively black and Spanish-speaking and Puerto Rican communities” and towards “Jewish and Italian neighborhoods.” “We owe our friends,” Buchanan wrote.

Buchanan was also seeking to construct an enduring new political coalition by utilizing wedge issues, especially the country’s social welfare programs, to polarize American voters. Buchanan disguised the politics of race and civil rights in a more benign language of taxes and big government. He set out to engender a “cultural clash” and saw the potential for a “realigning issue—one on which, if the President draws the sword and holds his ground…we can cement a

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New Majority.”\(^{18}\) Buchanan proposed positioning a constituency advocating “reduced government and reduced taxes” against one supporting “more government and higher taxes.”\(^{19}\) The “Great Society R.I.P,” Buchanan wrote in criticizing Johnson’s “entitlement programs” for straining the country’s finances and challenging its fundamental values.\(^{20}\) According to Buchanan, the “primary objective” of the second administration was to establish Nixon as the “Republican FDR, founder and first magistrate of a political dynasty” to “dominate American politics long after the President has retired from office.”\(^{21}\)

On January 5, 1973, Nixon unveiled a plan to reorganize the federal government into consolidated departments headed by super-secretaries, designed to ensure that he and his staff could control the direction of agencies from the White House. In making the announcement, Nixon described the “federal establishment” as “wasteful, inefficient, and expensive, and more and more meddlesome in the affairs of individuals and lower levels of government.”\(^{22}\) The “end goal of these policies,” noted Jerry Jones, the Director of the White House Personnel Office, “is

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to improve the management of the Executive Branch bureaucracy, extend the President’s policy control over the departments and agencies, and gain and/or hold the political support of constituencies who voted the President into office and support his governing philosophy.”

Additionally, Jones wrote, the staffing shift would “weed out individuals in key programs and policy positions….who are not responsive to the President’s policy objective and replace them with individuals who are.”

The intention of the Personnel Office, Jones confirmed, was to “bring able individuals who are loyal to the President and his policy objectives into the Federal Service….Recruit able loyalists to fill key positions.”

Administration insiders observed the swiftness and definitiveness that characterized second-term staffing changes. Secretary of State Henry Kissinger, for example, observed what he called the “frenzied, almost maniacal sense of urgency” and “political butchery” with which staffers were replaced and agencies reshaped. In testimony before the Senate Watergate Committee just months after the staffing changes began, John Ehrlichman described the shift as one that reflected the dominance of politics over policy in the second administration. He suggested that Nixon was directly responsible for the “responsiveness program” to “make federal

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agencies take political considerations into account in their programs and contracts.”

Ehrlichman told the Committee of “a desire on the President’s part that there be more political thought given to decisions than was being given in the departments. Every once in a while, something would be said at a cabinet meeting to sort of sensitize people to this desire on the President’s part.”

Various media outlets observed the speed and thoroughness with which Nixon pushed forward with the reorganization plan, and warned of the potential consequences of a federal government completely aligned with Nixon’s political needs. The Baltimore Sun editorialized that the most remarkable part of Nixon’s proposed plan was its objective of placing White House staffers “in virtually every department and every agency.” The paper described the proposal as possessing a “Machiavellian touch in stationing members of the palace guard in position where they can keep the prince loyally informed of the real world out there in bureaucracy land.”

The changes would “enhance Nixon’s efforts to get a firmer control on the bureaucracy,” the New York Times concluded. The Los Angeles Times predicted that Nixon intended to “undo the Washington base of the Democratic Party with its concern for the urban poor and its bias toward the elite style of Northern cities.”

While Nixon’s calls for smaller government were not new—indeed, even at the start of Nixon’s political career, in the late 1940s, small government had been an essential part of his politics—the tone of Nixon’s offensive changed markedly in his second term. In his first inaugural address in January of 1969, Nixon warned the country: “We are approaching the limits

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28 Ibid.
30 Ibid.
of what government alone can do.”33 Yet, simultaneously, he appeared not only empathetic, but also proactive in committing government to engage with the country’s most desperate citizens. He promised that government would “strive to listen in new ways—to the voices of quiet anguish, the voices that speak without words, the voices of the heart—to the injured voices, the anxious voices, the voices that have despaired of being heard.”34 In his second inaugural address, he affirmed a commitment to conservatism and touted individual responsibility.

“Government must learn to take less from people so that people can do more for themselves,” Nixon proclaimed. “In our lives, let each of us ask—not just what will government do for me, but what can I do for myself.”35 Assailing the reach of government, Nixon proclaimed “we have lived too long with the consequences of attempting to gather all power and responsibility in Washington.”36 He warned the “time has come to turn away from the condescending politics of paternalism—of ‘Washington knows best’” and he cautioned that there was “no promise of a purely governmental solution for every problem.”37 Most indicative of the policies his administration would pursue in his second term was Nixon’s argument about individual responsibility: “Let us remember that America was built not by government, but by people; not by welfare, but by work; not by shirking responsibility, but by seeking responsibility.”38

As Nixon criticized the dangers of big government and the extent of its reach into peoples’ lives, by January of 1973 he also knew that his entire presidency might potentially come crashing down as a result of its own misuse of government power. In previous months, the Watergate controversy had “blossomed,” as the New York Times put it, due to “allegations that

34 Ibid.
36 Ibid.
37 Ibid.
38 Ibid.
the….wiretapping was only part of a widespread and well-financed effort to spy on the Democrats on behalf of the Republicans.”  In addition, the paper noted that the case “left unanswered at least as many questions as it took up.” On February 6, 1973, the Senate chose North Carolina Democrat Sam Ervin and Tennessee Republican Howard Baker to head a committee to investigate Watergate. Ervin, a critic of Nixon’s government reorganization plan, promised the inquiry would proceed “without partisan considerations.”

In the winter of 1973, Ervin was also among the Senate’s most vocal antibusing leaders. Late in January, he had publicly and vigorously criticized a report of the Senate Select Committee on Equal Educational Opportunity, which suggested that politicians were “misleading” in presenting the busing issue as one that Americans cared about deeply. The report also claimed that this focus on busing distracted from the more important debate about providing quality education to all children. Ervin countered that the importance to the public was “as clear as a noonday sun in a cloudless sky.” Along with Howard Baker and several other southern senators, Ervin proposed, as the new Congress assembled in January, a constitutional amendment to ban busing.

Despite the continued opposition of Ervin and others to busing, by the winter of 1973, as Nixon prepared to begin his second term, not only had legal impediments to the dual school system in the South been removed, but the region’s schools also showed a remarkable level of integration. The Washington Post suggested that public schools in the South were the “only school systems in the nation that continue to reflect substantial progress towards

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40 Ibid.
42 “Busing Misleading Issue, Senate Committee Says,” Call and Post, January 27, 1973, 1B.
43 Ibid.
In the 11 former Confederate states—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia—46.3 percent of all black public school students attended schools that were 50 percent or more white. Less than nine percent of African-American pupils were in all-black schools. Just 29.9 percent of black pupils in the southern states attended schools 80 percent or more black. In January 1973, Jack Greenberg, head of the NAACP Legal Defense Fund, noted that “enormous progress” had been made on school desegregation in the region. The principle of integration was widely accepted, he noted, and “what we’re down to now is a debate over specific methods….I think the pendulum is beginning to swing back our way.”

Even as empirical evidence illustrated a high level of integration in southern public schools in the early months of 1973, HEW pushed forward with plans for even further integration in the South. In March, HEW ordered 25 school districts in 12 southern states to file desegregation plans to “eliminate the vestiges of….former dual school systems” by the start of the 1973 school year or risk “legal action as required by the court.” In April, a federal judge told 184 districts in 16 states, mostly in the South, that they had “no alternative but to obey” desegregation orders. In several of those districts, HEW ordered the first busing since Nixon asked for a moratorium in March of 1972.

At the same time, the Supreme Court seemed to endorse busing as an instrument for further integration in the South. On February 20, the Court “let stand” a plan for desegregating

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45 Ibid.
49 Ibid.
the Memphis public school system, which involved busing 14,000 of the city’s 146,000 pupils.\(^{53}\)

Despite the legitimization of busing plans in the South by the Court, and although HEW continued to utilize busing as a tool to achieve racial balance in schools, the increasing numbers of white citizens departing for the suburbs created additional obstacles to integration in Memphis and across the South. As the Court deliberated on the Memphis case, and in the aftermath of the decision, a massive number of white students left the city to avoid integration. In 1969, whites represented 60 percent of the Memphis school system; by 1973, African-Americans composed 70 percent of the district’s pupils while the city’s population was 60 percent white.\(^{54}\) As Memphis prepared to open its schools in the fall of 1973, the district reported that enrollment was down by at least 20,000.\(^{55}\)

Fears of continued white flight also had a profound impact on tempering the demands of the civil rights establishment, despite the empirical successes of integration in the South in the late 1960s and early 1970s. By the start of Nixon’s second term, for example, the NAACP seemed to prioritize increased funding for black schools and the appointment of black administrators over pupil integration. On February 24, 1973, the NAACP agreed to a compromise school desegregation plan for Atlanta which required substantial integration of administration officials, staff, and faculty, but not students.\(^{56}\) Fearful of the ramifications of continued white flight, the NAACP’s Atlanta branch accepted the busing of just 3,000 students, rather than the 30,000 the plan initially recommended, in exchange for the placement of African American officials in 9 of 17 high-level positions in the Atlanta school system. Jondell Johnson, executive director of the Atlanta NAACP, explained that the organization “felt it was too late to


get real integration….So we thought it would be better to gain control and assure our kids quality education.”

Roy Wilkins insisted that integration remained a priority for the NAACP but emphasized the importance of quality education for African Americans, no matter the racial balance of schools. “Our general position has been there is not sacrifice of racial pride or loss of education if blacks go to school with blacks,” Wilkins argued, “If the school board agrees to the improvement in education and program that leads to meaningful equalization of the educational process, black children will not suffer by attending an all-black school.”

The New York Times called the compromise plan “a major departure” and “further evidence of a new pragmatism in the civil rights movement in cracking the difficult desegregation cases in the large cities of the South.”

The actions of the NAACP reflected a growing inconsistency in the positions of many within the African-American community on integration and busing. By the early 1970s, many middle-class African-Americans exuded the “new pragmatism” and argued that busing would “reap benefits only for poor blacks.” In addition, many blacks argued that the idea of “chasing white children all over town to go to school with them” was causing “psychic damage.”

Alfred Knox, the president of the parent-teachers’ association at the all-black Douglass high school in Atlanta, advocated an education plan in the city that entirely eliminated busing. “Black kids have been inconvenienced all their lives,” Knox said. “When I was a kid, I was bused past four or five white schools to get to a black school….I had to get up earlier….and I never could participate in extracurricular activities.”

59 Ibid.
60 Ibid.
61 Ibid.
By 1972, other civil rights groups that had at one time been essential in mobilizing the forces of integration had also changed dramatically. By 1972, the Congress of Racial Equality (CORE) took an active position against busing. Until 1966, when the organization took a radical turn, CORE had been fundamental to the push for civil rights legislation and desegregation. Now under the direction of Roy Innes, CORE was dedicated to black nationalism and against integration; the organization had endorsed Nixon in 1968 and 1972. In April, CORE argued in a friend-of-the-court brief filed in the Richmond case that busing across city-suburban borders would cause “disastrous consequences to black children by their being uprooted and placed in schools where estrangement may be their only find.” Victor Solomon, associate national director of CORE, said that implementation of the plan would serve as a “testament to the belief of some blacks and some whites that blacks are inferior and can only learn in the presence of whites.” In general, CORE accused the NAACP’s Legal Defense Fund of “playing politics with the lives of schoolchildren by pushing such mass busing programs without the consent of the black communities they purport to represent” and argued that the NAACP “has a political and economic investment in the idea of dispersal of black communities.”

In the North, meanwhile, the future direction of integration plans was shrouded in ambiguity. In December of 1972, the United States Court of Appeals for the Sixth Circuit had ruled that busing between the city of Detroit and its suburbs was the only practical means of achieving school desegregation. “If school boundary lines cannot be changed for an unconstitutional purpose,” the court wrote, “it follows logically that existing boundary lines cannot be frozen for an unconstitutional purpose.” The court also noted “big-city school

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64 Ibid.
65 Ibid.
systems where Blacks are surrounded by suburban school systems for whites cannot represent equal protection of the law.” 67 Less than a month later, the Supreme Court ordered a temporary halt to all plans involving city-suburban busing. The decision would have an impact on districts across the North, including Detroit. Michigan attorney general Frank Kelley called the Court’s decision “a victory in this long struggle for the state.” 68 The NAACP, on the other hand, dismissed it as “another delay in an order to achieve integration in the schools.” 69

Tensions intensified as cities in the North awaited a final decision in the Detroit case, which would have widespread implications for districts across the North. Perhaps no city better exemplified the chaos and confusion than Boston. Massachusetts had become the only state to pass a racial imbalance law in 1965, prohibiting schools with nonwhite populations greater than 50 percent. Initially, compliance with the new law likely would have required only minimal busing; African Americans represented just 16.8 percent of the population and often lived on the borders of white neighborhoods. 70 By 1973, however, the number of schools in violation of the law doubled. 71 In February, a federal administrative judge ruled that Boston was in violation of the 1964 Civil Rights Act and was ineligible for 8 million dollars in school funding for running a segregated school system. 72 In addition, the NAACP filed a separate lawsuit, charging that the city was in violation of the Fourteenth Amendment and demanding busing to bring about an increasing level of integration. Paul Tierney, the chairman of the Boston School Committee—the district’s governing organization—characterized segregation in Boston’s schools as the outcome of “housing patterns and a shifting population,” and argued the district was not required

67 Ibid.
69 “Appeals Court Will Hear Detroit School Case,” Call and Post, February 3, 1973, 13B.
71 Ibid.
to actively remedy segregation in schools.\textsuperscript{73} “The lack of progress toward integration,” the \textit{New York Times} noted, “has now raised fears that there will be a sweeping busing order from the Federal courts—as has happened in other northern cities.”\textsuperscript{74} In March, the lower courts ordered busing in Boston to achieve a more equal racial balance in schools, but school officials refused to comply until the Supreme Court cleared things up.

In Denver, where whites also significantly outnumbered African Americans, school officials actively maintained racial separation in schools by repeatedly redrawing district lines. Under the neighborhood schools concept, segregation in Denver schools increased in the early 1970s. Both the federal district court and the United States Court of Appeals for the 10\textsuperscript{th} Circuit held that Denver violated the equal protection clause of the Fourteenth Amendment by establishing neighborhood boundaries based on racial composition. The NAACP Legal Defense Fund asked that the Supreme Court to consider Denver’s actions, as it had in the South, \textit{de jure} segregation and demand the immediate redrawing of district lines without consideration of race. Norman Chachkin of the NAACP Legal Defense and Educational Fund suggested “if the Court wants to review the Northern decisions around the country as carefully as it did those from the South, you can be sure there will be a great deal of desegregation coming up.”\textsuperscript{75} The organization also asked the courts to order busing immediately to bring about a more equal racial balance. As Denver waited for the Supreme Court to rule, the \textit{New York Times} noted that the case also had broader national significance in determining whether districts would have to “redraw its zones in such a way as to offset the effects of neighborhood segregation and produce racially mixed schools.”\textsuperscript{76}

\textsuperscript{73} Ibid.
On May 21, 1973, the Supreme Court voted 4-4 in the Richmond desegregation case. Lewis Powell abstained because he had served on the Richmond school board. The tie meant that the lower court’s ruling that the Richmond desegregation plan was unconstitutional automatically stood. The New York Times reported that the decision “raised considerable doubt….whether liberal Justices could muster a majority in support of city-suburban school integration in the future, with the result hinging on [Powell].”\(^77\) Just a month later, though, on June 21, the Court ruled in a 7-1 decision, in the case of Keyes v. School District No. 1, that officials in Denver deliberately and unconstitutionally segregated schools in the city. Justice William Brennan wrote for the majority that “proof of state-imposed segregation in a substantial portion of the district will suffice to support a finding by the trial court of the existence of a dual school system.”\(^78\) Brennan noted that school authorities “have an affirmative duty ‘to effectuate a transition to a racially nondiscriminatory school system.’”\(^79\) Justice William Rehnquist, the lone dissenter, wrote that the Court had “taken a long leap in this area of constitutional law in equating the district-wide consequences of gerrymandering individual attendance zones in a district where separation of the races was never required by law with statutes or ordinances in other jurisdictions which did so require.”\(^80\) The NAACP praised the decision. “We’re encouraged by the favorable result,” it announced. “It should helped people working for desegregation in other Northern and Western school districts.”\(^81\)

As the courts continued to sort their way through the numerous constitutional, social, and political issues connecting busing and integration, the Watergate scandal simmered, which effectually hindered the administration’s ability to adopt the strong antibusing position that

\(^79\) Ibid.  
\(^80\) Ibid.  
\(^81\) Ibid.
Buchanan had envisioned. In March, James McCord, a former CREEP security official arrested during the break-in at the Watergate complex, told the Watergate Seven trial judge John J. Sirica that a number of witnesses had perjured themselves and that the break-in was a small piece of a massive conspiracy and cover-up involving high-level administration officials. Nearly simultaneously, Jeb Magruder, a deputy director at CREEP central to planning the break-in, admitted his involvement and implicated John Mitchell and John Dean in the cover-up.

By late spring, critics outside of the administration as well as advisers within it pushed Nixon to make sweeping changes to his staff. On April 30, 1973, Nixon asked Haldeman and Ehrlichman for their resignations. Nixon insisted that the resignations were not “evidence of any wrongdoing by either one. Such an assumption would be both unfair and unfounded.” He also called Haldeman and Ehrlichman “two or my closest and most trusted assistants.” While Nixon claimed the two advisers were innocent, by the spring of 1973, they had already been implicated in the cover-up—the highest ranking administration officials yet named. Thus, removing Haldeman and Ehrlichman would signify for the public a change in direction for the administration. In addition, Nixon asked for the resignation of Attorney General Richard Kleindienst, who had shown a willingness to use the power of the Justice Department to impede busing plans.

Contrary to the Buchanan’s vision of replacing pro-civil rights liberal staffers with conservatives, Watergate pushed the administration further to the left. In Kleindienst’s place, Nixon appointed Elliot Richardson, who had a progressive record on civil rights issues and had headed HEW, to head the Justice Department, giving him “absolute authority” to find out the

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“whole truth” in the Watergate investigation.\textsuperscript{84} Another civil rights progressive, Len Garment, surged back to prominence in the White House as counselor to the president, following Nixon’s firing of Dean for cooperating with prosecutors. Nixon stated that Garment would “represent the White House in all matters relating to the Watergate investigation and will report directly to me.”\textsuperscript{85} In addition to Richardson and Garment, Nixon promoted Stanley Pottinger to direct the Civil Rights Division at the Justice Department. Pottinger had formerly been the Director of the Civil Rights Division at HEW, where he was focused on ensuring quality education for minority students. In addition to standing up for racial minorities, Pottinger also emerged at HEW as a foe of gender discrimination. He had, according to one author, “made a conscious decision to help women, as well as minorities” when he arrived at HEW.\textsuperscript{86} In describing what drove staffers at HEW in pursuit of integration and reform in racial practice, Pottinger had once said they were preoccupied that “there were still black kids in Alabama going to school under trees.”\textsuperscript{87}

Nixon appointed Melvin Laird, who had been secretary of defense, to the position of counselor to the president for domestic affairs. Laird had been instrumental as chairman of the Platform Committee at the Republican Convention in 1964 in writing a pro-civil rights platform that called for “full implementation and faithful execution of the Civil Rights Act of 1964.”\textsuperscript{88} Laird was generally seen as friendly to the African-American community and helpful in the fight for civil rights.\textsuperscript{89} In addition, numerous deputies and lower-level staffers also changed. Nathaniel Jones, a general counsel at the NAACP, noted that a combination of the recent change in administration personnel, the tension of the Watergate investigation, and Nixon’s weakening

\textsuperscript{85} Ibid.
\textsuperscript{87} Ibid., 248.
\textsuperscript{88} Donald T. Critchlow, \textit{The Conservative Ascendancy}, (Lawrence: University of Kansas Press, 2011), 75.
popularity might prompt the administration to “reexamine its position” regarding busing.\textsuperscript{90} “The people who were more or less kept in the woodshed by the old guard that was removed from the White House seemed to have emerged with greater credibility and the President needs them now,” Nathaniel Jones argued referring to the first years of the administration. “There really is nowhere for the Administration to go. If it expects to regain any credibility it has got to listen to these guys.”\textsuperscript{91}

Over the course of the late spring and early summer Nixon made no public statements regarding busing. In addition, there is little record of Nixon discussing the matter with his advisers. When school opened in the fall of 1973, just 28 percent of African-American students in 32 northern and western states attended majority white schools.\textsuperscript{92} The number was not much higher in the border-states—Delaware, Maryland, Kentucky, West Virginia, Missouri, and Oklahoma, along with the District of Columbia—where just 31.8 percent of black students attended schools that were more than 50 percent white.\textsuperscript{93} In the northern and western states, 55.9 percent of African-American students attended schools that were over 80 percent black.\textsuperscript{94} In Pennsylvania, New York, and New Jersey, the segregation increased between 1970 and 1972.\textsuperscript{95} Despite the continued uncertainty regarding plans for integration, schools had opened in September, as the \textit{New York Times} observed, in a generally encouraging atmosphere of peace.\textsuperscript{96}

In the fall of 1973, antibusing momentum increased in many northern states. On September 6, 1973, Frank Kelley, the attorney general of Michigan, requested an immediate Supreme Court review of the Detroit school desegregation case. In petitioning the Court, Kelley

\textsuperscript{91} Ibid.
\textsuperscript{94} Ibid.
\textsuperscript{95} Ibid.
noted confusion in Michigan arising from conflict and contradiction in the decisions of various lower courts. Following Kelley’s lead, 44 other suburban school districts across the country petitioned the Supreme Court to clarify the constitutionality of city-suburban busing.97

Four days later, Nixon himself reignited the busing controversy in a radio address. On September 10, Nixon called busing an “unsatisfactory remedy for the inequities and inequalities of educational opportunity that exist in our country, tragic as those discrepancies are” and an area of “renewed interest.”98 His remarks seemed to baffle many national leaders. William L. Taylor, the director of the Center for National Policy Review and formerly a staff director at the United States Civil Rights Commission, noted that schools had opened without fanfare in the fall of 1973. “I just hope the Administration,” remarked Taylor, “doesn’t begin to fan the flames now.”99 The *New York Times* editorialized that Nixon “quite gratuitously revived the emotion-laden argument about school busing—a subject that has been blessedly quiescent for many months.”100

Nixon’s timing—after the tranquil opening of schools, in the midst of the Watergate controversy, and contrary to the advice of Nixon’s increasingly liberal advisers—was mystifying. Some speculated he was trying to distract the country from Watergate. Vernon Jordan, president of the National Urban League and a noted civil rights activist, had cautioned since the spring that Nixon might try to use the busing controversy for those ends. “Black Americans may be used as a scapegoat to divert national attention from the Watergate mess,” Jordan warned.101 After Nixon’s September statement, Arlie Schardt, associate director of the

American Civil Liberties Union national office in Washington, joined other critics in accusing Nixon of political opportunism. “The raising of that issue now seems like a diversionary tactic to bring back to life something that had life last year only because of his efforts,” Schardt suggested. “There was not even the slightest pressure to start this controversy again. And I hope this won’t be the opening shot, because almost from coast to coast it’s been a peaceful school opening. It is very sad.”\textsuperscript{102} He concluded with defiance insisting, “peoples’ minds will not be taken off Watergate.”\textsuperscript{103}

But Nixon’s need for some kind of distraction only worsened during the fall of 1973 as the Watergate scandal worsened. Suddenly, developments over Watergate and the revived controversy over busing seemed to unfold in alternating lockstep on the national stage. On October 10, Vice President Agnew, among the administration’s staunchest opponents of busing, resigned after striking a plea deal with the Justice Department on charges of federal tax evasion, bribery, and extortion. Agnew was sentenced to three years of probation and fined $10,000. In his place, Nixon appointed Gerald Ford, a staunch antibusing Republican congressman from Michigan.

Just ten days after Agnew’s resignation, Nixon, unable to convince Special Investigator Archibald Cox to drop his subpoena for the White House tapes, ordered Elliot Richardson to fire him. Refusing Nixon’s order, Richardson instead resigned his position as attorney general, leaving William Ruckelshaus, Deputy Attorney General, in charge. After Ruckelshaus also declined to fire Cox, Nixon fired him and the conservative Solicitor General Robert Bork legally became acting attorney general. Bork acceded to Nixon’s request. Bork himself had been an opponent of busing. In response to Nixon’s March 1972 announcement seeking a moratorium on

\textsuperscript{103} Ibid.
busing, Bork, then a Yale Law professor, produced a pamphlet distributed widely by the American Enterprise Institute entitled “Constitutionality of the President’s Busing Proposals.” The work argued that “Congress….has the constitutional power to enact President Nixon’s busing proposals.”\textsuperscript{104}

Just a few weeks after the debacle at the Justice Department, in November 1973, the Supreme Court agreed to hear the Detroit busing case. Journalist Tom Wicker wrote that the Supreme Court’s decision would “determine, in effect, if whites will be able to continue to avoid racially integrated schools simply by crossing the city line to the suburbs.”\textsuperscript{105} At the beginning of December, the Sixth U.S. Court of Appeals upheld a plan requiring the busing of 38,000 students in Denver; still, the court allowed 25 all-black schools to remain intact. The court noted that “practical considerations set forth” by the Supreme Court showed the “necessity of tolerating some once-race schools because minority groups concentrate in urban areas.”\textsuperscript{106}

At the start of 1974, just six years after Nixon had first taken office, the North, not the South, had become the center of national attention about busing. The \textit{New York Times} called the region the “last bastion of school segregation.”\textsuperscript{107} In Chicago, for example, 98 percent of black pupils attended majority black schools; in New York, the number was 84 percent.\textsuperscript{108} In his State of the Union Address in January, Nixon indicated that he would “continue to support the passage of legislation which makes busing only a last resort tightly circumscribed even then. I will also continue to work with Congress to revise my proposals in light of unfolding events in this

\textsuperscript{104} \textit{American Bar Association Journal}, July 1972, 692.
\textsuperscript{108} Ibid.
area.”

On February 23, 1974, the Nixon administration filed a brief with the Supreme Court urging it to undo an appellate court decision ordering busing in Detroit and asked that the case be returned to the district court level for evidence that a constitutional violation had occurred. On February 27, appearing in oral arguments before the justices, the administration asked the Court to reject the Detroit desegregation plan in its entirety.

Solicitor General Robert Bork argued that the “fatal flaw” in the plan was that it sought to quantify and mandate a precise ideal ratio of black and white students in a given school rather than simply removing the legal impediments to integration. “Redesigning of demographic patterns is not a proper function for the federal courts” Bork asserted, and busing would lead to “widespread disruption of long-established governmental units.”

On March 1, 1974, several days after Bork’s arguments in front of the Court, a federal grand jury indicted several defendants involved in the Watergate break-in and cover-up—including Haldeman, Mitchell, and Ehrlichman—on charges of conspiracy, perjury and obstruction of justice. The grand jury also named Nixon an un-indicted co-conspirator. Shortly thereafter, the administration began harping on the busing issue once again. On March 23, 1974, Nixon addressed the nation asking for public support for new education legislation and an antibusing law. “Bureaucrats in Washington cannot educate your children,” Nixon said. “The Congress is rapidly approaching the time when it must make decisions that will significantly affect the future of American education.”

Here, Nixon seemed to reiterate his 1972 proposed moratorium, suggesting “I urge favorable consideration of antibusing amendments, such as the

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111 Ibid.
112 Ibid.
amendment currently being sponsored by Representative Marvin Esch of Michigan.”\textsuperscript{114} Esch, a Representative from Michigan, had proposed an amendment that would establish busing as a “limited, last-resort remedy in school desegregation.”\textsuperscript{115} The legislation resembled Nixon’s Equal Educational Opportunities Act which had passed the House but failed in the Senate in 1972.\textsuperscript{116} Senator Claiborne Pell, a Democrat from Rhode Island and chairman of the Subcommittee on Education, said that Nixon was using education as a “divisive political issue” and “reopening a painful wound that was well on the way to being healed through the patience and understanding of our American people.”\textsuperscript{117} The \textit{New York Times} editorialized, “When the busing controversy has subsided, in both nation and Congress, Mr. Nixon’s call for stringent antibusing legislation as part of the Federal education aid package can only be described as disruptive and inflammatory. Instead of responding to the present mood of rational reconciliation, Mr. Nixon appeared intent on rallying the forces of reaction.”\textsuperscript{118}

At the end of March, Congress also returned to the busing issue. On March 26, the House of Representatives voted 293 to 117 to add a measure to a massive education bill requiring that students be allowed to attend the “closest or next closest” school to their home.\textsuperscript{119} In addition, the amendment allowed districts already under busing orders to ask the courts that those directives be “vacated” if they did not meet the requirements of the new legislation.\textsuperscript{120} The \textit{New York Times} editorialized that the House had followed its “own baser instincts and President Nixon’s bad advice” and “tied the albatross of a mischievous anti-busing amendment around the


\textsuperscript{120} Ibid.
The paper continued by suggesting that, “by placing politics against principles… the amendment’s most destructive aspect is that it allows the reopening of long-settled desegregation projects, thereby encouraging dormant forces of reaction to renew their divisive activities.”

In May, the Senate began to debate the new busing legislation. Senator Edward Gurney, a Republican from Florida, had proposed an amendment which went beyond Esch’s amendment. In addition to prohibiting busing beyond the nearest or second nearest school to their homes, it also “re-opened for litigation thousands of existing court busing orders.” Gurney insisted that Americans supported the bill. “If ever there was an issue on which the vast majority of Americans have voiced a unanimous opinion,” Gurney proclaimed, “busing is it.” Nixon publicly supported HR 69 over the Senate version of the bill. Ultimately, the Senate passed and adopted a much weaker busing curb, which only prohibited the transport of students beyond the school second closest to their address.

Gurney, as it happened, was also one of seven members of the Senate Watergate Committee. Senator Sam Ervin, the head of the committee, eagerly joined Gurney on the floor of the Senate to defend his busing amendment and argue that the neighborhood school concept should be the governing tenant in education legislation. In fact, of the seven members of the Senate Watergate Committee—Ervin, Baker, Gurney, Lowell Weiker, Joseph Montoya, Herman Talmadge, and Daniel Inouye—five, all but Weiker and Inouye, were staunchly opposed to busing. The New York Times suggested that the busing issue “is a guaranteed winner in that bloc

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122 Ibid.
123 John Lewis, “Stakes were High in Busing Victory,” Afro-American, May 25, 1974, 1.
125 John Lewis, “Stakes were High in Busing Victory,” Afro-American, May 25, 1974, 1.
of Senators that Mr. Nixon is now believed to see as his ultimate bulwark against being forced from office.”

On May 15, the Senate voted 47 to 46 against the House-approved legislation, which included Esch’s amendment. The Senate had been so closely divided on the bill in the days before the vote that Gerald Ford, now the Vice President, appeared in the Senate chambers to break a possible tie. Senator Jacob Javits, a Democrat from New York, celebrated the Senate’s narrow rejection of the bill, suggesting its passage would have sent “the wrong signal” and “initiate[d] confrontation [when] there’s enough instability in the country….the ground is heaving under our feet.”

The busing controversy soon returned to the courts. On June 21, 1974, Federal District Judge W. Arthur Garrity Jr. ruled that Boston’s schools were racially segregated and instructed the city to “dismantle the dual school system.” In issuing his decision, Garrity wrote that school officials “knowingly carried out a systematic program of segregation affecting all the city’s students, teachers, and school facilities and have intentionally brought about and maintain a dual school system.” A spokesman for the New England office of the NAACP said that “we are very glad that justice is finally coming to the forefront.” The New York Times reported “the decision is likely to have important implications for other Northern and Western cities because it deals with the concept of de facto segregation and neighborhood schools.” The School Committee chairman, John J. Kerrigan, however, said the ruling was an “outrage” and that it would disproportionately affect poor whites in Boston. Massachusetts Senator Ted

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129 Ibid.
130 Ibid.
131 Ibid.
Kennedy did his best to calm the waters, saying “everybody is blowing this issue out of proportion. I think politicians and the press share the blame for that.”132

While busing remained an inflammatory issue, by the summer of 1974, the American public showed an increasing disdain not only for the controversy, but also for busing itself. A Gallup poll conducted in the spring of 1974 revealed that, while most Americans favored integration of public schools, just 9 percent of blacks and 4 percent of whites favored cross-district busing to achieve a more equal racial balance.133 Even the civil rights activists and civil rights progressives seemed to temper their views and their expectations. “A growing number of civil rights supporters would not be too disappointed if the high court found a compromise formula that would ameliorate the passions that have been aroused by the issue,” the Washington Post reported.134 Across the country, the NAACP began to support Atlanta-style integration plans, which surrendered demands for full integration in exchange for increased African-American control over school systems.

These plans reflected a transformed civil rights movement, which seemed to have splintered into an upwardly-mobile middle-class interested primarily in economic equality, a radicalized faction advocating separatism, and a frustrated group in the middle resigned to continued rejection by white society. Representative Shirley Chisholm, a Democrat from New York and a leader in the Congressional Black Caucus, noted that black students had found success in mostly black schools where African-American teachers and administrators were “concerned and committed to educating their children.”135

132 Ibid.
134 Ibid.
135 Ibid.
On July 23, 1974, the Senate-House conferees charged with reconciling the House and Senate education bills reached a compromise that limited the courts’ ability to order busing for the purpose of school desegregation. The legislation allowed the courts to order busing if it was necessary to protect minority students’ “constitutional rights” but prohibited transport beyond the second-nearest school. In addition, the bill prohibited busing if it posed a risk to a student’s health or presented “a significant impingement on the educational process.”

The following day, the Senate approved by a vote of 81 to 15 the $25 billion education bill, which included the busing provision and sent the legislation to the House of Representatives. Senator Jacob Javits observed the Senate made “a very significant concession” on the busing issue and surrendered “a great deal of its position.”

On July 24, 1974, in *U.S. v. Nixon*, the Supreme Court ordered the White House to turn over the tape recordings of 64 Oval Office conversations. In the 8-0 decision, with William Rehnquist recusing himself, the Court upheld federal district judge John J. Sirica’s ruling that Nixon produce the White House tapes and rejected Nixon’s claim that the tapes were protected by executive privilege and the need for confidentiality with his closest advisers. The Court ruled that criminality negates executive privilege. “We cannot conclude that advisers will be moved to temper the candor of their remarks by the infrequent occasions of disclosure,” the Court stated, “because of the possibility that such conversations will be called for in the context of a criminal prosecution.”

The following day, on July 25, the Supreme Court delivered its ruling in the case *Milliken v. Bradley*. In a 5-4 decision, the Court ruled that busing between city and suburban districts to achieve racial balance was unconstitutional, unless it was proven that both districts involved in

137 Ibid.
the busing practiced discrimination. Warren Burger joined the three other Nixon appointees—
William Rehnquist, Lewis Powell, and Harry Blackmun—along with Potter Stewart in voting to
limit busing between the suburbs and Detroit. Writing for the majority, Burger stated that the
lower courts had used a “wholly impermissible remedy” in incorporating 53 suburban districts
into Detroit’s integration plan when there was no proof that those districts had discriminated.\footnote{Warren Weaver, “Decision by 5 to 4: Curb on Detroit Area Busing Stirs Bitter Marshall Dissent Opinion,” \textit{New York Times}, July 26, 1974, 1.}
He noted that “the constitutional right of the Negro respondents in Detroit is to attend a unitary
school system in that district. Unless petitioners [opponents of the merger] drew the district lines
in a discriminatory fashion or arranged for white students residing in the Detroit district to attend
schools in Oakland and Macomb counties, they were under no constitutional duty to make
provisions for Negro students to do so.”\footnote{Ibid.}

The divisive and partisan character of the \textit{Milliken} decision was also reflected in the four
of whom were Democrats. Writing for the minority, Marshall accused the Court of an
“emasculating of our constitutional guarantee of equal protection” and called the decision “a
giant step backwards” in desegregation premised on a “largely fictional account” of the Detroit
plan.\footnote{Ibid.} The \textit{New York Times} characterized Marshall’s opinion as “unusually bitter.”\footnote{Ibid.}
Marshall proclaimed that the ruling guaranteed that “Negro children in Detroit will receive the
same separate and inherently unequal education in the future as they have been
unconstitutionally afforded in the past.”\footnote{Ibid.} He said the “inter-district relief was necessary and
appropriate because the condition of segregation within the Detroit school district could not be
cured with a Detroit-only remedy.”¹⁴⁴ Noting increasing resistance to busing, Marshall added that the decision “is more a reflection of a perceived public mood that we have gone far enough in enforcing the Constitution’s guarantee of equal justice than it is the product of neutral principles of law.”¹⁴⁵ Our “nation, I fear, will be ill-served by the Court’s refusal to remedy separate and unequal education,” Marshall brooded, “for unless our children begin to learn together, there is little hope that our people will ever learn to live together.”¹⁴⁶

According to the New York Times, the decision was “viewed by supporters of school integration as their most serious setback since the victory they won when the Supreme Court prohibited separate but equal education facilities for black and white children in its landmark decision of 1954.”¹⁴⁷ Nathaniel Jones, general counsel for the NAACP, said the Milliken was a “most unfortunate decision” and a “giant step backwards toward the separate but equal doctrine.”¹⁴⁸ He argued that the Court “said to black people: ‘You have rights but you don’t have a remedy.’ We’re back in the same position as we were before Dred Scott.”¹⁴⁹ Detroit Mayor Coleman A. Young insisted “the basic issue remains and that is the problem of unequal educational opportunity of racial discrimination, and of insufficient money to provide our children with quality public education. The problem will not go away.”¹⁵⁰ The long-range impact of the decision, the New York Times editorialized, would be “to solidify and possibly accelerate the demographic forces that in recent years have divided many of America’s large metropolitan areas into dual cities, one largely black and poor, the other mostly white and

¹⁴⁴ Ibid.
¹⁴⁵ Ibid.
¹⁴⁶ Ibid.
¹⁴⁷ Ibid.
affluent.”

John W. Porter, Michigan’s superintendent for public education, commented, “I guess this means we will have to go back to the drawing board to figure out how the metropolitan Detroit area will get the experiences they so importantly need.”

No surprisingly, Michigan Governor William G. Milliken warmly praised the decision. “I am delighted the highest court in the land agrees that cross-district busing is not a permissible remedy in this case,” he announced. “It is a victory for reason.” Vice President Ford called the ruling “a great step forward to finding another answer to quality education.” In addition, the reaction of some leaders of the African-American community reflected its increasingly fractured position on busing and racial separatism. Derrick Bell, for example, a black professor of law at Harvard, asserted “the insistence on integrating every public school that is black perpetuates the racially demeaning and unproven assumption that blacks must have a majority white presence in order to either teach or learn effectively.”

Just two days after the Court’s decision in Detroit, on July 27, 1974, the House Judiciary Committee voted 27 to 11 to recommend the impeachment of President Nixon. Six Republicans joined 21 Democrats in voting for three articles of impeachment, which included obstruction of justice, abuses of power, and contempt for failing to respond to Congressional subpoenas. The Committee charged Nixon engaging “personally and through his subordinates or agents in a course of conduct or plan designed to delay, impede, and obstruct the investigation.” On July 30, 1974, Nixon turned over the controversial Oval Office recordings to Sirica, as ordered by the Supreme Court. That same day, even as the Judiciary Committee approved an additional article

153 Ibid.
of impeachment against Nixon, the White House insisted that the House would ultimately “weigh the evidence and vote against impeachment.”

On July 31, the House voted to approve the education bill containing the antibusing provisions compromise language by an unexpectedly large margin of 323 to 83. Carl D. Perkins, a Democratic Congressman from Kentucky and the manager of the bill on the floor, suggested to the full House, “You have more antibusing provisions in this bill than you have ever had in the history of Congress.” A reporter for *Afro-American* predicted on August 8 that Nixon “will sign the bill.” Nixon, however, would not have that chance.

On August 8, 1974, Nixon announced his resignation of the presidency before the House of Representatives could vote on articles of impeachment. In doing so, he became the first and only president to resign from office. “I have never been a quitter,” Nixon told the nation in a primetime address. “To leave office before my term is completed is abhorrent to every instinct in my body. But as President, I must put the interests of America first.” The next day, Nixon gathered his staff and the press at the White House. “You are here to say goodbye to us,” Nixon informed them, “and we don’t have a good word for it in English—the best is au revoir. We will see you again.”

As he departed from Washington, Nixon seemed to acknowledge tacitly the harmful pathology that had cost him the presidency and public humiliation. He closed his farewell

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On August 21, 1974, less than two weeks after Nixon resigned, his successor, Gerald Ford—an appointed, not an elected president—signed the education bill. “I think it is fair to say that this legislation places reasonable and equitable restrictions upon the problem of busing,” Ford announced, “and in conjunction with the Supreme Court decision will hopefully relieve that problem and make the solution far more equitable and just.”163 As Ford continued, he laid out a plan that would become a premonition of his administration’s position not only on busing, but also on other important civil rights issues. “It is my judgment that H.R. 69 represents the kind of approach that in this day and age we must follow,” Ford proclaimed, “if we are to do the right thing in education, in housing, and in a multitude of other highly essential programs for the benefit of our country as a whole.”164

Ford delivered his remarks in the auditorium at HEW. The irony would not have been lost on Robert Finch, Leon Panetta, and so many others who had labored within the agency’s massive bureaucracy for so many years with a single principle rising above the rest: that educational equality for African-American children depended on an integrated school system.

162 Ibid.
164 Ibid.
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