

Racial Discrimination: Political "Reality" Forces a Retreat in Leadership

AS THE 1970s BEGAN, we had great hopes in America of ending racial discrimination. The new generation of young people insisted on it—to them it was an issue almost equaling the Vietnam War in importance. If on many campuses blacks and whites seemed less together than formerly, they were not happy about it and perhaps acted more out of instincts than out of the hates and exclusions motivating their elders. A young black man at Harvard said it best: "Well, on a personal level I still groove on a lot of the gray cats [white students], but in an organizational sense we want to do our own thing. I mean, it's difficult to welcome them in when our black brothers out in the real world have given up on them." Still, the rancors seemed less deadly than among older people, and in social circumstances the young were interracial years ahead of their elders.

Our civil-rights laws were clear and explicit; the federal courts were obviously willing to enforce those laws. There was one great problem. In 1968 the workings of our political system had produced a President who owed his nomination and election to a coalition of forces dependent upon the same elements in the Deep South which had for

so many years blocked the evolution of civil rights for black people.

Segregationist "states' rights" stalwarts like Senator Strom Thurmond and Congressman Albert W. Watson of South Carolina had left the Democratic Party to become Republicans. This was a new development in the party of Abraham Lincoln. It should be remembered that the Republican Party's attraction for reactionary elements is a relatively new historical development. The Republican Party came into being in 1854 because both of the major parties of that day accepted slavery. The Republican Party pioneered in civil-service reform and antitrust actions. It is only in recent years that the Republican Party has become a reactionary party. It was only in 1964 that our eyes turned toward the Southern states as a source of conservative votes.

At the Republican convention at Miami Beach in 1968, Nixon's nomination turned upon his ability to obtain a bare majority of 667 delegate votes on the first ballot, holding off the last-minute conservative challenge of California's Governor Ronald Reagan on the one hand and the lesser threat of New York's liberal Governor Nelson Rockefeller on the other.

As the time for the first ballot approached, it became clear that the issue lay with the Southern delegations. The sympathies of the individuals in these delegations clearly were with Governor Reagan; organizationally, however, they and their leader, Senator Strom Thurmond, were aware that the political strength of their historic minority position in American politics had been as the Solid South. Nixon's preparation and organizational work had been comprehensive and thorough—he had obtained commitments from many of them before Reagan entered the race—and his success depended upon how solid the Southern delegations would remain. It was generally understood that if Nixon

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could not get 667 votes on the first ballot, he would thereafter lose strength and his nomination would be impossible.

The chart below tells the story. By a bare margin of twenty-five votes, and with 228 of the total of 692 coming from ten states of the South, Nixon got the necessary majority on the first ballot.

FIRST-BALLOT VOTING OF SOUTHERN DELEGATES AT THE 1968 REPUBLICAN CONVENTION

	Total Votes	Nixon	Reagan	Rockefeller
Alabama	26	14	12	0
Florida	34	32	1	1
Georgia	30	21	7	2
Louisiana	26	19	7	0
Mississippi	20	20	0	0
North Carolina	26	9	16	1
South Carolina	22	22	0	0
Tennessee	28	28	0	0
Texas	56	41	15	0
Virginia	24	22	0	2
	292	228	58	6

In the general election, Nixon squeaked by again, with the help of the third-party candidacy of Alabama's Governor George Wallace, who took ordinarily Democratic votes away from Hubert Humphrey in five Southern states and picked up the famous "dissenting elector" in North Carolina. Nixon carried the other five Southern states, taking the White House with 43.6 percent of the total vote to Humphrey's 43.2 percent.

A young Deputy Attorney General in the Nixon Administration, Kevin Phillips, would later describe the Southern Strategy, Nixon's readjustment of the political forces within and without the Grand Old Party whose first Presi-

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dent had been Abraham Lincoln. It was therefore an open question as to what course President Nixon would set in the continuing battle to finally end racial discrimination in the critical areas of employment, housing, education and voting rights, particularly in the Southern states.

With segments of a traditional political opponent, organized labor, supporting continuing discrimination in trade-union apprenticeship and membership practices, the President started promisingly enough with his support of the Philadelphia Plan, requiring federal contractors to use percentages of minority workers in relation to the population makeup in the area of work. Where the President's political allies were involved, however, the President pursued an opposite course. The Nixon Administration's record in voting rights, school desegregation and housing integration has been little short of tragic. Perhaps for this reason more than any other, the young people of America have challenged our political system and have had reason to question whether it can do what is right rather than politic.

Consider the truth of political performance as opposed to political rhetoric in two of the crucial areas of battle, education and housing.

EDUCATION

IN HIS BOOK *Bring Us Together*, Leon Panetta, director of the Department of Health, Education and Welfare's Office for Civil Rights during the first year of the Nixon Administration, details the problems Nixon faced in reconciling a national school-desegregation policy with his pre-election campaign statements to South Carolina's Senator Thurmond and other Southern backers.

Panetta quotes one of those backers, Bo Callaway of Georgia, at an early meeting with Administration officials

where HEW and Justice Department representatives were trying to explain both the law and their hope to have better communications with Southern school districts. "The law—the law, listen here," Callaway is quoted as saying. "Nixon promised the South he would change the law, change the Supreme Court and change this whole integration business. The time has come for Nixon to bite the bullet, with real changes and none of this communicating bullshit."

After Nixon's election, but before he was inaugurated, Strom Thurmond had urged his South Carolina school people to ignore the HEW desegregation orders then in existence and had expressed confidence that Nixon's new HEW Secretary, Robert Finch, would follow the desegregation policy outlined by Nixon during the campaign. That policy was somewhat fuzzy, save, apparently, to Senator Thurmond.

Since 1965, HEW had been trying to assist Southern school districts to come up with desegregation plans which would meet the Supreme Court's criteria. HEW had the power under the 1964 Civil Rights Act to cut off federal funds from noncomplying districts. Hundreds of Southern school districts were complying with the law, but many others attempted to devise means of circumventing the court and preserving dual systems. One such means was the "freedom of choice" plan, which looked reasonable on its face until the Supreme Court ruled in the Green case in 1968 that such plans could themselves be unconstitutional if they were used to preserve segregated schools.

As the Johnson Administration years came to an end, there was speculation as to how President Nixon would cope with the conflict between his Southern supporters and the court-ordered desegregation rules which HEW and the Justice Department shared the responsibility for enforcing. Columnists Roland Evans and Robert Novak, generally

friendly to Nixon, had rendered the following opinion in late 1968: "Although the details are vague, it is likely that Mr. Nixon will give the South just about what it wants: token integration resulting from a minority of Negroes volunteering for white schools under 'freedom of choice' plans."

Strom Thurmond was a key influence. Presidential counselor John Ehrlichman was quoted as saying at the time of one of South Carolina's civil-rights controversies, "Well, haven't we got some pressure on this from Thurmond? The blacks aren't where our votes are." Pressures from Senator Thurmond and others were sufficient to keep President Nixon's policy on freedom of choice fuzzy up to and including July 31, 1969, when Congressman Jamie L. Whitten of Mississippi proposed an amendment to the HEW appropriation bill which was geared to gut HEW's enforcement proceedings against unconstitutional freedom-of-choice plans.

I well recall the confusion in the halls outside the House of Representatives chambers on that day. I was working with a number of Republican Congressmen to try to defeat the Whitten amendment, knowing that HEW was firmly opposed. HEW representatives, including Leon Panetta, were buttonholing various members in the corridors to urge a vote against Whitten. I was thunderstruck, therefore, to find one of the top White House legislative representatives outside the main door, suggesting that a vote *for* Whitten might be a good idea. The mystery was cleared up later in the afternoon when Republican leaders Gerald Ford and Leslie Arends led a parade of Republicans down the aisle with Southern Democrats in a teller vote successfully supporting Whitten. All of us knew that Ford and Arends would not have done this without White House approval. In my case this was the first real signal that the Nixon

Administration was willing to pursue a Southern strategy at the expense of the historic Republican commitment to equality of the races. (I was not yet aware of the fact that six weeks after he took office the President had pulled federal voting registrars out of Mississippi.)

The Nixon position on freedom of choice was thus made "perfectly clear" to those of us in the Congress. It was *not* publicized by the White House, however.

The Administration's position was again made clear in early 1970 by the firing of Leon Panetta, and by the issuance of a long Presidential position paper on school desegregation which was characterized by *The Wall Street Journal* as signaling "a go-slow approach geared to maximum political mileage."

In his statement, the President adopted the Supreme Court's language about segregation: "It must be eliminated 'root and branch'—and it must be eliminated at once." He went on to say:

Words often ring empty without deeds. . . . In government words can ring even emptier without dollars.

In order to give substance to these commitments, I shall ask Congress to divert \$500 million from my previous budget requests for other domestic programs for Fiscal 1971, to be put instead into programs for improving education in racially impacted areas, North and South, and for assisting school districts in meeting special problems incident to court-ordered desegregation. For Fiscal 1972, I have ordered that \$1 billion be budgeted for the same purpose.

This sounded good. One and a half billion dollars to aid school desegregation—what more could an Administration be asked to do? The great awakening occurred, however, a year later, after the Supreme Court unanimously laid

down guidelines for future desegregation in *Swann v. Charlotte-Mecklenburg Board of Education* on April 20, 1971.

The *Swann* case involved a metropolitan area in the South—one of those key areas about which a White House political adviser was to say later, "That's where we've got our votes, so it's in a bad place. It isn't a winning issue for us by any means." There were ten high schools, twenty-one junior high schools and seventy-six elementary schools in the Charlotte-Mecklenburg district in South Carolina. The district's students were roughly 71 percent white and 29 percent black.

The court's decision laid down tough requirements on districts with one-race schools: henceforth there would be a presumption that such schools were the result of discriminatory action; the school board would have the burden of proving otherwise. On neighborhood schools, the court said: "All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation." The decision went on to note that 39 percent of the pupils in the United States were bused to school, and that *extensive busing to end dual school systems was within the remedial powers of district courts.*

The court said that busing trips should not be so long as to impinge on the educational process, taking into account the age and health of the children, but pointed out that the busing trips ordered by the district judge in *Swann* had been shorter than the trips regularly scheduled by the board of education.

The *Swann* decision forced a new crisis on the Nixon Administration. HEW and the Justice Department jointly agreed to prepare new segregation plans for bringing Southern districts into line with the new court decisions. The first

plan was devised for the Austin, Texas, school district. A top White House staffer, Edward Morgan, called it a model "in principle" for further such plans. Extensive cross-town busing was provided, but no trip was longer than thirty minutes.

On July 19, 1971, a federal district judge rejected the HEW proposal. Senator John Tower (R—Texas) asked the President not to appeal the court order, thus bringing the issue into sharp focus. Would the President support his own HEW-Justice plan or would he not? Suburban public opinion strongly opposed "forced busing," at least as the public understood the term. The Supreme Court, speaking through the President's own appointee, Chief Justice Warren Burger, had nevertheless unanimously endorsed busing as an appropriate tool to end segregation when reasonably imposed.

The law or political gain?

The President again came down on the side of political gain. In a statement issued August 4, 1971, he (1) disavowed the HEW-Justice plan; (2) said the government would appeal the Austin decision because the Attorney General advised him it was inconsistent with prior Supreme Court decisions; (3) said that he was "against busing" as that term is commonly used in school-desegregation cases; (4) disclosed that he was instructing the Justice Department and HEW "to hold busing to the minimum required by law"; and (5) said that he was preparing an amendment to his \$1.5-billion desegregation assistance proposal "that will expressly prohibit the expenditure of any of those funds for busing."

Even the superintendent of the Austin School District was aghast, stating that the President was speaking "with forked tongue." Perhaps of most significance was the fact that a "law and order" President had urged minimal compliance with the law in an area where such a position guar-

anteed maximum political gain. At one point, a number of members of HEW's Office of Civil Rights had written the President to ask that he exercise "strong moral leadership . . . to avoid a reversal of the Nation's long-standing commitment to equal opportunity." Instead the President urged minimal compliance with a law whose goal was to *achieve* equal opportunity. To end desegregation "root and branch" in accordance with law was not as important as the political approval of suburban voters.

HOUSING

HERE AGAIN the rhetoric has not been matched by performance. I have a great deal of respect for George Romney, Nixon's Secretary of Housing and Urban Development. He is an honest and a moral man. He told the Civil Rights Commission in August 1970 that his goal was, in the words of the commission's report, "the creation of open communities which will provide an opportunity for individuals to live within a reasonable distance of their jobs and daily activities by increasing housing options for low income and minority families."

Within eight months, Romney officially had almost totally changed. Again in the words of the commission's report, "By April, 1971, . . . the Department had retreated from this stance and now states that it is opposed to use of federal leverage to promote economic integration." These words came from a department that supervises construction of over 500,000 units of subsidized housing each year.

What happened to Romney's earlier position?

Reluctantly, I've come to believe that the answer lies with the President. The change in Secretary Romney's position appears to have been dictated by White House demand. Again the answer is political. Again the President seems to

be seeking political support at the price of historic Republican principle.

The primary opposition to integration lies in the suburbs. The suburbs also provide the great voting strength on which the President relies. This is the home of the "great silent majority," those who have silently discriminated in the sale or rental of their homes, many of them while publicly and even vocally supporting the principle of equal opportunity for all Americans. Thus when "forced integration" of Michigan suburbs became a political issue there in 1970, the President did not hesitate to assert that the vast power of the federal government would not be used to "force integration." To the Southern Strategy was added the Suburban Strategy. Politic? Perhaps. Moral leadership? No.

Federal subsidies did much to build new white multibillion-dollar suburbs in the forties, fifties and sixties, when the average white American could get three bedrooms and two baths and enjoy its appreciation—much of it unearned—while the poor and the minorities in the city remained locked into one or two rooms in ancient, rat-infested, deteriorating buildings shunned by builders and bankers alike. Federal money went to highways over which whites streamed at the end of each workday, speeding to their safe, restricted bedroom communities built with federally guaranteed loans and served by a host of federally supported programs.

One great weapon which suburbia used to keep out poor and minority people was the zoning law. Zoning was originally intended to preserve the physical character of a neighborhood as to residential, commercial and industrial uses, not to exclude people or to regulate the wealth of people who might live there. Early in 1970, the community of Black Jack, Missouri, faced with a church-sponsored and federally financed low-income housing project, incorporated

itself and adopted zoning laws which precluded the low-income project. The Department of Housing and Urban Development, in November 1970, asked the Attorney General to seek a federal court order nullifying the rezoning and barring further interference with the project. As of the date this book was written, the Attorney General had not elected to proceed under the Fair Housing law. The failure to proceed was attributed by one civil-rights group, and I think correctly, to "a real debate" among White House political advisers "as to whether vigorous enforcement will affect suburban strategy."

The law on federally financed housing is clear. The Attorney General can choose to enforce it if he so desires. Private housing discrimination is more difficult to stop. Here, moral leadership from the White House is more effective even than the law. One man can change this policy if he wants to do so, if he will turn away from the rhetoric so comforting to the white suburbs and urge all America to accept what Pope John once said: "Every human being has the right to freedom of movement and residence."

Racial discrimination is wrong. It is illegal. The President need only point out that it may be a greater threat to America than the possibility of nuclear war because of the wide disparity between the promise of our laws on the one hand and our individual performance, as human beings, on the other. Continued racial discrimination has made hatred, distrust and fear commonplace in our present society: it exacerbates our other domestic problems everywhere that those problems exist.

The President of the United States has the power and the position to finally achieve consistency between our stated principles and our practice—if only he will choose to provide that moral leadership of which his high office is alone capable.