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BACKGROUND ON BUSING

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Department of Justice
Washington, D.C. 20530

Attached is the current draft of busing legislation under consideration by the Department of Justice.

Title I, which is accompanied by a preliminary section-by-section analysis, is currently being examined by a number of prominent constitutional law scholars, and revisions may be made to take account of doubts which any substantial number of them may express. A brief description of the principal controversial provisions of this Title is as follows:

(1) Procedural requirements are established to assure that any remedies directed at altering student population in the schools are limited to producing the situation which would have existed had no unlawful discrimination occurred -- rather than to establishing a racial balance within each school which is the same as that of the entire school district. (Section 7)

(2) Busing as a remedy to eliminate racial imbalance is permitted only when that imbalance is the result of discriminatory action by the State or local education agency. Imbalance attributable to other unlawful causes (e.g. intentional refusal of State authorities to permit low-income housing in white communities) would have to be remedied by other means, such as construction of new schools. (Section 8)

(3) Busing is, generally speaking, prohibited as a permanent remedy. If it has not succeeded in eliminating the effects of unlawful discrimination within an initial three-year period and a subsequent two-year extension, it must be replaced by other remedies in the absence of "extraordinary circumstances." (Section 10(a))

Title II of the draft has recently been added, to include in the bill a proposal for a National Commission to assist local communities in desegregation efforts. A section-by-section analysis of this Title is not yet available, but the provisions are largely self-explanatory. A central feature of the proposal is that the Commission will operate solely as a catalyst for community action. It will



have no power to prepare desegregation plans, to serve as a court-appointed mediator, to investigate violations of law, or to participate or assist in administrative or judicial proceedings. (Section 6)

June 11, 1976

A B I L L

To establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "School Desegregation Standards and Assistance Act of 1976."

Title I. Standards and Procedures for School Desegregation Cases.

Sec. 2. Statement of Findings.

The Congress finds --

(a) that discrimination against students, because of their race, color, or national origin, in the operation of the Nation's public schools violates the Constitution and laws of the United States and is contrary to the Nation's highest principles and goals;

(b) that the Constitution and the national interest mandate that the courts of the United States provide appropriate relief to prevent such unlawful discrimination and to remove the continuing deprivations, including the separation of students, because of their race, color or national origin, within or among schools, that such discrimination has caused;



(c) that the purpose of such relief is to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct, and so to free society and our citizens from the conditions created by unlawful acts.

(d) that, although the courts have found that, to achieve these ends, it is necessary in some cases to require the assignment and transportation of students, on the basis of their race, color, or national origin, to schools distant from their homes, such remedy can, if extended in scope and duration, impose serious burdens on the children affected and the resources of school systems, impair the quality of education, and impede the development of tolerance and cooperation in community life.

(e) That where a particular school system has intentionally been used to foster unlawful segregation, it may be appropriate, as a last resort, to require that system to assign and transport students for the purpose of eliminating the effects of such unlawful acts; but such a requirement, when imposed to relieve the indirect consequences in the schools of discriminatory action by other agencies of government, places on the school system a burden it should not bear and cannot effectively sustain without undue harm to the educational process;

(f) that because of its detrimental effects, required student assignment and transportation should be employed only when necessary as an interim and transitional remedy, and not as a permanent, judicially mandated feature of any school system;

(g) that, because the existing case law, while evolving, is insufficiently clear and developed on points of concern to the Congress, there is a need for legislative standards and procedures to ensure that the courts will, in determining the relief necessary and appropriate in school desegregation cases, take adequate account of the foregoing considerations.

Sec. 3. Purpose: Application.

(a) The purpose of this Act is to prescribe standards and procedures to govern the award of injunctive and other equitable relief in school desegregation cases brought under Federal law, in order (1) to prevent the continuation or future commission of any acts of unlawful discrimination in public schools, and (2) to remedy the effects of such acts of unlawful discrimination, including, by only such means as are appropriate for the purpose, the ^{present} degree of concentration by race, color or national origin in the student population of the schools attributable to such acts. This Act is based upon the power of Congress to enforce the provisions of the Fourteenth Amendment to the Constitution of the United States.

(b) The provisions of this Act shall govern, where applicable, all proceedings for the award or modification of injunctive and other equitable relief, after the date of its enactment, seeking the desegregation of public schools under Federal law, but shall not govern proceedings seeking a reduction of such relief awarded prior to the date of its enactment except as provided in Section 10.

Sec. 4. Definitions.

For purposes of this Act --

(a) "local education agency" means a public board of education or any other agency or officer exercising administrative control over or otherwise directing the operations of one or more of the public elementary or secondary schools of a city, town, county or other political subdivision of a State.

(b) "State education agency" means the State board of education or any other agency or officer responsible for State supervision or operation of public elementary or secondary schools.

(c) "desegregation" means the elimination of unlawful discrimination on the part of a local or State education agency, and the elimination of the effects of such discrimination in the operation of its schools.

(d) "unlawful discrimination" means action which, in violation of Federal law, discriminates against students on the basis of race, color or national origin.

(e) "State" means any of the States of the Union and the District of Columbia.

Sec. 5. Liability

A local or State education agency shall be held subject

(a) to relief under Section 6 of this Act if the court finds that such local or State education agency or

its predecessor has engaged or is engaging in an act or acts of unlawful discrimination; and

(b) to relief under Section 7 of this Act if the court further finds that the act or acts of unlawful discrimination have caused a greater present degree of concentration, by race, color or national origin, in the student population of any school within the jurisdiction of the local or State education agency than would have existed had no such act occurred.

Sec. 6. Relief - Orders prohibiting unlawful acts and eliminating effects generally.

In all cases in which, pursuant to Section 5(a) of this Act, the court finds that a local or State education agency or its predecessor has engaged or is engaging in an act or acts of unlawful discrimination, the court shall enter an order enjoining the continuation or future commission of any such act or acts and providing any other relief against such local or State education agency as may be necessary and appropriate to prevent such act or acts from occurring or to eliminate the present effects of such act or acts; provided, however, that any remedy directed to eliminating the effects of such act or acts on the present degree of concentration, by race, color or national origin, in the student population

of any school shall be ordered in conformity with Section 7 of this Act.

Sec. 7. Relief - Orders eliminating the present effects of unlawful acts on concentrations of students.

(a) In all cases in which, pursuant to Section 5(b) of this Act, or any other provision of Federal law, the court finds that an act or acts of unlawful discrimination by a local or State education agency or its predecessor have caused a greater present degree of concentration, by race, color or national origin, than would otherwise have existed in the student population of any schools subject to the jurisdiction of such agency, the court shall order only such relief as may be necessary and appropriate to adjust the composition by race, color or national origin, of the particular schools so affected or, if that is not feasible, the overall pattern of student concentration by race, color or national origin in the school system so affected, to what it would have been, pursuant to findings made under this Section, had no such act or acts occurred.

(b) Before entering an order under this Section the court shall receive evidence, and on the basis of such evidence shall make specific findings, concerning the degree to which the concentration, by race, color or national origin, in the

student population of particular schools affected by unlawful acts of discrimination on the part of the local or State agency or its predecessor presently varies from what it would have been had no such acts occurred. If such findings as to particular schools are not feasible, or if for some other reason relief cannot feasibly be fashioned to apply only to the particular schools that were affected, the court shall receive evidence, and on the basis of such evidence, shall make specific findings, concerning the degree to which the overall pattern of student concentration, by race, color or national origin, in the school system affected by such acts of unlawful discrimination presently varies from what it would have been had no such acts occurred.

(c) The findings required by subsection (b) of this Section shall be based on conclusions and reasonable inferences from the evidence adduced, and shall in no way be based on a presumption, drawn from the finding of liability made pursuant to Subsection 5(b) of this Act or otherwise, that the concentration, by race, color or national origin, in the student population of any particular school or the overall pattern of concentration in the school system as a whole, is the result of acts of unlawful discrimination.

(d) In all orders entered under this Section the court may, without regard to the other requirements of this Section,

(1) approve any plan of desegregation, otherwise lawful, that a local or State education agency voluntarily adopts, and (2) direct a local or State education agency to institute a program of voluntary transfers of students from schools in which students of their race, color, or national origin are in the majority to schools in which students of their race, color or national origin are in the minority.

Sec. 8. Discriminatory action by other agencies affecting schools.

If any suit is permitted or order entered against a local or State education agency based in whole or in part upon an act or acts of unlawful discrimination by some governmental instrumentality other than that agency or its predecessor, such suit or order shall be subject to this Act, as though such act or acts were attributable to such agency, and the provisions of Section 7 shall be applied separately to the effects of such act or acts. Provided, however, that this Section shall not be interpreted to create any new cause of action or to require relief not otherwise available; and provided further that no order shall be entered under any provision of Federal law requiring the assignment of students in order to alter the distribution of students by race, color or national origin among schools unless such order is based

upon a finding of unlawful discrimination by a local or State education agency which had jurisdiction over such schools, and is limited to the effects of such discrimination.

Sec. 9. Voluntary action; local control.

All orders entered under Section 7 shall rely, to the greatest extent practicable and consistent with effective relief, on the voluntary action of school officials, teachers and students, and the court shall not remove from a local or State education agency its power and responsibility to control the operations of the schools except to the minimum extent necessary to prevent unlawful discrimination by such agency or to eliminate the present effects of such discrimination by such agency or its predecessor.

Sec. 10. Review of orders.

(a) No court-imposed requirement for assignment of students to alter the distribution of students, by race, color or national origin, in schools, other than requirements for voluntary transfers, shall remain in effect for a period of more than three years from the date of entry of the order containing such requirement or, in the case of all final orders entered prior to enactment of this Act, for a period of more than three years from the effective date of this Act, except as follows:

(1) If the court finds, at the expiration of such period, that the defendant has failed to comply with the requirement substantially and in good faith, it may extend the requirement until there have been three consecutive years of such compliance.

(2) If the court finds, at the expiration of such period (and of any extension under (1) above) that the requirement remains necessary to correct the effects of unlawful discrimination determined under the provisions of Section 7 of this Act, it may extend the requirement, with or without modification, for a period not to exceed two years, and thereafter may order an extension only upon a specific finding of extraordinary circumstances that require such extension.

(b) With respect to continuing provisions of its order not covered by subsection (a), the court shall conduct a review at intervals not to exceed three years to determine whether each such provision shall be continued, modified, or terminated. The court shall afford parties and intervenors a hearing prior to making this determination.

Sec. 11. Effect of subsequent shifts in population.

Whenever any order governed by Section 7 of this Act has been entered, and thereafter residential shifts in population occur which result in changes in student distribution, by race, color or national origin, in any school affected by such

order, the Court shall not require modification of student assignment plans then in effect in order to reflect such changes, unless it finds pursuant to Section 7 that such changes result from an act or acts of unlawful discrimination by the local or State education agency or its predecessor.

Sec. 12. Intervention.

(a) The court shall notify the Attorney General of any proceeding to which the United States is not a party in which the relief sought includes that covered by Section 7 of this Act, and shall in addition advise the Attorney General whenever it believes that an order requiring the assignment of students may be necessary.

(b) The Attorney General may, in his discretion, intervene as a party in such proceeding on behalf of the United States, or appear in such proceeding for such special purpose as he may deem necessary and appropriate to facilitate enforcement of this Act, including the submission of recommendations (1) for the appointment of a mediator to assist the court, the parties, and the affected community, and (2) for the formation of a committee of community leaders to develop, for the court's consideration in framing any order under Section 7 of this Act, a five-year desegregation plan, including such elements as relocation of schools, with specific

dates and goals, which would enable required student assignment to be avoided or minimized during such five-year period and to be terminated at the end thereof.

Title II. National Community and Education Commission

Sec. 1. Statement of Findings:

The Congress finds:

(a) that the elementary and secondary education of our Nation's children has been and remains a matter of primary concern to local communities, and school systems capable of providing quality education to all children cannot be achieved or maintained without full community interest and support;

(b) that the Nation's commitment, under the Constitution, to end discrimination against students, because of their race, color, or national origin, in the operation of the public schools can be achieved most certainly, most consistently with our Nation's best traditions, and with most assurance that quality education will be provided for all students, by reliance on the voluntary efforts of concerned citizens, groups, and institutions in affected communities, without the necessity of resort to the processes and remedial powers of the courts; and

(c) that the Federal Government should encourage and assist such voluntary community efforts in furtherance of the Nation's commitment both to quality education and to ending discrimination and the deprivation it has caused.

Sec. 2. Establishment of the Commission.

(a) There is hereby established a National Community and Education Commission (hereinafter referred to as the

"Commission") constituted in the manner hereinafter provided.

(b) The purpose of the Commission shall be to encourage and assist community groups and State and local government organizations, by means of consultation, the provision of technical advice, and informal mediation, in efforts to end unlawful discrimination against students in the public schools and to eliminate the effects of such discrimination without resort to judicial or administrative processes.

Sec. 3. Membership; Organization; Staff.

(a) Composition of the Commission. The Commission shall be composed of nine members who shall be appointed by the President from among individuals who are nationally recognized and respected in business, education, government and other fields and whose experience, reputation, and qualities of leadership qualify them to

carry out the purposes of the Commission. No person who is otherwise employed by the United States shall be appointed to serve on the Commission. No more than five of the members of the Commission at any one time shall be members of the same political party.

(b) Terms of members. The term of office of each member of the Commission shall be three years, except that of the members first appointed to the Commission three shall be appointed for a term of one year and three shall be appointed for a term of two years. Any member appointed to fill an unexpired term on the Commission shall serve for the remainder of the term for which his predecessor was appointed.

(c) Chairman; quorum. The Chairman of the Commission shall be designated by the President. Five members of the Commission shall constitute a quorum.

(d) Compensation of members. Each member of the Commission shall be compensated in an amount equal to that paid at level IV of the Federal Executive Salary Schedule,

pursuant to section 5313 of title 5, United States Code, prorated on a daily basis for each day spent on the work of the Commission, including travel time. In addition, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government Service.

(e) Executive Director; Staff. The Commission shall have an Executive Director, designated by the Chairman with the approval of a majority of the members of the Commission, who shall assist the Chairman and the Commission in the performance of their functions as they may direct. The Executive Director shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Commission is also authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel, including consultants, as may be necessary to enable the Commission to carry out its functions. Such personnel, including the Executive Director, shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in section 5332 or that title.

Sec. 4. Functions of the Commission. The functions of

the Commission shall include:

(1) consulting with community leaders and groups concerning the development, implementation and support of voluntary school desegregation plans in such a way as to avoid conflicts and the invocation of administrative or judicial processes;

(2) encouraging the formation of broadly based community organizations to develop and implement comprehensive programs for voluntary desegregation of schools;

(3) providing advice and technical assistance to communities in preparing and implementing voluntary plans to desegregate schools;

(4) consulting with the Community Relations Service of the Department of Justice, the Office for Civil Rights in the Department of Health, Education, and Welfare, the National Institute of Education, the U.S. Office of Education General Assistance Centers, the United States Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community; and

(5) providing informal mediation services among individuals, groups, and agencies within a community in order to help such individuals, groups, and agencies resolve conflicts, reduce tensions, and develop means of voluntary desegregation of schools without resort to administrative

and judicial processes.

Sec. 5. Limitations on activities of the Commission.

The Commission shall have no authority --

- (1) to prepare desegregation plans;
- (2) to provide mediation services under the order of a court of the United States or of a State;
- (3) to investigate or take any action with respect to allegations of violations of law; or
- (4) to participate in any capacity, or to assist any party, in administrative or judicial proceedings under Federal or State law seeking desegregation of schools.

Sec. 6. Cooperation by other departments and agencies.

All executive departments and agencies of the United States are authorized to furnish to the Commission such information, personnel and other assistance as may be appropriate to assist the Commission in the performance of its functions and the Secretary of Health, Education, and Welfare shall administer all programs committed to him and designed to assist school desegregation efforts in a manner that will facilitate the Commission's work.

Sec. 7. Confidentiality. The activities of the members and employees of the Commission shall be conducted in confidence and without publicity, and the Commission shall not disclose nor have any legal obligation to disclose information acquired, in the regular performance of its duties upon the understanding that the information would be held confidential.

Sec. 8. Expenses of the Commission. Expenses of the Commission shall be paid from such appropriations to the Department of Health, Education, and Welfare as may be available therefor.

Analysis of the "School Desegregation
Standards Act of 1976"

Sec. 2. Statement of Findings

This section sets forth the findings upon which the various provisions of the bill are based. Among the key findings is subsection 2(c) which states that the purpose of the relief in a school desegregation suit is "to restore the victims of discriminatory conduct [in the operation of public schools] to the position they would have occupied in the absence of such conduct" Subsections (e) - (g) state that the remedy of assigning and transporting students to distant schools can impose serious burdens upon school children and have other detrimental effects and that the remedy of required assignment and transportation should be used only as a last resort and within carefully defined limits regarding scope and duration.

Sec. 3. Purpose; Application

(a) The bill prescribes standards and procedures to govern the award of equitable relief^{1/} in school desegregation suits, that is, suits seeking the elimination of discrimination, on the basis of race, color or national origin, against students in public schools.^{2/} The bill applies to any such suit which is based upon Federal law, whether it is brought in a Federal or a State court. Where a lawsuit seeks relief with respect to faculty and staff, as well as students, the bill applies to the extent that the suit relates to students.

The purpose of the bill's provisions is to assure that such relief (1) prevents the occurrence of unlawful discrimination against students in the operation of public schools and (2) remedies, by appropriate means, the effects of such discrimination.

^{1/} The award of declaratory judgments, as well as injunctive and other equitable relief, is within the bill's coverage.

^{2/} "Desegregation" and other pertinent terms are defined in section 4.

The bill is based upon section 5 of the Fourteenth Amendment which authorizes Congress "to enforce, by appropriate legislation," the provisions of the amendment, including the Equal Protection Clause. The bill's coverage of the District of Columbia is based upon Congress' power under Article II, section 8, clause 17 of the Constitution.

(b) The bill applies to school desegregation suits (based upon Federal law) which are filed after its enactment. Regarding suits filed before its enactment, the bill applies to any proceeding, occurring after enactment, for the award of equitable relief. This includes a proceeding based upon a motion of the plaintiff to broaden or strengthen an existing court order. However, except as provided in section 10, the bill does not apply to a proceeding in a pre-enactment case if the proceeding is based upon a motion to reduce or terminate the effect of a desegregation order.

Sec. 4. Definitions

Subsections 4(a), (b) and (e), which define respectively "local education agency," "State education agency" and "State," are self-explanatory.

The definitions of "desegregation" (subsection 4(c)) and "unlawful discrimination" (subsection 4(d)) reflect the purpose of the bill, i.e., regulating the award of relief to remedy discrimination against students in the operation of public schools. Thus, within the meaning of the bill, "unlawful discrimination" is "action which, in violation of Federal law, discriminates against students on the basis of race, color or national origin." This definition incorporates the standards of the Constitution and of Federal civil rights laws.

Under the bill, a "desegregation" suit is one seeking the elimination of (1) "unlawful discrimination" on the part of a local or State education agency^{3/} and (2) the effects of such discrimination in the operation of the schools.

^{3/} Section 8 relates to suits, seeking relief against a local or State education agency, based wholly or partly on the conduct of another governmental instrumentality.

Sec. 5. Liability

Section 5 establishes the basic scheme for relief under the Act. It provides, in subsection (a), that relief of the type described in section 6 will be available whenever the court finds that the defendant, a local or State education agency, "has engaged or is engaged in unlawful discrimination." It provides in subsection (b) that the additional relief of section 7 will be available only when the court finds in addition that the "unlawful discrimination" resulted in an increased present degree of concentration, by race, color or national origin, in the student population of any school. In other words, a finding of unlawful discrimination which consisted only of assigning students to classes, within a school, on the basis of race and which had no effect upon other schools, would subject the defendant to relief under section 6; whereas a finding of unlawful discrimination in the drawing of school boundaries, so as to establish one white school and one black school, would subject the defendant to relief under section 7 as well.

Sec. 6. Relief - Orders prohibiting unlawful acts and eliminating effects generally

This section relates to the award of relief generally to prevent acts of unlawful discrimination by local or State education agencies, and to eliminate the effects of such acts. As stated in the proviso, however, section 7 is the section applicable to the award of any remedy to eliminate the effects of such discrimination on the present degree of concentration, by race, color or national origin, in student population. Thus, section 6 applies to the prevention of all acts of school discrimination, and to the elimination of all effects except the effect of concentration, by race, color or national origin, in student population.

Section 6 provides that the court is (1) to enjoin the continuation or future commission of such discriminatory conduct and (2) to provide other relief needed to prevent the occurrence of the discriminatory acts or to eliminate their present effects, other than effects upon the composition, by race or national origin, of student bodies.

Sec. 7. Relief - Orders eliminating the present effects of unlawful acts on concentration of students

(a) This section becomes applicable when, pursuant to subsection 5(b) or any other provision of Federal law, the court finds that unlawful discrimination by an education agency has caused a greater present degree of concentration, by race, color or national origin, than would otherwise have existed in the student population of any of its schools. (See the discussion of subsection 5(b).) With regard to such discrimination, the court is to order such relief--but only such relief--as is necessary to create the kind of distribution of students, by race, color or national origin, that would have existed had no such discrimination occurred. If feasible, the court's order is to be based upon findings regarding, and is to relate to, the particular schools affected by the discrimination. For example, if the discrimination consisted of artificial alteration of the boundaries between two schools, which affected and now affects the student population of only those two schools, the relief is to relate only to those schools and is to seek only re-creation of the situation which would now exist had the boundaries been established in a nondiscriminatory fashion. In determining what situation would now exist, the court would, of course, take into account shifts in population which have occurred since the alteration of boundaries--including, but not limited to, such shifts as were the identifiable effect of that unlawful act.

In some cases it may be impossible to isolate the effects of a discriminatory act upon particular schools, or to use only those schools in re-creating the situation, insofar as concentration of students by race, color or national origin is concerned, which would now exist within the district absent the discriminatory act. For example, where an identifiable effect of a past discriminatory act was to destroy a mixed residential pattern which would otherwise have subsisted, it may not be feasible, by directing relief only at the schools originally affected, in an area which is now no longer integrated, to achieve effective relief; but the maintenance of a stable mixed neighborhood in another portion of the school district, equivalent to that which would otherwise have existed, may be possible. In such a case, assuming it is still able to identify the effects of discrimination as required by subsection (b), the court may direct its relief at patterns of concentration by race, color or national origin within the school district, rather than at the particular schools originally affected.

(b) Subsection 7(b) describes the type of findings which must be made by the court before section 7 relief may be awarded. The court is to make specific findings concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools affected by unlawful discrimination varies from what it would have been had no such discrimination occurred. For example, a court might find that, but for the discrimination, a school whose student body is presently 50 percent black would have a student body that is 30 percent black. Under subsection 7(a), with regard to that school, the objective of the court's decree would be to achieve a student population which is 30 percent black.

If it is not feasible to make the above findings with regard to particular schools or if it is not feasible to fashion relief limited to the particular schools affected by the discrimination, the court is to make specific findings concerning the degree to which the overall pattern of student concentration, by race, color or national origin, in the school system varies from what it would have been had the unlawful discrimination not occurred. For example, a court might find that, but for the discrimination, the district would have five schools with a student body that is more than 30 percent black; under subsection (a), the objective of the court's decree would be to establish a situation in which five such schools exist.

(c) Subsection 7(c) states that the findings required by subsection 7(b) are to be based on conclusions and reasonable inferences drawn from the evidence adduced. Such findings are not to be based upon a presumption, drawn from the finding of liability made pursuant to subsection 5(b) or resting on some other basis, that the concentration, by race, color or national origin, in the student population of any school or the overall pattern of concentration in the school system is the result of unlawful discrimination.

(d) Subsection 7(d) exempts from section 7's other requirements certain elements of an order entered under section 7. Without regard to such other requirements, the court may (1) approve any (otherwise unlawful) desegregation plan voluntarily adopted by a local or State education agency or (2) direct institution of a program of voluntary majority-to-minority transfers by students.

Sec. 8. Discriminatory action by other agencies affecting schools

This section applies when a lawsuit or an order against a local or State education agency is based wholly or partly upon discrimination by some other governmental instrumentality that has increased the degree of segregation of students by race, color or national origin in the schools. Section 8 would apply, for example, to a suit alleging such discrimination on the part of State, local or Federal housing authorities.

The bill applies to any suit or order of the above type as though the discrimination by the other instrumentality were attributable to the education agency. The provisions of section 7 are to be applied separately to the effects of (1) discrimination by the education agency and (2) discrimination by the other government agency. For example, separate findings are to be made.

The first proviso of section 8 states that the section is not to be interpreted as creating any new cause of action or as requiring relief not otherwise available. If Federal law authorizes a cause of action against a school system on the basis of discrimination by some other government agency, then section 8 governs the award of relief in such a case.

The second proviso states in effect that no order requiring the assignment of students, to alter their distribution by race, color or national origin, may be based upon discrimination by an instrumentality other than the local or State education agency with jurisdiction over such students. Relief requiring such assignments may be issued only on the basis of a finding, made pursuant to section 7, of discrimination by such education agency.

Sec. 9. Voluntary action; local control

This section provides that any order entered under section 7 is to rely, to the greatest extent practicable and consistent with effective relief, on the voluntary action of school officials, teachers and students. The court is not to remove local or State control of the school system except to the minimum extent necessary to prevent discrimination and eliminate its present effects.

Sec. 10. Review of orders

(a) Subsection 10(a) relates to the duration of any court-imposed requirement for assignment of students to alter their distribution, by race, color or national origin, in schools, other than a requirement for voluntary transfer. Subject to the exceptions stated below, a requirement subject to subsection 10(a) is not to remain in effect for more than three years after the entry of the pertinent court order or, if the requirement was imposed before enactment of the bill, for more than three years after the date of enactment of the bill.

The exceptions to the three-year limit are as follows:

(1) If the court finds, at the end of the three-year (or shorter) period, that the defendant has failed to comply with the requirement substantially and in good faith, the court may extend the requirement until there have been three consecutive years of such compliance. (2) If the court finds, at the expiration of the period (and any extensions under (1) above), that the requirement is still necessary to correct the effects of unlawful discrimination determined under section 7, the court may extend the requirement, with or without modification, for a period not to exceed two years. After one such two-year (or shorter) extension, there can be no further extension unless the court makes a specific finding of extraordinary circumstances which require such extension. An ordinary finding of need of the type which can warrant an initial two-year extension is not in itself sufficient to justify a further extension; extraordinary circumstances must be shown.

(b) Subsection 10(b) relates to continuing court-ordered requirements not subject to subsection 10(a), i.e., requirements other than those relating to the assignment of students to alter their distribution by race or national origin. Regarding such other requirements, subsection 10(b) states that the court is to review them at intervals not to exceed three years. After notice and opportunity for a hearing, the court is to determine whether the requirement is to be continued, modified or terminated.

Sec. 11. Effect of subsequent shifts in population

This section states that, whenever an order subject to section 7 has been entered and thereafter shifts in housing patterns cause changes in student distribution by race, color

or national origin, ordinarily the court is not to require modification of the student-assignment plan to compensate for such changes. The court may require such modification if it finds, pursuant to section 7, that the changes in student distribution result from discrimination on the part of the local or State education agency.

Sec. 12. Intervention

(a) Subsection 12(a) provides that the court is to notify the Attorney General of the United States of any proceeding, to which the United States is not a party, in which the relief sought includes relief covered by section 7. This applies whenever section 7 is applicable whether in regard to a new suit, an application for additional relief, or a proceeding necessitated by paragraph 10(a)(2) in a pre-enactment suit. In addition, the court is to advise the Attorney General whenever it believes that an order requiring the assignment of students in order to alter their distribution by race, color or national origin may be necessary.

(b) This subsection states that, in any proceeding covered by subsection 12(a), the Attorney General may, in his discretion, intervene as a party. Alternatively, the Attorney General may elect to appear for such special purpose as he deems necessary to facilitate enforcement of the bill. Such special purposes include recommending (1) that a mediator be appointed to assist the court, the parties and the affected community or (2) that a committee of community leaders be appointed to prepare, for the court's consideration, a five-year desegregation plan, with the objective of enabling required assignment of students to be avoided or minimized during the five-year period and terminated at the end of that period.

B

PRESIDENT FORD'S STATEMENTS ON BUSING

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(On signing HR 69,
an omnibus education bill)

Much of the controversy over H.R. 69 has centered on its busing provisions. In general, I am opposed to the forced busing of school children because it does not lead to better education and it infringes upon traditional freedoms in America.

As enacted, H.R. 69 contains an ordered and reasoned approach to dealing with the remaining problems of segregation in our schools, but I regret that it lacks an effective provision for automatically re-evaluating existing court orders. This omission means that a different standard will be applied to those districts which are already being compelled to carry out extensive busing plans and those districts which will now work out desegregation plans under the more rational standards set forth in this bill. Double standards are unfair, and this one is no exception. I believe that all school districts, North and South, East and West, should be able to adopt reasonable and just plans for desegregation which will not result in children being bused from their neighborhoods.

I think it is fair to say that this legislation places reasonable and equitable restrictions upon the problem of busing, and in conjunction with the Supreme Court decision will hopefully relieve that problem and make the solution far more equitable and just.

STATEMENT BY THE PRESIDENT REQUESTED
BY BOSTON MEDIA REPRESENTATIVES

October 12, 1974

Boston is a fine, proud City. The cradle of liberty. Where many of the freedoms that we all so cherish today in this Country, were born, 200 years ago. The people of Boston share a tradition for reason, fairness and respect for the rights of others. Now, in a difficult period for all of you, it is a time to reflect on all that your City means to you. To react in the finest tradition of your City's people. It is up to you, every one of you, every parent, child, to reject violence of any kind in your City. To reject hatred and the shrill voices of the violent few.

I know that nothing is more important to you than the safety of the children in Boston. And only your calm and thoughtful action now can guarantee that safety. I know that you will all work together for that goal. And have one more thing to be proud of in the cradle of liberty.

ARTHUR ALBERT, EXECUTIVE NEWS DIRECTOR,
WJAR-TV, SARAH WYE, CORRESPONDENT,
WJAR-TV AND JACK CAVERNAUGH, CORRESPONDENT,
WJAR-TV, Sheraton-Islander Inn
Newport, Rhode Island

QUESTION: Mr. President, schools open very soon around the country and in New England. And in Boston and Springfield, Massachusetts that means forced busing for desegregation. You have had a position on busing before. Can you take a minute and clarify your position on busing? What is your position on busing?

THE PRESIDENT: Before I say anything about what my own personal views are, I want to say most emphatically that I, as President and all that serve with me in the Federal Government, will enforce the law, no question about that.

We will, to the extent necessary, make sure that any court order is enforced.

Now I add one thing that I hope is understood. We don't want any conflict developing in Boston or any of these other communities that have court orders forcing busing in local school systems. So I have sent up the the Attorney General, and the community relations experts -- they have four or five people up there that are working with the court, with the school boards and with parents and with others. At the same time the new Secretary of HEW, David Mathews, has sent up his top man to work with the school system. And that individual, Dr. Goldberg, has authority to spend extra Federal funds to try and improve the situation in Boston.

Now, having said the law is going to be enforced, that we are going to try and moderate and work with the people in Boston, I will give you my views on what we are trying to do.

The basic thing that everyone is trying to do is to provide quality education. there is a difference of opinion on how you achieve quality education. My personal view is that forced busing by courts is not the way to achieve quality education. I think there is a better way.

We have had court order forced busing in a number of communities. There are studies that indicate that it has not provided quality education to the young people, which is of personal concern.

I think there is a better way to do it. In my judgment, if the courts would follow a law that was passed, I think, two years ago, maybe two and a half years ago, it said that in those areas where you have a problem in seeking desegregation, the court should follow five or six rules. Busing was the last option.

There were five other proposals that courts could have followed and I think we would have avoided a lot of this conflict. That is one way I think we could have solved this problem. The other is the utilization of Federal funds to upgrade school buildings, provide better teacher-pupil ratios, to provide better equipment, that is the way, in my opinion, we achieve what we all want, which is quality education.

I just don't think court order, forced busing, is the way to achieve quality education. I think there is a better way.

JULIUS HUNTER, NEWS ANCHORMAN AND
HOST, ROBERT HARDY, KMOX-RADIO
ANNOUNCER, RICHARD DUDMAN, ST.
LOUIS POST DISPATCH AND JOHN FLACK,
POLITICAL EDITOR, ST. LOUIS GLOBE
DEMOCRAT, Gateway Tower Building,
St. Louis, Missouri

QUESTION: Mr. President, busing is a subject, a practice that is distasteful to a large segment of the American population, both black and white. If it is such a distasteful and wasteful process, why bus? Is there any alternative that you see?

THE PRESIDENT: I think that we have to decide, in the first place, what we are really trying to do by busing before you discuss whether it is good or bad. All of us -- white, black, every American, in my opinion -- wants quality education.

Now, the court decided in 1954 that separate but equal schools were constitutional and the courts have decided that busing is one way to try and desegregate on the one hand and perhaps improve education on the other.

Many of those decisions have raised great problems in many, many localities -- Louisville and Boston being the most prominent at the present time.

Discussing those two communities, let me very strongly emphasize the court has decided something. That is the law of the land. As far as my Administration is concerned, the law of the land will be upheld, and we are upholding it.

But then, I think I have the right to give what I think is a better answer to the achievement of quality education, which is what we all seek, and there is always more than one answer.

I think that quality education can be enhanced by better school facilities, lower pupil-teacher ratios, the improvement of the neighborhood, as such. Those are better answers, in my judgment, than busing under a court order.

Quality education can be achieved by more than one method. I was reading in the Washington Post this morning a column by one of the outstanding black columnists, Mr. Raspberry, and Mr. Raspberry has come to the conclusion that court ordered, forced busing, is not the way to achieve quality education for blacks or whites in a major metropolitan area.

That is a very significant decision by Mr. Raspberry, who I think Mr. Dudman, for example, highly respects.

QUESTION: I certainly do.

In Boston and Louisville, where the court has ordered busing, how well do you think the people of those two cities have conducted themselves in bringing about court ordered exchanges of black and white students?

THE PRESIDENT: There have been some disorders there over the last year or more.

QUESTION: I am thinking about this fall. There have been Federal agents there, of course, to try to maintain order. Are you reasonably well satisfied with the way things have happened or not?

THE PRESIDENT: So far, there has been a minimum of local disorder. I hope that that attitude can prevail in the months ahead as the police involvement and the Federal marshal involvement becomes less and less.

I am also an optimist, even though I disagree with the method by which they are trying to achieve quality education.

QUESTION: Are you counseling the people of those two cities to cooperate with the courts, or are you encouraging them to maintain their strong feelings in some cases that this is an improper solution?

THE PRESIDENT: Last year I did a televised tape urging the people of Boston to cooperate with the court and to maintain law and order. I did that then, and I have counseled everybody that I talked with in Boston to encourage their fellow Bostonians to obey the law and follow the court's action.

REMARKS OF THE PRESIDENT AT THE 18th BIENNIAL
NATIONAL FEDERATION OF REPUBLICAN WOMEN'S
CONVENTION, Dallas, Texas, September 13, 1975

Let me add at this point, if I might, the matter of deep concern to me -- a matter that I am positive is of deep concern to all, those here and 214 million Americans -- we have tried hard, we have written laws, we have appropriated money to accomplish quality education for the young in America. In 1954 the courts of this country decided that one way in their estimation to achieve that was court order forced busing. Now, regardless of how we individually may feel, the law of the land must be upheld.

But if I could give you a view that I have expressed, not just recently but for 10 or more years, there is a better way to achieve quality education in America than by forced busing. We can and we will find a better way.

We can increase pupil-teacher ratios; we can improve facilities, have more and better equipment, rely more heavily on the neighborhood school concept. There is a way and we must find it.



INTERVIEW WITH THE PRESIDENT BY
BOB ABERNETHY, JESS MARLOW
AND WARREN OLNEY, KNBC-TV
Century Plaza Hotel, Los
Angeles, California

September 20, 1975

QUESTION: Mr. President, you have said that State courts in their effort to integrate the schools have ignored less drastic alternatives than busing. What specifically do you mean -- which less drastic alternatives?

THE PRESIDENT: The Congress in 1974 approved what was labeled the Esch Amendment, laid out six or seven specific guidelines for the courts to follow. The last of the recommendation to achieve what the courts should do was busing -- court ordered forced busing to achieve racial integration. Those steps, and I was in the Congress part of that time and I signed the bill that became law, those steps include a magnet school, utilization of the neighborhood school concept, the improvements of facilities, et cetera. I hope that in the future, as some course in the past, recent past, will utilize those guidelines rather than plunging into court ordered forced busing as the only option for the settlement of the segregation problem in the school.

QUESTION: The whole option to busing tends to get confused with racism and there are a lot of racial epithets and what not being thrown about on the protest line. Do you have anything to say about that? You are opposed to busing but how do you make the distinction?

THE PRESIDENT: I don't think opposition to busing really has any relationship to racism on the part of most people. I think the best illustration, one of the rising young columnists in the country, Bill Raspberry, a black, has been most forceful and most constructive, I think, in opposing the court approach in many cases.

I have been opposed to busing as a means of achieving quality education from its inception. My record in the Congress in voting for civil rights legislation is a good one, so I believe that the real issue is quality education. It can be achieved better for disadvantaged people, minorities, by other means.

I have sought, through the support of the Esch amendment, through adequate funding, to help Boston and other communities where this problem exists, to upgrade their school system rather than to have this very controversial approach of forced busing.

QUESTION: Do you think it will be an issue in next year's campaign?

THE PRESIDENT: I hope it won't.



October 30, 1975

QUESTION: Mr. President, school busing is a problem affecting Kansas City and many other cities in the country. You have not exactly endorsed school busing to achieve integration in the schools, but at the same time, you haven't exactly outlined an alternative.

What hopes can you hold out for cities like Kansas City that run the risk of losing millions of dollars in Federal aid in the not too distant future if they don't use school busing?

THE PRESIDENT: Really, I have spoken out consistently and for some time on this problem. I was one of the original Members of the House or the Senate that said that court-ordered forced busing to achieve racial balance was not the way to accomplish quality education.

That has been a consistent statement, view, policy of mine for a number of years. I believe it even more fervently today than I did before. So, we have to start out with the assumption that education, quality education, is what we are all seeking to accomplish.

Now, some people say we ought to spend more money, and I think there are programs where you can spend more money at the local level to upgrade schools in disadvantaged areas. There are others who say the long-range and, even to a substantial degree, short-range, is better distribution of housing, so we achieve integration in a different way and you can still rely on the neighborhood school system.

Dr. Coleman, who testified before the Senate Committee on Judiciary just a few days ago, had some thoughts on it. It is interesting that Dr. Coleman, who was an initial proponent of busing to achieve quality education, has now -- after studying the problem in a number of cities -- come to the conclusion that it is not the answer.

I don't think there is any patent medicine that can give us the answers, but I think we ought to spend whatever money is necessary for what we call magnet schools, to upgrade teachers to provide better facilities, to give greater freedom of choice. These are the things we ought to push hard.

QUESTION: There are those who say, including Congressman Jerry Litten from Kansas City, that a separate Department of Education should be established, taking it away from HEW.

Would you be in favor of establishing a separate Department of Education to handle the complex problems of busing?

THE PRESIDENT: I don't think that, in and of itself, is a solution. That sounds good. Maybe it ought to be justified on other grounds, but I don't think it is necessarily the answer to this problem.

REMARKS OF THE PRESIDENT AND QUESTION AND
ANSWER SESSION AT THE RECEPTION FOR
THE RADIO AND TELEVISION NEWS
DIRECTORS ASSOCIATION, The State Floor

January 30, 1976

QUESTION: Mr. President, busing is very definitely in some States an issue in the campaign. You said previously that you didn't think it was the most agreeable answer to desegregation. Do you plan to propose any other alternative?

THE PRESIDENT: I never felt that court ordered busing was the proper answer to quality education. On the other hand, as President, I am obligated to see that the law is enforced. I signed a bill in 1974 or early 1975 that provided a list of steps that should be taken by the Executive Branch and the court has guidelines in resolving the problem of segregation in school systems. I think that the courts ought to follow those guidelines. I think the Executive Branch ought to follow those guidelines. If they do, I think it is a better way to achieve desegregation and to provide quality education.

QUESTION: Do you have any other alternative to forced busing as we now know it in several states?

THE PRESIDENT: I think the courts themselves are beginning to find some better answers. They have implemented, beginning this last week, a modified plan in the City of Detroit and to my knowledge there has been a minimum of difficulty.

Now what happened was the original order of two or three years ago was a very harsh order, it called for massive busing, not only in the City of Detroit but in the County of Wayne. A new judge took jurisdiction of that problem. He modified the court order, modified it very substantially, and apparently it is working. So I think some good judgment on the part of the courts following the guidelines set forth in what is called the Esch Amendment is the proper way to treat the problem.

QUESTION: Mr. President, I would like you to share with us some of your thoughts on the educational system in our country; namely, do you feel that after two years of busing, the City of Boston now has a better system than two years ago and what are your thoughts on reintroducing prayer into the educational system of this country?

THE PRESIDENT: Let me answer the last question first. I had the wonderful experience of being the Republican Minority Leader in the House of Representatives at the same time my very dear friend, who has now passed away, Senator Everett Dirksen, was the Minority Leader in the United States Senate. We were close personal friends. He and I both agreed that the decision of the United States Supreme Court in precluding non-denominational prayer in public schools was wrong. I think that it ought to be possible to have that kind of time set aside for a non-denominational reflection and prayer. I think it ought to be permitted. I strongly feel that way.

On the question of busing, the Supreme Court has tried to do two things: It has tried to provide quality education, it has tried to end segregation. Those are worthy objectives, I agree with that. I think the emphasis should be on quality education. The emphasis should be on ending segregation, but I think the Supreme Court, and our courts, particularly -- some courts have used the wrong remedies and I vigorously oppose them.

It is my feeling that there has been a developing attitude on the part of some of the courts, however, to take a more moderate view in exercising their Constitutional authority and handle the problem. Let me illustrate it very quickly. Three years ago we had a Federal judge in Detroit who was going to mass bus children from one county to another, not just from the suburbs to the city. He is no longer the judge handling that case. We now have a Federal judge who is handling it and he has understood the problem and the net result of his order which seeks to achieve quality education and desegregation is accepted by the people of Detroit because it is responsible, it is moderate.

So the courts have the authority, it is just that some judges don't seem to understand that it is counter-productive to go as far as they have gone. Therefore, I support what has been done in some cases and I vigorously oppose what has been done in others.

QUESTION:- Might I add, sir, do you feel, then, that in the case of the City of Boston that Judge Garrity has overgone his limits?

THE PRESIDENT: Well, let me say that I don't think it is appropriate for me to pick a certain Judge, whether he is right or wrong, and comment on his particular decision. I have an obligation. I took an oath of office to uphold the law of the land, and at least at this point what he has decided is the law of the land, whether I agree with his decision or not it is immaterial. I have an obligation to uphold the law of the land.

I have tried to explain my own personal philosophy and illustrate that in some parts of the country other judges have used their Constitutional remedy to be very effective in achieving both quality education, on the one hand, and desegregation on the other.

INTERVIEW WITH THE PRESIDENT BY THE BOSTON GLOBE,
In the Oval Office, February 21, 1976

QUESTION: We will begin with the Boston busing, specifically your request from HEW and Justice that you get some alternatives to busing and so forth -- any progress?

THE PRESIDENT: I received a memo a day or so ago with five or six alternatives. I have not had an opportunity to analyze the suggestions yet. It is a matter that is being currently studied right here in the Oval Office, but proposals and various options just came to me about 24 or 48 hours ago.

QUESTION: What were the five or six, can you at least tell us that?

THE PRESIDENT: I don't think I really ought to discuss the proposals because they cover a wide range of suggestions, and until I have had an opportunity to sit down with the Attorney General and Secretary of HEW and get the benefit of the views of the Domestic Council, I think it is premature to even discuss the various options.

THE PRESIDENT: I have some reservations about that. The truth is, and I said that in a press conference or in a response to a question up in, I think it was, Dover yesterday that actually what the Supreme Court has ordered is that local district courts have a remedy to end segregation on the one hand and provide quality education in disadvantaged areas on the other.

Some judges have gone very far, others have shown a more moderate view in trying to apply that remedy. I refused, and I think properly so, not to identify any particular judge or any particular remedy used, but it is perfectly obvious that in some communities where one judge is used to remedy with moderation the problems have been resolved without tearing up the fabric of the community. What some judges have done is used, to a degree, the Esch Amendment, the seven steps or criteria that the Congress recommended, which I approved of. I feel very strongly that our principal emphasis should be on how you best achieve quality education, and the extreme view of some judges, I don't think, achieves that, and the extreme views of some judges has not, in my opinion, solved the problem of desegregation. So there is a remedy if it is properly used.

QUESTION: Without busing, Mr. President?

THE PRESIDENT: I think in some areas judges have used the remedy of busing without tearing up the fabric of the community and it depends upon the wisdom and the judiciousness of the judge who has to deal with reality.

QUESTION: One last question to wrap up on busing. These alternatives that you have here, when do you expect that you will unveil them?

THE PRESIDENT: I always hesitate to put a deadline, but I would say it would take us --

QUESTION: After the Massachusetts primary?

THE PRESIDENT: It would take us until some time next month to come to some resolution of whether any one or any part of these recommendations would --

QUESTION: One other thing, Mr. President. Have these come from both the HEW and the Justice Departments?

THE PRESIDENT: I have ordered them to undertake a review and I think they are the combination of their joint efforts.

QUESTION: I would like to clear up one more matter on the busing issue, which we opened with. You mentioned how you had these proposals and were going to study them, but you seem to leave open the option that as much as you favor the search for alternatives to busing you might not get into it at all. Is that a fair assessment?

THE PRESIDENT: I don't think I should pre-judge precisely what I am going to do. The alternatives cover a wide range of options and they might take any one of several courses of action but to pre-judge it now I think would be unwise.

QUESTION: Let me just add this one thing. I read a letter to the editor in our paper relating to the violence in Boston last Sunday, and this person said, "This is what happens when you have policy made by the Judiciary instead of the Legislative Branch."

Is it your objective that you could convince Congress to do something in this field so that at least the will of the people could feel represented and not under the thumb of the Federal Judiciary?

THE PRESIDENT: Under our system of Government when you have three coordinate branches and there is a constitutional issue involved and the court has made a finding, even if I disagree, I think the President, first, has an obligation to enforce the law despite any disagreement I have. It would be far better if we could find a solution outside of the court administration -- it would be far better.

Certainly the handling of the administration of a local school system by the Federal Judiciary, I think, is very annoying to literally thousands of people because the public, for almost 200 years, has believed that the education of their children is primarily the responsibility of the community and it is such a stark contrast between that concept which is so deeply engrained with the opposite where a single judge is running a school system. I think that is one of the basic problems, and if we can somehow find an answer that gets away from that, it would be a lot more acceptable to the public.

QUESTION: I know you are very clear about enforcing the law, I am not trying to trip you up on that, but if you lived in a school jurisdiction where a court order had been laid down for busing and your children were going to public schools, would you send them to private schools or move out of the jurisdiction or do something to avoid that yourself?

THE PRESIDENT: That is a very good question. All of our children were brought up and went to school in Alexandria, Virginia, and with the exception of our daughter who went one year to a private school, all of our children started in the first grade because they don't have any kindergarten.

The three boys went from first grade through high school; Susan went from first grade to, I think, the tenth grade, she went one year to private school and then one year there and one year to a private school when we were here.

But Alexandria was either under a court order or under administrative action taken by HEW and they had an imposed restriction of their school system and had substantial busing and our children went to those schools during that period of time. None of our children went to private schools as a result of that action either taken by the court or by HEW.

QUESTION: Were they bused as such or did they go on their own?

THE PRESIDENT: The boys -- Steve had a carry thing, but Susan was bused.

QUESTION: She was. If you had elementary school children who would have to be bused in a particular jurisdiction, would you stand for that?

THE PRESIDENT: I can only reiterate what we did under the circumstances.

QUESTION: Right.

THE PRESIDENT: I think I would rather go by the way we handled it rather than any speculation.



1. Boston, more than any other city in the nation, has seen its people divided, its racial tensions increased, its classrooms become centers of conflict, and its streets become battlegrounds because of the forced busing of thousands of its schoolchildren. There is growing agreement among parents, politicians, sociologists and educators that though desegregation of the schools is a desirable end, forced busing is an imperfect and ineffective means to achieve it. You have added your voice to the critics of busing by saying that you oppose it and that there are better alternatives to it. But you have never really spelled out, in specific detail, what these alternatives are and what you propose to do as President to bring them about.

Exactly what do you advocate to bring about integration in the schools and reduce the racial tension in our city--and what actions will you take to achieve those goals?

- A. The first question we must answer is, "What are we really trying to do by busing?" All of us--white, black, every American, in my opinion--want quality education.

Second, let me strongly emphasize that the Supreme Court, in 1954, decided that separate but equal schools were not constitutional. That is the law of the land. As far as my Administration is concerned, the law of the land will be upheld and we are upholding it.

Subsequently, the Federal Court decided that busing is one way to desegregate schools and perhaps improve education at the same time. But there is always more than one answer,

and I have the responsibility to give what I can
answer to the achievement of quality education, which is what
we all seek.

I believe that quality education can be enhanced by better
school facilities, lower pupil-teacher ratios, the improvement
of neighborhoods and possibly by other alternatives.

Accordingly, I directed the Secretary of Health, Education
and Welfare, the Attorney General, and members of my staff to
develop better methods of achieving quality education within
an integrated environment for all children.

The development of these alternatives is going on now.

REMARKS OF THE PRESIDENT AND
QUESTION AND ANSWER SESSION
The South Grounds

May 19, 1976

QUESTION: Mr. President, are you reserving the right to review any decision by Mr. Levi on the busing question?

THE PRESIDENT: It is contemplated that some time this week the Attorney General will come in and see me and undoubtedly tell me what his decision is. I think that is a very appropriate thing for him to do and a proper role for me to have, but he will make the decision.

QUESTION: Mr. President, how do you respond to some critics who read into your concern about a review of busing as an effort to play for votes in Kentucky where busing is a major issue?

THE PRESIDENT: I think the fact that these news stories broke over the past weekend and no decision having been made, and the controversy of busing in Detroit, is an indication that we in the Administration made a major effort to not interject busing into the primary situation. We didn't do any talking about what the Attorney General has been studying and what the Secretary of HEW has been working on.

This came from other sources than ourselves and we were disturbed that the stories did come out. We hope that we can keep this kind of matter away from the emotional involvement of this problem and the primary elections.

We certainly had no part of that, none whatsoever.

QUESTION: Mr. President, are you encouraged by the progress that your Administration is making in the search that you ordered last fall for alternative ways to achieve desegregation without forced busing? Are you optimistic? Are you encouraged that you will have found a solution?

THE PRESIDENT: I have had two of the outstanding members of my Cabinet working with others, trying to find any new approach or a combination of several new approaches, and I am encouraged with their progress to date because I think it is a matter we have to settle and settle in a constructive way, and between the Attorney General, Mr. Levi, and the Secretary of HEW, I believe that we may have some ways in which we can achieve the results without the tragedies that have occurred in some of our major metropolitan areas.

Q & A SESSION AT THE JACKSON COUNTY-MEDFORD COUNTY
AIRPORT, May 22, 1976

QUESTION: Mr. President, are you moving to the right on the racial issue with these busin~~g~~ remarks, and the nuclear reactions in South Africa?

THE PRESIDENT: Not at all. I have strongly opposed court ordered forced busing to achieve racial balance. I have consistently all my life lived and believed and voted for the end of segregation. But I think the real answer that we are trying to get is quality education, and court ordered forced busing is not the best way to achieve quality education.

Therefore, what may transpire by the Attorney General -- and he has not yet made his final decision -- is an attempt to get a better remedy for quality education than the remedy that has been applied in several States.

In the case of South Africa, we are trying to end the radicalism which has developed in South Africa since the Soviet Union and Cuba took over Angola. The way to do that is to convince the independent States in South Africa that there should be no outside power controlling that part of that continent.

QUESTION: Ronald Reagan says the attitude of the Attorney General apparently signifies some sort of change in attitude of the Administration toward busing. What is the attitude now of your Administration toward busing?

THE PRESIDENT: There is no change in my attitude. I have been totally opposed to court-ordered forced busing to achieve racial balance, because that is not the right way to get quality education. The Attorney General is investigating the possibility of filing an amicus curiae proceeding, as far as the Supreme Court is concerned. He will make the decision, if the facts justify it, and he will report to me when he has made that decision.

But the basic attitude of the Ford Administration is the same as it has been in the Congress and in the White House. Quality education is not achieved by court-ordered forced busing.

Q & A SESSION AT EL TORO MARINE CORPS AIR STATION,
May 23, 1976

QUESTION: Mr. President, what do you propose as an alternative to forced busing?

THE PRESIDENT: The alternatives are well set forth in what we call the Esch amendment, the Esch amendment which was approved when I was a Member of the House of Representatives, and I signed it as a law in late 1974, provides a list of alternative steps which, if the courts of this country would follow, they wouldn't get down to the last one, which is forced busing to achieve racial balance.

The courts, in my judgment, have to look at the guidelines prescribed by the Congress. The Congress is interested in quality education, as I am, and they -- the Congress -- are also against segregation, but we can find a way for quality education if we follow the Esch amendment, and I hope and trust that the courts will in the future.

Q & A SESSION AT SAN DIEGO AIRPORT, LINDBERGH FIELD,
May 24, 1976

QUESTION: Mr. President, when you talk about quality education, are you speaking about desegregated education?

THE PRESIDENT: I am talking first that quality education is our prime responsibility. But, at the same time, we have to maintain the constitutional rights of individuals that we should not have segregation. I think we can have both. If we do the right thing, both with the courts on the one hand and the Congress and the President on the other, we can achieve quality education without undermining the constitutional right of individuals to have desegregation.

REMARKS OF THE PRESIDENT AT THE LOS ANGELES PRESS
CLUB BREAKFAST, Hyatt House International, May 25, 1976

• THE PRESIDENT: We can have one more after this if somebody is ready, willing and able.

QUESTION: Mr. President, I wanted to know whether you believe that there are some situations in which busing could help toward the implementation of the 1954 Supreme Court school desegregation ruling?

THE PRESIDENT: Basically, I have opposed the kind of busing remedy that the courts have utilized for the achievement of quality education. I think the courts have gone much too far in most cases in trying to achieve quality education by the imposition of court-ordered forced busing to achieve racial balance.

I am strongly opposed to segregation. I fully oppose the constitutional rights of those who have been discriminated against in the past. But the Court really has a tool in court-ordered forced busing.

I can cite one case that I am personally familiar with where they handled that remedy in a responsible way -- my own hometown of Grand Rapids, Michigan. A judge used good judgment and the problem was solved. We took care of segregation in a proper way constitutionally and, at the same time, we were able to put the emphasis on quality education.

But I can't cite some other judges -- and I won't do that because the Attorney General admonishes me not to do so -- where I think they have gone far too far, and the net result is we have torn up a number of communities and it is tragic and sad.

I hope that the Supreme Court in the proper case can give some better guidelines, more specific guidelines to some of these lower Federal courts so that they can use a better judgment in trying to achieve, first, quality education and, secondly, the ending of segregation, and the protection of constitutional rights.

PRESS CONFERENCE IN THE PRESIDENTIAL BALLROOM
EAST AT THE NEIL HOUSE HOTEL, Columbus, Ohio,
May 26, 1976

QUESTION: Mr. President, Mr. Udall has' accused you of playing politics with busing. Some Ohio civil rights leaders have indicated agreement. What is your answer to this criticism and also what is your advice to residents of Ohio cities facing court-ordered desegregation next fall?

THE PRESIDENT: First, let me say that I have vigorously opposed court-ordered forced busing to achieve racial balance as the way to accomplish quality education. I have opposed it from 1954 to the present time.

We all know the tragedy that has occurred in many communities where the court has ordered forced busing on a massive basis. I think that is the wrong way to achieve quality education.

Last November, well, before the Presidential primaries got going, I met with the Secretary of HEW and with the Attorney General and asked them to come up with some better alternatives to the achievement of quality education and court-ordered forced busing. The two Secretaries in my Cabinet have been working on alternative proposals.

The Attorney General is in the process of deciding whether or not, where and when he should appear on behalf of the Federal Government to see if the Court, the Supreme Court, won't review its previous decisions in this record. And secondly, the Secretary of HEW is submitting to me in a week or so the alternatives that he would propose to achieve quality education without losing the constitutional right of individuals so that we can do away with segregation and, at the same time, achieve quality education.

Now, the various communities in the State of Ohio that are in various stages of action by various parties, as far as busing is concerned, certainly ought to abide by the law. But, we hope that at least possibly the Supreme Court will review its previous decisions and possibly modify or change. We can't tell.

But, in the meantime, local communities, of course, have to obey the law and my obligation is to make certain that they do. But we must come back to the fundamental objective -- one, quality education, I believe there is a better remedy than court-ordered forced busing.

QUESTION: Mr. President, there are many civil rights groups who believe that the word "quality education" is a code word; that is, it is not in conformity with the Supreme Court's 1954 decision that we should have desegregated schools and that separate but equal are not equal. What is your definition of "quality education"?

THE PRESIDENT: I respectfully disagree with some of the civil rights leaders. I think the best way to outline how we can achieve better or quality education and still insist upon desegregation is set forth in legislation under the title of Equal Educational Opportunities Act, which was passed in 1974.

If the court will follow those guidelines that were included in that legislation, we can protect the constitutional rights of individuals, we can eliminate segregation and, at the same time, we can give to individuals, the students, a better educational opportunity and accomplish quality education.

QUESTION: Mr. President, you have reiterated tonight that you are against court ordered busing to achieve school desegregation, a remedy that is the law of the land. You have also said that you told your Attorney General to get the Supreme Court to reconsider its busing decisions.

Just this week you also indicated that you would get your Administration to try and reverse a court order protecting porpoises against being killed by tuna fishing.

My question is this, sir. If the President of the United States does not accept court decisions, doesn't that encourage the people of the United States to defy court decisions and isn't there a danger the law of the land will be eroded?

THE PRESIDENT: Not at all because whether I agree with decisions or not, this Administration, through the Attorney General, has insisted that the court decisions, whether they are in Boston or Detroit or anyplace else be upheld. I have repeatedly said that the Administration will uphold the law.

Now, in the case of court ordered forced busing, which I fundamentally disagree with as the proper way to get quality education, the Attorney General is looking himself to see whether there is a proper record in a case that would justify the Department of Justice entering as amicus curiae a proceeding before the Supreme Court to see if the court would review its decision in the Brown case and the several that followed thereafter.

I think that is a very proper responsibility for the Department of Justice and the Attorney General to take. They need clarification because all of those busing cases are not identical and if the Department of Justice thinks that they can't administer the law properly under the decisions because of the uncertainties. I think the Department of Justice has an obligation to go to the court and ask for clarification and that is precisely what the Attorney General may do.

QUESTION: Mr. President, I was wondering if you could give us some hints about these alternatives that you are considering to forced busing. I just wondered what, beyond the Esch amendment, and what is spelled out in the law, and what the courts have already examined, what possibly could be an alternative that would hold up in the courts? What are the sorts of things that you are looking at?

THE PRESIDENT: When the proper time comes, Mr. Schieffer, we will reveal what Secretary Mathews has revealed to me and the options I have selected. I think there are some possibilities, but I think it is premature until I have made the final decision to indicate what he has thought might be an improvement over the way we have been handling the situation in the past.

QUESTION: Is it fair to say, though, Mr. President, that this is going to require some major legislative work, some major changes in the law?

THE PRESIDENT: Not necessarily, not major legislative changes. It can have some legislative impact, but it is also what we can do administratively.

QUESTION: Why not just go for a constitutional amendment against forced busing?

THE PRESIDENT: I think that is too inflexible and the facts of life are that that constitutional amendment has not gotten, or it can't possibly get a two-thirds vote in either the House or the Senate, and it certainly can't be approved by 75 percent of the States.

So, anybody who talks about a constitutional amendment is not being fair and square with the American people because no Congress that I have seen -- and this one is a very liberal one -- has done anything to get it to the floor of the House or even to the floor of the Senate.

So, when you talk about a constitutional amendment, you are kidding the American people and anybody who has been in Congress knows that.

QUESTION: At least that is saying what you are for. What I am wondering is, why you can't give us a few hints about what the alternatives are that you think will solve the problems?

THE PRESIDENT: At the proper time, Mr. Schieffer, Secretary Mathews will have the option paper before me, and I will be glad to review it and make it public at that time.

QUESTION: Mr. President, since Governors Reagan, Carter and Wallace have all conducted, to some degree, an anti-Washington campaign, should you be the nominee and Governor Carter be the Democratic nominee, how do you propose to attract the votes of the Reagan supporters, particularly the Wallace crossovers to Reagan?

THE PRESIDENT: I want to appeal to as many Democrats as I possibly can and that is what I did in Michigan in the recent primary. My opponent very obviously wanted the Wallace element and only the Wallace element. I appealed in Michigan to all Democrats and all independents who wanted to cross over and vote for me if they believed in my record and believed in what I was trying to do, and we got a tremendous number of Democrats in Michigan to cross over and I am very proud of it.

Now, after we get the nomination in Kansas City, we will naturally want to get as many Democrats as we can because the Republican Party, according to statistics, has only about 19 percent of the public and the Democratic Party has 35 to 40 percent, as I recall. The rest of the people are independents.

So, a Republican candidate for the Presidency has to have a lot of support from independents and a significant support from Democrats. And the experience in Michigan, where I got a broad spectrum of independents as well as Democrats certainly is conclusive that I have a very good appeal to independent voters as well as broad-minded and I think very wise Democrats.

QUESTION: Mr. President, I think any number of people are a little confused about the status of the so-called alternatives to court-ordered busing. Just last week, you told a group of Kentucky editors just before the Kentucky primary that you had three alternatives that you were studying and that you would be making a judgment on them within a few weeks.

At that same meeting, you said the Justice Department may choose Louisville when, in fact, the Justice Department was not at that time considering Louisville. Do you now have those alternatives before you or, as you have indicated tonight, will they come from David Mathews? Finally, as a result of all this confusion, don't you see how the impression is left strongly that you may be doing this for political reasons?

THE PRESIDENT: I think you have confused it by not relating the whole sequence of events. I have repeatedly said that last November I called in the Attorney General and the Secretary of HEW and said I wanted a better answer so we could achieve quality education and not tear up society in a City such as Boston.

A month or two later they came back with a number of options. I said they ought to winnow them down. This was well before any Presidential primaries were on the agenda.

We have been seriously and constructively working together and the Attorney General, in due time, as he finds the right case, will go to the Supreme Court if he thinks the record justifies it. And Secretary Mathews will come to me with a more limited number of options at the proper time, and I expect some time within the next several weeks I will get those recommendations.

QUESTION: But did you not tell the Kentucky editors, as I recall it quite vividly, that you had three alternatives already that you were studying and that you would make a judgment on those shortly?

THE PRESIDENT: I had three and I asked Secretary Mathews to review them and to make sure that they might be alternatives that would really be helpful. And he has gone back to review those three alternatives and I expect shortly he will come up with a more complete recommendation.

QUESTION: Just to follow up my original question, sir, you said in reply to a question on busing on the West Coast, and I think I am quoting you correctly, that "maybe we need some new judges."

Mr. President, are you suggesting if elected, you might try to pack the Federal courts with judges favorable to your position on busing?

THE PRESIDENT: Let me say that the one opportunity I have had to appoint a judge to the United States Supreme Court, he was almost unanimously approved because of his high quality. He wasn't selected because he had any prejudgments or conclusions concerning anything. He was a man of great intellect, great experience and good judgment. And I would expect in the next four years to appoint people of the same quality and caliber and I would expect the United States Senate to overwhelmingly approve them as they did Justice Stevens.

INTERVIEW OF THE PRESIDENT BY DON WAYNE
WHIO-TV, Dayton, Ohio, The Oval Office, June 1, 1976

MR. WAYNE: Boston, Louisville, even in my own community of Dayton, Ohio --

THE PRESIDENT: My hometown, Grand Rapids, Michigan, too.

MR. WAYNE: -- school busing is an issue. We know, I think, fairly well where you stand on the school busing, but you keep talking about alternatives. The American voter is not sure what alternatives you are talking about. Are you talking about legislation, constitutional amendment? Can you clarify it?

THE PRESIDENT: First, let me re-emphasize my total opposition to court ordered forced busing to achieve balance in the school system. I think court ordered forced busing is the wrong approach to achieve quality education. The question then is how do you achieve quality education if you don't go along with court ordered forced busing. My answer is that we can improve, through some additional Federal money, school facilities.

I think we can improve the equipment that is available to make educational opportunities better available to the students. I believe that we can inaugurate what they call cluster schools or neighborhood schools in place of cross-town busing. There are a number of alternatives that were written by the Congress when I was in Congress, and subsequently signed by me when I became President, in what we call the Equal Educational Opportunities Act.

It lists seven alternatives, six of them ahead of busing, and if the courts would follow those guidelines, I think we could avoid most of the busing that would take place. Now, in addition to that, the Attorney General has drafted some legislation which would be an additional guideline to the courts that they should follow in these desegregation cases.

What it provides is that if there is segregation, then the court should take cognizance of those instances where there is segregation, but it would limit the courts remedy to just those areas rather than taking over a whole school system, as the courts did in the case of the Boston case and several others.

So, between the present law and that legislation which I am recommending, I think we can minimize to a substantial degree busing and, at the same time, achieve better educational opportunities.

INTERVIEW OF THE PRESIDENT BY WJW-TV, Cleveland, Ohio
The Map Room, June 1, 1976

QUESTION: Mr. President, as you know, in the City of Cleveland there is pending a decision by a Federal District Judge following a suit by the NAACP, the outgrowth of which when this decision comes, perhaps this summer, might be forced busing to achieve racial integration in the public school system in Cleveland. At this point what would be your advice to the City of Cleveland if this comes about?

THE PRESIDENT: My feeling is, number one, they have to obey the law. Because whether they like it or not, in this country the President and everybody else must obey the laws as decided by the Congress on the one hand or the courts on the other.

Number two, if it is a decision to have busing, I think that leadership in the community must make a maximum effort to try and do it in an orderly fashion. Now, I happen to be against court ordered forced busing to achieve racial balance because I think there is a better way to achieve quality education. But, at the same time, I fully believe in protecting the Constitutional rights of people, that there should not be segregation in our school system. That is unconstitutional according to the decisions of the Supreme Court. But I think there is a way in which the courts can get quality education by using a remedy that does not just take over a whole school system but takes the position that where there is segregation they ought to correct that but not destroy the whole school system.

QUESTION: As you indicate, Mr. President, for approximately the last 25 years segregation has been unconstitutional in this country. What remedies are there to get around busing, if any at all?

THE PRESIDENT: I think there are several remedies. I strongly am opposed to segregation. It is unconstitutional but I think other remedies can be utilized to improve education to achieve what we call quality education. We have what we call the Educational Equal Opportunities Act which lists six things prior to busing that the courts can utilize, neighborhood schools and other constructive devices, and in addition the Federal courts don't have to take over a whole school system in order to eliminate segregation in a part of the school system so either by using more judicious action by the courts on the one hand or the courts following the guidelines on the other, you can get the Constitutional rights protected and at the same time improve the opportunity for quality education.

QUESTION: Yet in a city like Cleveland there is a situation, the east side of Cuyahoga River is basically predominantly black and the west side is very predominantly white. What do you do in a situation like that?

THE PRESIDENT: This is where I think the school officials have to sit down with the court and with the leadership in the communities to try and work out the necessary remedies so you get a minimal amount of busing. This can be done. It has been done in a number of communities and if it is done properly what it achieves is the court orders being upheld without violence and at the same time you are able to get what you want really as quality education without violation of anybody's Constitutional rights. It can be done.

I could cite several communities where, with the proper leadership, sitting down with the court, with the Board of Education and handling it, we have avoided the violence that has taken place in several other places.

INTERVIEW OF THE PRESIDENT BY NICK CLOONEY
WKRC-TV, Cincinnati, Ohio, The Map Room, June, 1, 1976

MR. CLOONEY: Mr. President, it has been charged in at least one political column that I read recently and elsewhere that you deliberately brought busing into the primary campaign as an issue and since Cincinnati, as other communities, is going to be a court test, we have great interest in that. What is your response?

THE PRESIDENT: I have been against court ordered forced busing to achieve racial balance since the mid-1950s, so that is almost 20 years. I don't think court ordered forced busing is the way to achieve quality education. So, any allegation that this is a new thought on my part is totally without foundation. Last November I asked the Attorney General, as well as the Secretary of HEW, to come forth with some new approaches or new programs that might either alleviate the problems caused by court ordered forced busing or any other solution that they might find beneficial.

It was something done way last year, plus my long-standing record of being against court ordered forced busing, that I think certainly knocks in the cocked hat these allegations about my comments on busing being involved in the primaries. It is not true.

MR. CLOONEY: But Mr. President, do you support busing as a last measure in integration?

THE PRESIDENT: Under the Equal Educational Opportunities Act, which was passed in 1974, which I signed, court ordered forced busing is the last resort in order to protect constitutional rights, but there are six other approaches that a court can take before it gets to busing. In addition, the Attorney General has recommended to me some legislation which would limit the remedy of a court when it finds segregation, to correcting those areas of a community where there is segregation instead of giving the court the authority to come in and take over a whole school system, as some Federal district courts have done.

So, the combination of the proposal made to me by the Attorney General and the legislation which was passed in 1974 would severely limit and, in some cases, eliminate court ordered forced busing.

INTERVIEW OF THE PRESIDENT BY NEW JERSEY NEWS
MEDIA REPRESENTATIVES, East Room, June 2, 1976

QUESTION: Mr. President, you said you are concerned about the busing legislation that is being drafted. What is the theory behind this legislation?

THE PRESIDENT: The legislation seeks to achieve a clarification of the various decisions that have been made by the Supreme Court on the extent of the remedy that local courts can utilize when they find a violation of constitutional rights. There have been some cases where the local district court has found a violation of a constitutional right, segregation. The court has then gone in and taken over the whole school district rather than trying to remedy the limited area where there was segregation within a school district.

Now, the proposed legislation seeks to limit the authority of the local district courts to remedy the precise problem and not to become a school board in every case.

QUESTION: Mr. President, won't that still be segregation in some school districts where busing is taken away from them?

THE PRESIDENT: Not according to the information that has been given to me by the Department of Justice.

June 5, 1976

QUESTION: You know in a recent interview you volunteered -- or in answer to a question, I guess -- some information about your plans for alternatives to court ordered school busing. Could you explain them in somewhat more detail than they were explained, as I read them. They seemed a little indefinite to me, or are they still in that stage?

THE PRESIDENT: I think there are three points we have to make before we discuss busing.

Number one, this Administration will uphold all constitutional rights of any individual in this country, including the rights under the Fourteenth Amendment.

Number two, this Administration is totally dedicated to quality education.

Number three, this Administration will carry out the decisions of the Supreme Court.

I took an oath of office to do so, and I will continue to do so.

Now, we have found, or I believe, that court ordered forced busing to achieve racial balance is not the best way to necessarily protect individual rights on the one hand or to achieve quality education on the other. Therefore, starting back in November of 1975, I asked the Attorney General and other members of my Cabinet to see if we couldn't put together something that would be better than the remedy that has been used by some district courts in trying to solve the very difficult problem of protecting constitutional rights and, at the same time, achieving quality education.

Within the last two weeks the Attorney General has decided not to intervene in the Boston case for good reasons that he, as Attorney General, decided, and I support him. On the other hand, the Attorney General is seeking a particular case where we can get a clarification or a modification of some of the previous Supreme Court decisions in this very complex area.

Now, in the interim, the Department of Justice has prepared -- or is in the process of preparing -- legislation which I will submit to the Congress in the very near future which would seek to limit the courts of this country to the direction of the areas where the local school board, by its act, has violated the constitutional rights of individuals -- in this case students -- and not to permit the court to go beyond the instances where rights have been violated.

Now, in some cases the court has taken an illegal act of a school board -- relatively small part of a total school system -- and taken over the whole school system, and the court, in effect, has become the school board. I think that is wrong. The Attorney General agrees with me.

The legislation that we will propose will seek to limit, to minimize the corrective action or the remedy by the court to the actual instances where there is a violation of a person's constitutional right. That will minimize in many cases to a substantial degree the amount of court ordered forced busing.

QUESTION: Mr. President, the courts have already ruled on that point, if I understand it, in 1973 in the Denver case.

THE PRESIDENT: Are you talking about the Keyes case?

QUESTION: Yes, sir. Have they not, when they said that was not a remedy? You could not just remedy it in a specific area rather than the whole system.

THE PRESIDENT: The Attorney General and his associates informed me that that has not been totally clarified, and that is the purpose of actually seeking a case where the Department of Justice can go into a subsequent case and get a clarification.

That is why we are going to propose legislation, so that there is a legislative direction given to the court to make sure that we protect constitutional rights where there has been a violation and, at the same time, preclude the courts from becoming in effect the school board in a local community.

QUESTION: Let me ask you just a somewhat broader question, and you are the attorney and I am not, so maybe you can explain it to me. If the courts have already ruled that busing is a permissible way to achieve integrated schools and they have already ruled that integrated schools are a constitutional right.--

THE PRESIDENT: A permissible remedy to correct an injustice.

QUESTION: -- how can you pass a law to limit that remedy if the courts have already ruled it is constitutional? Don't you need a constitutional amendment?

THE PRESIDENT: The Constitution permits the legislative body to give guidelines in certain court cases--and according to the Attorney General he believes that this proposed legislation is constitutional--it will simply limit the remedy to the instance where there has been a violation of a constitutional right. According to him, that is constitutional.

QUESTION: Then it is your interpretation that the Keyes case did not invalidate --

THE PRESIDENT: As I understand it, it was a dictum, not a final judgment.

QUESTION: To cut through some of the legal niceties which are a little hard on us, it seems to me -- perhaps I misunderstand it -- the final impact of this is to leave in place all de facto school segregation which has happened without the breaking of a law?

THE PRESIDENT: The courts already decided that.

QUESTION: So, that this is the direction which you wish to encourage law and legislation to continue?

THE PRESIDENT: We would recommend, as the court has said, we correct the violations but we only correct the violations, not make a Federal district court a local school board.

QUESTION: Mr. President, what chance do you think such legislation would have of passing, and what constitutional right is violated by being bused?

THE PRESIDENT: Well, the Congress, I think, would be responsive to some legislation of this kind because I think the public --

QUESTION: This year?

THE PRESIDENT: I would hope so. I can't promise it because I don't control the Congress, but I do believe there is a great public sentiment for a limitation or a minimization of the court in the remedies that they have pursued.

What was the second?

QUESTION: The second is, what constitutional right is being violated by being bused?

THE PRESIDENT: Busing is simply a remedy to achieve a correction of an alleged act by a school board to violate somebody else's constitutional rights. Busing itself is not a constitutional right, nor is it a lack of a constitutional right. It is only a remedy.

QUESTION: But isn't it the law of the land to desegregate the schools in this land?

THE PRESIDENT: Where there has been a specific violation of a person's constitutional right. It is not beyond that, and that is the real point at issue.

QUESTION: On another subject, Mr. President --

QUESTION: Before you change the subject, before you abandon schools altogether, just to explore one further item, private schools, the private white academies that have been founded in parts of the South, would you leave those as being perfectly legal?

THE PRESIDENT: That case is now before the Supreme Court. I think that the individual ought to have a right to send his daughter or his son to a private school if he is willing to pay whatever the cost might be.

QUESTION: But a segregated private school, if that should be his choice?

person ought to have an individual right.

QUESTION: What if those schools get some kind of Federal aid?

THE PRESIDENT: If they get Federal aid, Mr. Schieffer, that is a totally different question and I certainly would not, under those circumstances, go along with segregated schools, under no circumstances.

QUESTION: That would include any kind of tax break, Federal tax break?

THE PRESIDENT: That is right.

QUESTION: Would you approve of a private school turning someone away on the basis of color?

THE PRESIDENT: Individuals have rights. I would hope they would not, but individuals have a right, where they are willing to make the choice themselves, and there are no taxpayer funds involved. Now, this is a matter before the courts at the present time, and I think there will be a Supreme Court decision probably in this term or the next term, certainly, but individuals have a right where there are no Federal funds available.

I would hope they would not, and our own children have always gone to public schools, which were integrated, and they have gone to private schools where they were integrated. So, my own record is one of our children and my own belief in integration.

But, I think individuals do have some rights, where they are willing to make the choice and pay the price.

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DATA ON PUBLIC ELEMENTARY AND SECONDARY SCHOOL SYSTEMS

PREFACE: All data provided are for the 1972-73 school year, the last year in which the Office for Civil Rights (OCR) conducted a so-called large survey encompassing 8,056 districts which represent approximately 46 per cent of the Nation's public school districts but 72.5 per cent of the schools and 91.8 per cent of the enrolled pupils. It is the OCR-collected survey data which provide the figures for items 1-5 below. Since there are no other available data on which to base responses, items 1-5 below refer only to the 8,056 1972-73 OCR-surveyed districts.

1. Total number of operating public elementary and secondary school systems, fall 1972 16,515
(Source: Education Directory 1972-73, Public School Systems, NCES, 1973)

2. Total number of districts with an appreciable percentage of minority students¹. 3,441

over about 5 years

3. Estimated total number of districts which have gone through desegregation (number of districts under Federal court order, State court order or which have HEW-accepted plans). *not* 1,305

- a) Federal court order. 678
- b) State court order. 20
- c) HEW plan 707

4. Total number of districts with appreciable percentage of minority students which have not gone through desegregation. 2,136))

5. Total number of districts in which minority students are assigned to racially segregated² schools, (i.e., likely to have to go through desegregation) approximately 600

voluntarily, or by order of the court.

1 Appreciable percentage is defined as 5 per cent or more total minority enrollment, for purposes of this report.

2 Segregated is defined as a school with a minority enrollment of more than 50 per cent.



or a combination thereof.

Answer: HEW. has 72-73 figures

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