

CIVIL RIGHTS DIGEST

A Quarterly of the U.S. Commission on Civil Rights/Summer 1973



A look at school desegregation



CIVIL RIGHTS DIGEST

Vol. 5, No. 5
SUMMER 1973

- 2 SCHOOL INTEGRATION AND ITS ACADEMIC CRITICS**
A look at desegregation studies
by Gary Orfield
- 11 SCHOOL DESEGREGATION IN PRINCE GEORGES COUNTY:
TWO VIEWS**
- 13 . . . FROM HEADQUARTERS**
by Robert Litman
An account from within the central office
- 16 . . . FROM THE FIELD**
An interview with an elementary school principal
- 21 A NOTE ON RICHMOND**
The import of the recent Supreme Court decision
by Suzanne Crowell
- 23 WHAT THE PUBLIC DOESN'T KNOW HURTS**
How public knowledge affects busing opposition
by Marvin Wall
- 28 CONGRESS, BUSING, AND FEDERAL LAW**
The roots of antibusing laws and how they grew
by Michael Wise
- 37 CONFRONTING BIGOTRY BRINGS IT HOME**
Shedding detachment in an encounter with racism
by Peter Kranz
- 39 READING AND VIEWING**
- 40 BOOK REVIEW**
The effects of Northern school segregation are just as bad
by Meyer Weinberg
- 42 AN INTERVIEW WITH FATHER HESBURGH**
The former chairman of the U.S. Commission on
Civil Rights recalls the highlights of his tenure
by Paige Mulholland

*Director of
Information and Publications*

Bernard Morris
Marvin Wall

Editors
Kay Koplovitz
Suzanne Crowell

Art Direction
Joseph W. Swanson
Del Harrod

The *Civil Rights Digest* is published quarterly by the U.S. Commission on Civil Rights as part of its clearinghouse responsibilities. Funds for printing the *Digest* were approved by the Director of Bureau of the Budget on January 29, 1963. Correspondence related to the *Digest* should be addressed to Editor, *Civil Rights Digest*, U.S. Commission on Civil Rights, Washington, D.C. 20425.

The articles in the *Digest* do not necessarily represent Commission policy but are offered to stimulate ideas and interest on the various current issues concerning civil rights.

U.S. Commission on Civil Rights

Stephen Horn, *Vice Chairman*
Frankie M. Freeman
Maurice B. Mitchell
Robert S. Rankin
Manuel Ruiz, Jr.

John A. Buggs, *Staff Director*

The U.S. Commission on Civil Rights is temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;
- Appraise Federal laws and policies with respect to equal protection of the laws;
- Submit reports, findings, and recommendations to the President and the Congress; and,
- Serve as a national clearinghouse for civil rights information.

SCHOOL INTEGRATION AND ITS ACADEMIC CRITICS

Busing studies: their validity and political uses

by Gary Orfield

Academics have been arguing about the educational costs of school segregation for years, but the debate has reached a new intensity since Federal courts began to implement large scale urban desegregation plans. Although we simply do not have the kind of long-term national data essential to provide serious answers, the national polarization over busing has given extraordinary public visibility to conclusions drawn from the scattered local busing studies.

People are deeply concerned about the issue. A recent national poll showed, for example, that more than a fourth of the public believes that the test scores of white students decline sharply in desegregated schools. As a result, newspapers and political leaders have paid extraordinary attention to scholarly pronouncements on this question, particularly to those which appear to confirm public fears.

Actually, the academic debate has become quite technical. In the absence of money to gather the new data needed for clear answers, scholars are largely reduced to disputing the proper statistical techniques for handling the rapidly aging and seriously inadequate data collected for the 1966 Coleman Report.

The current debate has obscured the fact that there is rather widespread agreement on what we already *know* about the educational effect of integration. What is really in dispute is what policy should be followed. People often tend to assume that scholars who have worked with the statistics are therefore experts on what the country should do. Actually, of course, they quite often reach dramatically different policy conclusions in response to the same array of evidence.

Gary Orfield is the Scholar in Residence at the U.S. Commission on Civil Rights.



Analysis of the controversy should begin by listing the facts generally accepted by scholars and the issues that remain in dispute. Scholars agree on the following conclusions:

1) Integration of a lower-class child in a predominantly middle class school does more than anything else to narrow the gap in achievement scores, but the gap remains large.

2) Newly desegregated school systems seldom show substantial increases in minority student performance level during the first year of integration.

3) The test scores of white students are not affected by the desegregation process.

4) Social class integration is usually impossible for minority group students without racial integration.

5) Racial and class integration are desirable objectives of national policy, everything else being equal.

Their arguments revolve around three issues. First, estimates of the size of the positive educational impact of desegregation vary significantly. Second, there is no consensus about the contradictory and very sketchy studies of the psychological effects of desegregation. Third, there are fundamental disagreements about proper governmental response to the existing evidence about busing. Scholars hold opinions ranging from belief in immediate metropolitan-wide desegregation to opposition to any desegregation plans requiring busing. Still others insist either that the evidence is hopelessly inadequate to provide a basis for making policy or that the question should be judged in terms of the long-range goals of American society rather than the short-term educational achievement results.

The Limits of Social Science Research

In a period when social scientists are emerging from obscurity to become public celebrities, it is tempting for them to overestimate the significance of their findings. The change has been particularly intoxicating in the field of educational research, an academic backwater which suddenly is receiving extraordinary attention. Scholars are increasingly tempted to overgeneralize on the basis of existing data.

So far most educational research has studied only the most easily measurable changes for short periods of time. The easiest thing to measure is test scores and the least expensive procedure is to rely on a single testing session or two tests at the beginning and end of a single school year. That is about the only kind of information we have now.

There are very serious problems about the inadequacy and possible bias of existing achievement tests, and grave difficulties in judging the success of a fundamental educational change during the turbulent transitional period of the first year of busing. Nevertheless some scholars have reached global conclusions on the basis of such data. Since the studies contain substantially different findings, the result is a confusing spectrum of evaluations.

The most basic problem about the existing research, however, is its narrow focus on the short-term impact of desegregation on cognitive achievement. If desegregation really brings about basic change in the educational process, it would appear in the educational program and in the attitudes of teachers, principals, and students in individual schools. Such basic change would not likely come suddenly, or while the controversy of transition was still raging. We are only beginning to collect information on these important changes, from research directed by Jane Mercer in a number of California districts, and from a large sample of Southern districts now being studied by Robert Crain of Johns Hopkins. No research is yet available, for example, on the typical pattern of a sudden upgrading of black schools once white children are assigned to them.

Integration, of course, has consequences that go far beyond the school system. The establishment of a pattern of stable school integration, for example, may well ease the process of housing desegregation. Action to move a community past the struggle over school desegregation may eventually lead to more support for the schools. No one knows. We have only fragmentary information on the effects of eventual college entrance of placing an increasing number of blacks and Spanish-speaking children in formerly all-white schools with a strong tradition of college attendance.

Finally, the strictly educational assessments have no way of evaluating the powerful impact of school policy on the whole problem of creating momentum toward the creation of either an integrated society or a more segregated one. These are intangibles, of course, but so are most of the fundamental goals of our governmental system. A serious danger exists that in expecting social scientists to offer more conclusive findings than they are capable of producing, the debate may miss some of the most basic questions:

What kind of society do we wish to produce? Can we have a viable and stable social order so long as a form of apartheid prevails? Can we have a common

culture with separate educational systems? What will a segregation solution do to the Nation's basic values? Will the country be forced to live in the kind of stultifying hypocrisy and self-justification which so long crippled the South?

Integration is No Educational Panacea

In the aftermath of the Supreme Court decision in 1954, some school desegregation supporters hoped that school integration would wipe out differences between white and black students' achievement levels. We now know that substantial differences remain between middle class white children and poor white, black, Chicano, and Indian children, even when they learn in integrated class rooms. The gaps in test scores remain large and serious.

We have learned, in the past decade, that not only integration but every other proposed remedy has failed to produce equal achievement test scores among the major groups in the society. The great enthusiasm for early childhood education, expressed nationally in the massive Headstart program, has so far produced virtually no readily measurable lasting gains in educational achievement. The nation's commitment to compensatory education, embodied in the Elementary and Secondary Education Act, has been similarly disappointing in terms of achievement levels. With the crude measurement tools now available, we cannot prove that any remedy has much impact on test scores.

Americans have always had enormous faith in the ability of education to give real meaning to national promises of equality of opportunity. The major educational research efforts of the past several years have seriously undermined such confidence in the schools and strongly suggested that offering children a really equal chance will require drastic change in the economic and social status of the poorest groups in the population. The studies, however, have also left many questions unanswered.

The research, beginning with the massive national study commissioned by Congress in 1964, *Equality of Educational Opportunity* (the Coleman Report), strongly suggests that schools have much less influence on a child's test performance than do differences in home background. The evidence seems quite clear that differences in per pupil expenditure, class size, library facilities, teacher degrees or experience, and many other factors regarded as indicators of school quality have no significant measurable impact on performance

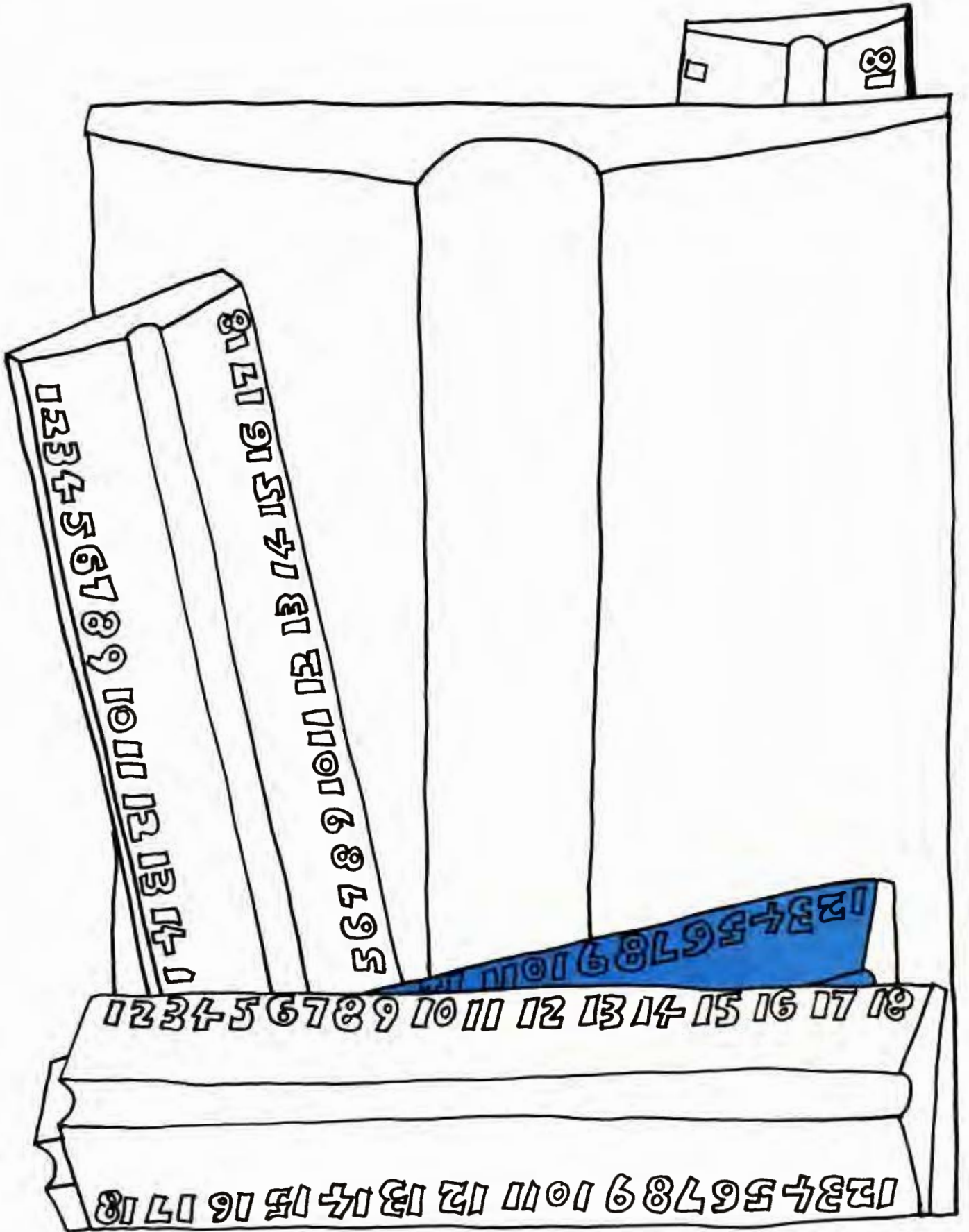
of children in existing standardized tests. These findings, while highly controversial, have not been disproven by any research showing positive long-term effects. Obviously, the role of the schools must be somewhat more limited than we had hoped.

It is important to stress, however, that virtually all teachers, school administrators, and parents believe the studies to be wrong or, at least, severely inadequate. Few classroom teachers believe that it makes no difference whether or not there are good texts or even enough books. Few English teachers believe they can teach composition as effectively to classes of 50 as to classes of 15. No superintendent believes that his school system could do the same job with half as much money. Very few parents would expect their children to perform as well in a decrepit slum school as in a beautiful suburban school with the most modern curricula.

Educational research, like most social science research, is still at a primitive stage. It is not yet possible to successfully measure most of the more complex aspects of the teaching and learning processes. The underdeveloped nature of the discipline produces a very strong tendency to rely on those aspects of schools capable of easy measurement—types of degrees, dollars spent and achievement scores—and to assume that they equal the net output and input of the schools. It is reasonable to expect that with the development of more sophisticated means of measurement and with more sensitive understanding of the educational process, the results of research may well change. Social science has often required considerable development to prove what most people believe to be obvious. At this early point in the development, there may be real dangers in over-reliance on research findings in the shaping of public policy.

Often leaders respond to the research results most compatible with the dominant political mood of the time. After the end of Reconstruction, to cite one historical example, great attention was given to "scientific" assertions about the inherent inferiority of non-whites. As racial attitudes improved, public attention belatedly focused on the massive scholarly documentation of the damage caused by segregation. Now, when the political winds have turned toward reaction, great attention is being given to a small group of scholars who allege that blacks are genetically inferior or that segregation is preferable.

Most social science propositions of any complexity are exceedingly difficult to test. Racial generalizations



18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18

18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

are particularly difficult to test or investigate in a society where race is so closely related to so many forms of unequal treatment and unequal opportunity. Since social science techniques can rely only on imperfect indicators for these various influences and can statistically control few variables, academics are not likely to produce conclusive answers. In political terms, the interesting thing is the way both the design of research and the public response to particular kinds of results have changed as political leaders and public opinion turn against further racial change.

A comparison of how Congress has responded to massive research findings questioning compensatory education and to David Armor's article attacking school busing is revealing. The contrast provides a fascinating reflection of the relationship between politics and research. The body of evidence accumulated by compensatory education critics is largely ignored as Congress annually finances the Headstart and ESEA programs. Last year the President also ignored this research when he proposed more compensatory education as an alternative to desegregation. Armor's article on school busing, however, made him a national celebrity and was referred to time after time in Congressional debate as *proof* that the courts should be restrained.

The Educational Impact of Desegregation

The only factor so far identified as having a significant impact in improving the educational performance of poor children is a certain kind of integration—placing children from poor families in predominantly middle class schools. Given the existing economic divisions in the country, this usually requires that black children and poor children of other minority groups be put in predominantly white middle class schools.

The evidence on the impact of integration shows that the result is not breathtaking, making up only part of the difference between white and minority achievement. In the absence of integration, the research shows that, virtually without exception, poor minority children fall further behind normal white middle class achievement levels the more years they remain in school. Minority children in integrated schools do better.

Desegregation is the only thing we know of that has the power to make any significant visible impact on the gap. The impact is probably cumulative over the

years and long term studies will be essential to determine its size. Existing evidence suggests that perhaps a fourth or a fifth of the existing racial achievement gap is eliminated. Some studies show a much stronger impact. Others show less.

The main dispute among academics is not about the evidence, but rather about the significance of the findings. The press reports a major debate about whether or not integration has a great impact on education or none at all; in fact, the actual record shows the major academic supporters of integration acknowledging that its short-term educational impact is limited, while the leading academic critics simply dismiss the favorable results as too small to justify the tumult over busing. Essentially, the interpretation placed on the evidence is often more a matter of the value judgments of the investigator than of any major dispute about the research findings themselves.

The leading academic critique of urban desegregation plans has been David Armor's article in *Public Interest*. Basing his conclusions on five local studies, Armor states: "None of the studies were able to demonstrate conclusively that integration has had an effect on academic achievement as measured by standardized tests." Armor, however, views the statistics from a strange angle. It is not enough, he asserts, to show that black kids in integrated schools do better than those in segregated schools. Nothing counts unless blacks progress as fast or faster than white kids. This criteria reduces major changes to insignificance, by definition.

Such an unusual interpretation of data is highly misleading. Given the fact that minority group children arrive at school already far behind, any program that can lessen the momentum of ever greater inequality should be taken very seriously indeed, particularly since the education profession has virtually nothing else to offer.

Professor Armor's analysis is based on studies of five cities, mostly covering a one-year period of integration. In Senate committee testimony, Armor concluded that "we won't know for sure until the studies have done the full duration of the school experience, which is 12 years." Yet he attacks busing plans because they do not totally solve the problems of performance in the first year of desegregation.

The one study on which Armor relies most heavily for his discussion of longer-term effects of desegregation analyzes the impact of integration on children in the Riverside, California, school system. Armor says

that data covering five years of integration in Riverside gives him considerable confidence about the validity of his conclusions. Actually the data Armor uses, according to the Director of Research in the Riverside school system, comes from adding together two studies of the same 2½ year period and significantly distorting the results. Armor made no effort to check his data with Riverside experts before publication and he gave great significance to the educational impact on a relatively small number of black children, ignoring the evidence of impact on a larger number of Mexican American children, the most seriously deprived ethnic group in the community.

Riverside educational researchers believe that the achievement scores show considerable ground for encouragement. Early evidence there shows that minority students desegregated before second grade advance just as fast on achievement tests as white students do. Even though they do not overcome the deficit they had at the time they entered school, to find the educational process having an equal impact is a very rare and encouraging event. The school system actually even has some data to show that minority children in integrated kindergartens overcome part of the gap they bring to school with them, although this data does not yet have clear statistical significance. Dr. Mabel Purl, the research director, summarizes the deficiencies of Armor's study as follows:

1. unfamiliarity with the major portion of the Riverside data;
2. citing only portions of the data to emphasize negative conclusions; and
3. use of extremely short term data to test aspects of his policy model.

Even Armor himself conceded that his conclusions about another of the five cities he studied would now have to be qualified. In his 1972 Senate testimony he spoke of new findings issued on desegregation in the Hartford, Connecticut, metropolitan area.

"They showed . . .," he testified, "that busing black students who were in the third grade achieved one year-one month [progress in a school year], compared to six months, or half as much, of a comparable control group . . . in a black school in Bridgeport." He goes on to point out that the second graders in the integrated situation made nine months progress while the segregated group made six months. Armor dismisses these results as insignificant because the white students in the suburban integrated school were gaining substantially faster than the national average and

thus the achievement gap was increasing slightly. It is difficult to understand how a researcher can conclude that a program that means extra months' worth of learning each year is inconsequential.

Additional problems are apparent with the Boston study on which he relied most heavily. The value of any study measuring the differences made by integration depends upon statistical comparison with a control group of students from similar backgrounds remaining in segregated schools. In Boston, the control group had inadequacies serious enough to jeopardize the entire study.

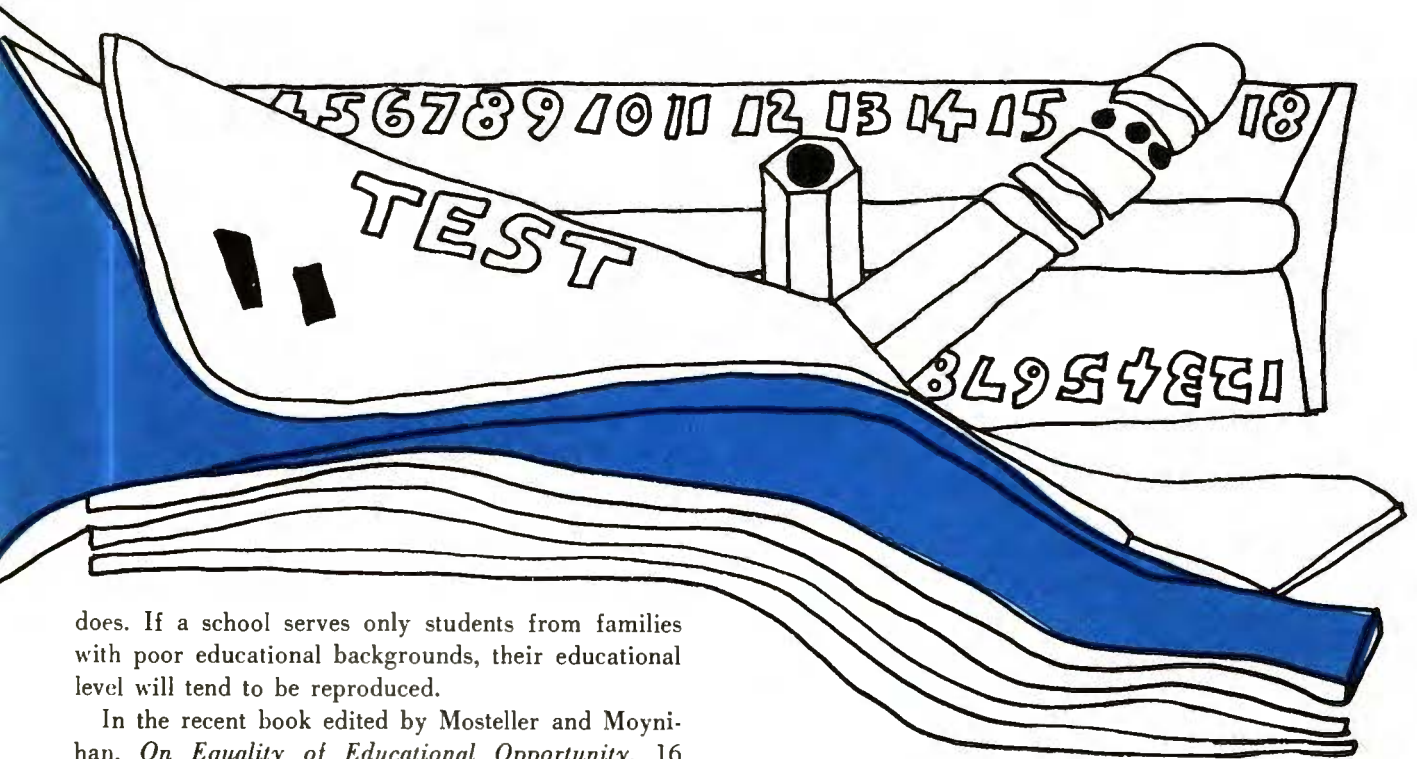
The Evidence on Academic Achievement

Weighing in the balance against Armor's critique is the great bulk of the research findings. The best available data is still that provided by the original Coleman Report. The basic conclusions of the report have held up under years of intensive and unprecedented scrutiny by scholars across the country. Thorough recent re-analyses of the data have been published in books by Frederick Mosteller and Daniel Moynihan, and by Christopher Jencks and his associates. Available evidence from other studies has been summarized in major analyses by Meyer Weinberg and Nancy St. John.

The consensus of all their research is that desegregation produces a positive educational impact. None of the existing research is without serious deficiencies, and we can roughly estimate the size of the gains. The Coleman data showed that the typical black student was a year and a half behind the normal white student by sixth grade and more than three years behind at high school graduation, even though black students were highly motivated to learn. The report called into question the whole common conception of what schools do in the educational process:

Ordinarily one has a conception of schools' effects as consisting of a strong stimulus from the outside, independent of the immediately social context of the students. . . . It appears that a more appropriate conception may be that of a self-reproducing system, in which most of the effects are not independent of the social context, but are, rather, internal ones.

The Coleman data showed that the only thing it measured within the power of the school system that had much educational impact was the "student body's education background and aspirations." Students have more impact on each other than anything the school



does. If a school serves only students from families with poor educational backgrounds, their educational level will tend to be reproduced.

In the recent book edited by Mosteller and Moynihan, *On Equality of Educational Opportunity*, 16 scholars including Armor attacked the Coleman data from a variety of directions. They succeeded in raising questions about methodology, in proposing some limited alternative explanations of some of the findings, and in suggesting that the impact of class integration was somewhat more limited than had originally been believed. Their research, however, left the basic findings largely intact.

Although Christopher Jencks' recent book *Inequality* is a fundamental attack on many current assumptions about the educational process, Jencks and his associates are in essential agreement with the Coleman report findings on the academic impact of the desegregation process. In a recent article in the *New York Times Magazine*, Jencks states that short-term desegregation studies suggest that integration accounts for 20 to 30 percent of the difference between white and black achievement scores. He explains the varied results of local desegregation studies as follows:

If the cumulative effect of desegregated elementary schooling were to reduce the gap between blacks and whites by 20 to 30 per cent, as the Coleman survey suggests, one year of desegregation might only reduce the gap by 3 to 5 percent. A difference of this kind could not be detected with certainty except by comparing very large groups. Busing studies almost all involve relatively small groups. Thus even if six years of

busing could cut the test-score gap . . . researchers might find that the effects of busing over one or two years were "statistically insignificant." The only way to overcome this difficulty would be to average all the different busing studies together. Since some studies report gains and virtually none report losses, it seems likely that the average effect is a gain.

Virtually all of the major researchers in the field agree that the existing studies are inadequate and inconclusive. Most of the debate rests on the eight-year-old Coleman data collected during a single national testing which omitted many of the issues which now seem most important. A single testing cannot explain the dynamics of educational change over time. It cannot follow the progress of individual students. The community studies which do include testing over time, on the other hand, suffer from equally serious defects. The sample is typically so small that important changes may not show up as statistically significant. Normally, they cover only a single school year, much too short a period to test cumulative effects of an integrated school experience. Most of the local studies do not have adequate control groups of children left in segregated settings whose performance can be compared to those in integrated schools.

Most of the recent debate has been about the significance of the local studies. Armor asserts that they

prove desegregation is not worth the trouble. A major rebuttal by a team of scholars led by Professor Thomas Pettigrew, however, argues that Armor's article is based on a misinterpretation of the data from the five communities he studied and that he excluded seven other carefully designed local studies. The Pettigrew team concludes that educational gains indeed resulted, and that these gains are clearest when integration begins in kindergarten and first grade rather than in later years, when the racial achievement gap is already very wide and racial attitudes more defined. The Pettigrew study notes that three of the five systems Armor considered actually *reduced* educational services to black children after desegregation.

None of this evidence is conclusive. Most of the local studies remain grossly inadequate. Most cover only a single year of desegregation. Many do not adequately address the distinction between formal desegregation and genuine integration that many educators think is vital. As the Pettigrew article concedes, "reviewers of this research literature have uniformly found it methodologically weak." Although the vast bulk of desegregation has taken place in the South, virtually no serious research is now available on the impact of the change. Many of the existing studies are based on small university communities, where the class and educational gap between white and black communities may be particularly wide and where separatist ideology makes the transition difficult. Until this defect is cured, it will be extremely difficult to make any conclusions about the impact of the process.

At the present time, the bulk of the evidence from the local studies is consistent with the Coleman findings, showing a small but significant impact from placing lower class children in middle class schools. It will be years before we can have an accurate reading on the cumulative impact of a full school career in a well-integrated system.

The unhappy fact is that no systematic national effort is underway to gather the facts we need about the impact of school desegregation over a period of years. Research is lacking even on the most easily researchable issues—achievement test scores. School by school studies in some localities, including Riverside, have indicated marked differences in educational results but analysis of the reasons for these differences is at a very primitive stage. We have only a small amount of inadequate short-term data on the psychological impact of desegregation, not enough to justify any confident assertion on this issue.

On the larger issues of the impact of school integration on broader racial, political, and economic problems in the community, social scientists have very little to say. Most of the existing local studies have been in small Northern towns. Little systematic evaluation has been made of the Southern experience, which has been on a vastly greater scale. Community studies by Civil Rights Commission staff including Southern communities have consistently shown that the difficulties of desegregation have been greatly overstated by most of the press and most political leaders.

School desegregation is an elemental political and social change for a community. It is resisted so intensely and demanded so strenuously because the public schools do indeed play a central role in our society and our culture. Anyone who has seen a community before, during, and after the desegregation crisis senses the high stakes of the battle. In our urban areas today, the battle over racial separation in the schools is the first and perhaps the decisive part of the decision about the future of urban race relations. If the public schools cannot be desegregated, what real hope is there that the fragmented, privately controlled, and fundamentally conservative forces that control most of the job and housing markets are going to arrest the momentum of racial separation and inequality?

Up to this point, social scientists have produced very little useful data to help the public and the courts in reaching the decisions we face. They do a disservice when they use fragments of tentative findings, mixed with liberal portions of personal views, to suggest that there is a "scientific" answer to a basic social problem. While improved social science research could surely provide much more effective guidance about which desegregation techniques were more or less likely to produce certain results, the question of whether it is all worth the trouble will not be settled by scholarly pronouncements. It will be settled by considering the importance of the basic American commitment to equal opportunity and by weighing against the difficulties of achieving desegregation the costs of conceding that our urban civilization will develop in the form of vast, separate, hostile, and unequal societies.

Editor's note: The U.S. Commission on Civil Rights has awarded a contract to the Rand Corporation to design a national study of the impact of school desegregation. The design will seek to fill the gaps in available social science research noted by Dr. Orfield.

School Desegregation in Prince Georges County: Two Views

On January 29, 1973, the school system of Prince Georges County, Maryland, was peacefully desegregated under court order. The next two articles describe how that desegregation took place. The first is an analysis of the overall situation preceding desegregation by Robert Litman, Public Information Director for the Prince Georges County Schools. The second is an interview with Mrs. Greta Henry, the principal of a black school, who relates the preparations made in her school to bring about a positive and peaceful transition.

A short summary of the events leading up to January 29 will help to set the stage.

In response to the Supreme Court's decision in *Brown v. Board of Education*, Prince Georges County adopted a pupil assignment plan for desegregation at the beginning of the 1955-56 school year. Under the plan, 8 schools out of 183 were between 5-10 per cent black and the remainder were nearly or completely either all white or all black.

Following passage of the 1964 Civil Rights Act, the school district adopted another desegregation plan based on allegedly neutral, contiguous zone assignments. Modifications of the plan—from its beginning until 1973—did not depart from the principle of contiguous zones. Thus racial isolation in the schools was maintained, since the housing patterns in the county were largely segregated.

In 1968, the Department of Health, Education, and Welfare requested still another plan to eliminate the vestiges of the dual school system. In July of 1969, the

school district agreed to adopt a plan that would desegregate the two black secondary schools by redrawing attendance lines. In addition, faculty were to be assigned to eliminate the racial identifiability of the schools. Implementation of the plan was delayed until 1970 with the permission of HEW. Upon examining the results of the plan after it went into effect, HEW requested further reassignment of faculty.

Following the Supreme Court decision in *Swan v. Charlotte-Mecklenburg*, HEW informed Prince Georges County in May of 1971 that a new desegregation plan must be developed to take into account the new court guidelines. In August, the Department declared Prince Georges County to be in noncompliance with the 1964 Civil Rights Act and withheld federal funds for new programs. Hearings on the case began in January 1972 before a federal examiner.

In the meantime, the parents of Sylvester Vaughns, Jr. filed suit against Prince Georges County in Federal district court. The HEW hearings were suspended pending resolution of the suit. On July 27, 1972, a federal district judge found in favor of the plaintiffs. Later he ordered the staff of the school district to present a desegregation plan for the beginning of the 1972-73 school year. A satisfactory plan was finally presented in December.

The school district appealed the court's decision to the Fourth Circuit Court of Appeals and to the Supreme Court. On January 26, 1973 the Supreme Court rejected the appeal, and on Monday the 29th, desegregation began.



From Headquarters...

by Robert M. Litman

"The Choice is Yours"—that was the message aired in Prince Georges County as school desegregation approached. In a series of 10-second public service announcements on radio and television, school officials urged all parents to send their children to school and to accept the court's decision.

At the same time, spokesmen for a large anti-busing group claiming 30,000 members exhorted citizens to boycott the schools in protest. For whatever reason, the latter appeal was largely ignored and desegregation occurred in the Nation's tenth largest public school system without major mishap.

Attendance the first day of classes was just slightly under average. Figures released by school officials at the end of the first week of desegregation revealed that more students were in school during that period than at any other time during the school year.

Looking back a few months later, it is easier to see where mistakes were made and where things went right. There were moments when I thought we would never make it through. Too many citizens, county officials, Congressmen, and community leaders were opposed to busing and emotions were sky-high. But the legal requirements of desegregation were met in the end, and this brief article is intended to give one personal account—my own—of how that came to pass.

I think three factors were paramount in the successful implementation of desegregation—its timing, preparation, and the somewhat belated positive media coverage.

Robert Litman is Public Information Director for the Prince Georges County public schools.

Perhaps the single most important factor was timing. The school board, split down the middle on desegregation, delayed implementation through litigation beyond the opening of school last September. In briefs filed with the U.S. District Court in Baltimore, the board's attorney contended that school officials could not develop and implement a desegregation plan without producing an "educationally disruptive" environment in the school system. He repeated his argument some months later but without the same success. On December 29, 1972, U.S. District Court Judge Frank A. Kaufman ordered a staff-developed plan to be put into effect one month later.

There could have been only a handful of citizens who understood the finality of that order. When the decision was appealed, many continued to believe that desegregation would be held off indefinitely through federal court appeals.

However, three days before the plan's scheduled beginning, the last of the available appeal routes was exhausted. Desegregation started the following Monday, and busing opponents had little time in which to react.

They had few alternatives. They could try to find a private or parochial school or accept the desegregation plan. Private schools have few openings in the middle of a school year, and parochial schools had gone on record as refusing to accept applications from parents whose sole aim was to thwart the desegregation efforts of the public school system. There simply wasn't enough time to pick up and move, and the majority of Prince George's parents could not afford such a move

anyway. Fortunately, none followed the example of Pontiac, Michigan, where irate parents attempted to impede school buses.

In an average of four meetings a week with citizen groups during the year preceding desegregation, I must say I was impressed—and depressed—by the refusal of opponents and others to comprehend the legal issues behind busing.

At no time did I advocate any position in my speeches or discussion. I spoke facts—and they went in one ear and right out the other of my listeners. My references to Federal laws and constitutional requirements often led to accusations that I was a Communist, pro-busing, or to the left of Rennie Davis.

It was all the more frustrating because I foolishly believed that, at that stage of the game, people would accept reality. How could they believe all the rhetoric of those leaders who were so sure that further desegregation would be delayed indefinitely? I was wrong.

Meanwhile, as county officials and civic leaders reassured opponents that “it wasn’t going to happen in Prince Georges County,” the superintendent of schools got moving. He knew better, and his efforts in preparation were the second factor enabling a peaceful transition to take place.

Three months prior to desegregation, Supt. Carl W. Hassel appointed a special task force to develop a manual that could be used by local school officials “to improve race relations in order to maintain effective instruction.” In just one week, the 21-member group made up of teachers, administrators, parents, and students came up with a 31-page booklet of suggestions, strategies, target groups and dates, and special needs.

Caught between a divided school board and a large bloc of hostile citizens, the superintendent hesitated at first to publicly urge support for and involvement in the desegregation process. He eventually realized that to delay administrative efforts to prepare for change would produce chaos and confusion when desegregation was finally implemented.

In a message to teachers introducing the manual, *Project Desegregation: Plans for Successfully Desegregating the Prince George’s County Public Schools*, Dr. Hassel said, “I am calling on each principal to initiate preparations, with your faculty and staff, and later with students . . . to lay the groundwork for successful desegregation. The key, I believe, will lie in your commitment to children and youth . . . and your commitment to making your school the best possible place for children, to live, to work, and simply to be.



We must begin the process *now* . . . we cannot afford to wait until the day is upon us."

The manual was distributed to every school system employee, principal, teacher, cafeteria worker, and secretary. No group was ignored. Suggestions for involving students, teachers, administrators, bus drivers, cafeteria workers, school board members, parents, and county officials were included. An In-Service Day for administrators and teachers was held in every school on December 20 to review the booklet and build upon its suggestions and recommendations.

Although I had serious doubts about the value of the book (I thought it was highly technical in its language and approach) I was proven wrong. It served as a catalyst for honest and open discussion among educators and as a strong base upon which to build plans at the local school level for facilitating peaceful and positive desegregation.

By no means least important was the preparation of the bus drivers, who were in some ways the front line in a smooth transition. With the reassignment of 33,000 pupils, transportation officials developed new bus routes and trained additional drivers.

Meanwhile, other bus drivers met in private meetings to see what they could do to prevent major snafus and misunderstandings. In addition, private citizens volunteered to act as school bus monitors.

Although a number of problems and incidents developed the first week, none was really serious. Some kids were left standing at bus stops; others had to wait for a second bus to pick them up because the first one was full. There were some late arrivals. But such things are to be expected during the beginning of a new school year, and—in a sense—January 29 marked such a beginning.

A third factor in the peaceful implementation was media coverage. Television and daily newspaper reports kept desegregation on the front page, and they focused on the opposition and the problems involved.

However, one week before the 29th a noticeable change occurred in media coverage. Stories of a more positive nature were featured—either because of a change in editorial policy or because reporters finally saw firsthand some of the positive efforts of students, teachers, and citizens. For whatever reason, I began to believe as Monday approached that we all just might "pull it off," despite the vocal opposition.

No one is naive enough to believe that the school system is out of the woods yet. Opposition to busing (desegregation is never opposed, at least publicly) re-

mains strong and well-organized. Many anti-busing groups are keeping a watchful eye on the schools, looking for the difficulties they predicted. They have complained of a racial double standard of discipline, among other things.

These are real problems, and the number of interracial incidents has increased as interracial education has expanded. The schools will have to meet the problem head on.

On the other hand, the busing issue has helped bring many citizens back into the educational mainstream, causing them to take a hard look at their children's educational program. Some schools formerly without PTA or other citizen support have developed strong ties with their new communities.

Perhaps the reason for racial tension in a few of the schools is that while desegregation has occurred, integration is yet to come. Blacks and whites often sit on opposite sides of the cafeteria. The same is true of many classrooms.

Children need time to get acquainted after years of separation. Many are making friends with others of the opposite race, but a concerted effort to encourage interaction must continue. There are two foreseeable roadblocks to such a process.

One is the possibility that shifting residential patterns will result in white families leaving the county or the public schools, creating a preponderantly black enrollment. The increase in black enrollment system-wide over the past few years makes such a development a real possibility. Such a phenomenon would severely disable integration efforts.

The second roadblock involves the transition now underway toward an elected school board (the school board has been appointed by the Governor). While such a procedure will increase democratic control of the county schools, anti-busing forces see such a change as an opportunity to move back to pre-January 29 status. Legally that would be impossible, but any political campaign based on an anti-busing platform could do a great deal of harm and damage efforts to improve race relations.

No one expected desegregation to be easy, but it has been accomplished in Prince Georges County. The problems of alleviating racial tension and bringing about integration remain to be solved, but there is no reason that they cannot be, as long as the school staff maintains its efforts and responsible leaders exercise their influence. I remain, in those oft-quoted words, "cautiously optimistic."



From the Field...

Mr. Litman: Mrs. Henry, as principal of John Carroll, you have a different perspective on school desegregation than most people. How do you see the recent desegregation of Prince Georges schools? How did it all start for you?

Mrs. Henry: In September 1972 John Carroll Elementary was beginning its second year of operation and opened its doors with 99.8 percent black students. It wasn't too long after that when we began to get information that led us to believe that since our system had not been desegregated in September as had been previously hoped for, it would desegregate the following January.

There were many things that I had to evaluate. I had and still have a very young and able faculty, which is half the battle. In the beginning, I did some soul searching in terms of my feelings because we all have our own prejudices and biases. I don't think there is

a person on earth who doesn't have these. In doing this, I realized I did have a commitment and a responsibility to the children first. Beyond that, I had to think of how could my faculty, staff, and the administration demonstrate the example that needed to be set for the children who would be leaving, for their parents, for the parents who would be coming in and the children who would be coming in, as well as provide for the needs of the remaining students and parents.

One of the first things that we did in September was

Robert Litman, Director of Information for the Prince Georges County Schools, interviewed Mrs. Greta Henry on March 14, 1973 in a video tape session for the United States Information Agency. As principal of a primarily black elementary school desegregated on January 29, 1973, Mrs. Henry told of her thoughts and actions during the preparation period preceding desegregation.

something we had done in years past; that is, we established a school human relations committee. The committee was concerned with in-house human relations problems. These were not black or white problems, or student-teacher problems. This committee tried to be aware of things that could be done to make a family a little more comfortable, or to settle disputes between teachers, or even iron out the wrinkles when one of my messages was misinterpreted, etc. Beyond that, we were child oriented and we were always looking at relationships in the total school population, as well as in the community.

As time progressed, I called in a few key teachers (members of the Faculty Advisory Committee). We talked about formulating plans for the desegregation process. One of the first things we discussed was the establishment of a Program for Improving Race Relations (PIRR) committee—a suggestion made by the superintendent's office—to help us deal with desegregation. We decided instead to expand our human relations committee, with the intent of pulling in people from the communities from which we would be receiving children. This was a fine idea, but at the time we didn't know which communities this would involve. But we were at the point of needing lay people, so we reached out to bring in members of our own community—the PTA president and any parents who were willing to come in and talk with us about some of the problems we might encounter.

Well, as a result of our actions, we started developing a human relations committee for the out-going and in-coming parents, and for the children, teachers, and administrators.

One of the first things we did when we found out we might be desegregating was to get our human relations committee together and discuss how we felt about desegregation and what we could do. Were we for it, or against it, or neutral? Just how did we feel? Our point of reference was what feelings and attitudes did we need to examine and understand that might affect our relationship with others during the implementation?

We encouraged dialogue with people from the community who were in favor of desegregation, and we encouraged dialogue with those who were against it because we wanted to give our committee input from both sides. We encouraged everyone.

Also, we started to think about our students and ask, "How can we present desegregation to our students?" First of all, I did not want any black child to think that

I was getting rid of him or that we didn't want him, or that there was preferential treatment being given to any one segment of the community. So here again, I had to start thinking, "How am I going to make the children involved feel comfortable about it? How can I have all students involved positively?"

My second thought was, "How could I make those [children] remaining feel comfortable about the new kids who would be coming in and vice versa?" Here, my guidance counselor came to my aid. The counselor started meeting with small groups of children and encouraging them to express their feelings about it. They talked about the white children and the black children, our school and their school. You know, this thing of separatism was there and I was glad that we could sit and talk about it.

Mr. Litman: Now, were these two other schools predominantly white elementary schools that would be sending white children to your school?

Mrs. Henry: Yes. Well, ironically, both black and white children were scheduled to come from the Greenbelt Community because if black students lived in an area, to be bused, they were going to be bused too.

In fact, one black student who came to John Carroll said to me once she was bused in: "Guess what, Mrs. Henry, we'll be able to tell our children that we helped to integrate a black school." I thought that was a pretty sophisticated analysis for a fourth grade girl.

But, to get back to our story, by that time we had several meetings on the local level, and we thought it was about time to make clear our feelings and encompass people from the other communities. We were getting into December, and we had just found out which schools would be sending us students.

One morning I contacted the other two principals involved and they came down to my office. Together we planned a process to prepare ourselves for the 29th of January.

One of the first things we did was to hire a bus. We put some of our students on the bus and went to the school they'd be transferring to in January.

But I made a point of not just sending children who would be leaving our school. I did this because the children who would be staying were also wondering about the new school for their classmates, so I mixed them up. Some of the kids who went were kids who would be transferring to the school anyway, and some of them were students who would be remaining with us.

I continually had to remember that we were dealing with two groups of children. I felt I had to keep on

reassuring them I cared about everyone.

Again, the teachers were very important in getting the children to share their information. When the students returned, the teachers would ask: "What was the new school like?" "Gee, what did you see? "Would you share it with us?"

In this way the teachers were reinforcing the children. They never put it in terms of "Did you like it?" but rather in terms of "Share your experience with us."

The teachers had meetings before our desegregation to plan their responses to questions asked and remarks made by the children. It took a lot of merging of diverse ideas working together since there are always some people who don't think quickly on the spot—someone who doesn't respond always in a positive way.

So after our planning session, we bused some chil-

dren up to one of the other schools and they spent the day, ate lunch, and talked with others. They came back very excited. And, with that, I thought we had crossed our first hurdle. When [the children] went home that night they would say things like, "Gee Mom, we went to that new school and we liked it."

One of the things they talked about was the school building. It was an older building that had a new addition. So the kids talked about the neat building that had two parts. These are the little things in a child's world that are important.

After we accomplished this trial busing, we had to think in terms of, where do we go next? Well, my first thought was to provide opportunities for the teachers see what the other schools were like; what kinds of things were being done in the other schools; what their



programs were. I made an appointment to exchange some staff members with the other schools. Of course, this had to be done after the school day.

The teachers spent a lot of time in dialogue. We talked about our children. For those children we felt had some particular problems, we fixed little cards to alert the new teacher to those problems.

But the thing I think we did that was much more beautiful was that on every child's feeder card we listed three good things. These things may have been ever so simple as, "He is a good listener, or "He carries messages well." We were trying to avoid any of the so-called social attitudes that can come into play when we talk about a child's work. This turned out pretty well because it didn't give anybody any labels and this is what we were trying to avoid.

Mr. Litman: What about the white children who would be coming to John Carroll?

Mrs. Henry: The principals and I then had their children come over to our school. Also, after we had an exchange of students, we wrote letters. In other words, each student who was to remain at John Carroll was assigned a name. It didn't matter whether it was a boy or girl, but the only thing that did matter was that they be on somewhat the same grade level. Therefore, when the new child came in, he had someone to lean on. The [association] was further enhanced by the communication in writing. It was very, very touching. All our students were writing letters, and some exchanged gifts the Sunday afternoon we held open house at John Carroll.

Not too long after they started this process, we had the open house. That in itself could have been the thing that clinched it. My faculty and I sat down to talk about having an open house. Knowing that we had no budget with which to work, they came up with the idea, "Well, OK, we're going to have this open house, Mrs. Henry, but that implies that we're going to have some really beautiful things, and we don't have much to work with."

I just sat there looking at them and I didn't say anything. Some of the others just sat there looking around, gazing at each other when one of the teachers said, "Let the teachers prepare the food." Well, they did. And a lot of parents got involved in it, and help came from any sources.

It was the most beautiful thing I have attended since I have been in education. We had over 600 parents come to the open house, and the children came and some of the grandparents came. The teachers came and

some politicians came. Really, I think the parents who had children who were to be coming to our school felt that the school had warmth.

Every teacher from John Carroll was there. Beyond having the children get to know each other by writing letters, we had the teachers get to know which parents went with which children. Then we paired parents from John Carroll community with a set of parents from the incoming communities. This meant that on that Sunday, January 21, every adult had a parent to look for.

Everybody had these big name tags on and everybody was being very friendly, talking to others and looking at name tags, trying to find the parents to whom they had been assigned. That was a spontaneous ice-breaker.

We had some parents assigned to see that people got to meet one another, and we had children helping out with the serving. We were taking pictures. Everything went well. It was just a beautiful day.

Prior to that time, I had been getting all kinds of negative feedback from some incoming parents. I went back to the school on January 2nd to continue to prepare for the 29th. Well, I wasn't able to do it because on that particular morning when I got there, there were carloads of parents sitting and waiting for me.

They didn't tell me they were coming. But being aware of what might happen, I invited them into my office to talk. Some of them had been to open house, but they wanted to come back and talk. The sort of things they wanted to know were things I guess could hurt.

"How are your teachers going to deal with black students who attack our white children?"

"What are you going to do about discipline in this school?"

"How do you handle children who are disruptive to the class?"

Now some of those questions I did try to answer, but I don't think I answered any of them to the satisfaction of those parents. It was at that time I was informed that they had just come to reinforce what they believed.

Things like many of the black schools are substandard, and that they had been told that our particular school had the highest vandalism rate in the county. I was very glad to relate to them the vandalism that occurred last year was done by two senior high students who broke in and did \$2,000 worth of damage.

The students were apprehended and taken to the courts, and from that day until this day, the only other thing we lost was one typewriter. I don't believe that puts us in any category of high vandalism.

Getting back to our parents, my experience with some of them made me very, very sad because I thought these parents were doing their children such an injustice. However, some of these ladies told me that their husbands would be laying down in front of the buses on the 29th, which really frightened me because I didn't want to see anyone hurt as a result of this. But, if this was the route they chose, then as principal of the school, I had to accept what they said and try to deal with it when the day came.

That week following the holidays was a very strange one for the teachers. Some parents were coming in, and stopping the teachers from going through their normal teaching routine, to confront them with questions about the upcoming desegregation. I was trying to take parents through the school and another member of the faculty was helping me, too, but the parents were sort of getting away from us and going off on their own to talk to the teachers.

I told them they were free to do that, but I suggested that they arrange a time when the teachers would be available to talk so as not to interrupt the classes. I said I would be glad to arrange meetings when the teachers had free periods, but the parents said they didn't want to do that because they didn't have time.

Well, the clincher was one night when I was at school until about seven, and I was sitting in my office working when the custodian came in and said, "Mrs. Henry, who are all these people in the building?" I replied, "What people?"

I went out to see who was there, and there were people wandering all around the building, maybe 25 or 30 men, women, and children. I asked what they were doing there, and they told me that they were just curious and looking around. Then I asked if I could show them something in particular.

"No," they said. "Our children are supposed to be bused down here, and the community looks all right, but we want to see what the school is like."

I asked them if they had attended our open house, but none of them had been there. So I introduced myself and said I'll be happy to take them through and show them the school.

I guess what happened next was the only time I lost my professional posture in this whole process. I

said to them, "Isn't it amazing that all over the United States at 7 o'clock in the evening, people were home relaxing from a hard day's work. But the twenty-five of you just happen to be in this school."

At that point one of the mothers happened to see that I wasn't too happy about it. She became very apologetic and asked if we could go back to my office and sit down and talk about our plans, which we did. To me, that was the worst time we had, because I could feel their hostility and my reaction to it. That was the only time I felt apprehension. But we did talk; we did get through it.

Mr. Litman: How are things going at John Carroll now? Have the attitudes of white parents changed since desegregation took place on the 29th?

Mrs. Henry: Well, I'll be very honest, the way we have been from the very onset. Attitudes have changed. I have seen people who were from the very beginning coming up to look at the school. They weren't looking at our academic programs. They were asking questions about teachers. "What is her background, and what are her qualifications?" "What are your qualifications?"

But now I'm beginning to see a change. Now these people realize that the teachers in that school are there for one thing and for one thing only—that is to deal with every child and to assess that child's needs, whether they be academically or socially grounded, and take the child from there. I've had many parents, mothers and fathers, coming to me and apologizing for some of the things they said and did, and many letters commending our management of the situation.

Now we've got all kinds of spirit. Some parents came to our community on a Saturday in March and planted trees all around our school. It's a new school, and we haven't had the landscaping done because it wasn't in the original contract. So these parents did it. I've felt very good about that and other things happening around our place.

We have had a Talent Show organized and directed by the children which included many integrated acts. And since, we have had a Science Fair with children working side-by-side, according to common interest rather than race.

We had our tense moments, a few days of waiting to see what would happen, but things are working out. It took a great deal of thinking and planning and a tremendous effort on all sides, especially from the children who were so good through it all. Now, I know we're going to make it.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 72-549 AND 72-550

School Board of the City of
Richmond, Virginia,
et al., Petitioners.

72-549 v.

State Board of Education of
the Commonwealth of
Virginia et al.

Carolyn Bradley et al.,
Petitioners.

72-550 v.

State Board of Education of
the Commonwealth of
Virginia et al.

On Writs of Certiorari to
the United States Court
of Appeals for the Fourth
Circuit.

A Note on Richmond

by Suzanne Crowell

As this issue of the *Civil Rights Digest* went to press, the United States Supreme Court issued a decision which set back, at least temporarily, the idea of metropolitan school desegregation. The Court affirmed, by an equally divided Court, a Court of Appeals ruling that metropolitan school desegregation cannot be used

to remedy segregation in Richmond, Va.

The immediate impact of the decision is to prevent integration on a metropolitan basis in Richmond, but the legal issues have not been finally resolved. When the Supreme Court is equally split on a case, the decision does not set a precedent for future cases. (Justice Lewis Powell did not participate in the case because of his previous associations in Richmond).

In the Richmond case, the District Court had ruled in favor of the plaintiffs and had ordered a metropolitan school desegregation plan which would have integrated the Richmond school system with the neighboring systems of Henrico and Chesterfield counties. The District Court judge based his ruling on six weeks of testimony designed to demonstrate that the State of Virginia had played a major role in maintaining segregation.

Not only had the State prohibited integration by law, but it had engaged in massive busing of black students to keep them in segregated schools, and even maintained black boarding schools for that purpose. In addition, the plaintiffs said, Virginia had aided in the maintenance of housing segregation which led to the eventual concentration of blacks in Richmond and whites in the two surrounding counties.

This position was rejected by half the Supreme Court's members. Since no opinions were written, it is impossible to know what objections members of the Court had to the plaintiffs' arguments. It is also impossible to project exactly what course the Court will take on future metropolitan cases.

One such case concerning the public schools of Detroit has just been acted on by the Sixth Circuit Court of Appeals. Here again evidence was presented demonstrating State and Federal participation in maintaining housing segregation. Cited by the plaintiffs were FHA policies of the 1930's and 40's, the location of public housing and access to it, and the enforcement of racially restrictive covenants in the courts until 1948. Certain differences exist, however, between the Detroit and Richmond cases.

The major difference is that there are eighty-six separate school districts within the Detroit metropolitan area whose boundaries, unlike Richmond, overlap other political subdivisions. The plaintiffs argued that the district lines have been shifted in the past for various reasons and could be shifted now for the purpose of desegregation. The case is expected to reach

the Supreme Court next year.

There remain then three matters of speculation concerning what course the Supreme Court will take. How will it treat the differences between Richmond and Detroit? How will Justice Powell decide? And if the Court rules in favor of a metropolitan solution for Detroit, where would that leave Richmond?

In an article published in the May issue of *School Review*, William Taylor (former staff director of the Commission on Civil Rights) outlined the importance of the metropolitan issue, and points out several benefits to be derived from metropolitan school integration.

First, he asserts that metropolitan plans may be less difficult, logistically, to implement than single-city plans. Many minority communities are closer to suburban schools than to white schools in the same city, and integration with suburban schools could actually reduce busing.

Second, metropolitan plans could enhance prospects for residential stability and reduce the phenomenon of "white flight" to the suburbs. Each school would have a racial and class composition within a defined range systemwide, providing an incentive for parents to remain where they are and try to make desegregation work.

Third, metropolitan districts would offer educational advantages by providing opportunities for economies of scale. Smaller districts unable to afford special schools and facilities would then have access to such aids.

Fourth, metropolitan districts may offer increased opportunities for community involvement. The establishment of subdistricts could allow for more decentralization than now exists. Many areas have reported increased parental participation after desegregation. At the same time, some inner-city parents do not now feel they have much influence on their schools under present arrangements.

The benefits outlined above need not, of course, occur only under court-ordered plans. Even if the Supreme Court rules that metropolitan desegregation is not required, school districts could undertake such desegregation on their own. While this is an unlikely prospect at present, it may offer the only hope of real desegregation given the residential shifts since 1954. Unless metropolitan desegregation proceeds, Taylor rightly contends, *Brown v. Board of Education* is in grave danger of becoming an historical anachronism.

What the Public Doesn't Know Hurts

Most busing opposition is not based on fact

by Marvin Wall

Does the public know much about the school busing to which it is—the polls regularly tell us—so vehemently opposed?

And if it turns out that the public doesn't have much knowledge about busing, would that have anything to do with where it stands on the issue?

The answers, according to a national survey conducted for the

Commission on Civil Rights are (a) "no" and (b) "yes."

The nationwide poll probed, in some detail, into the knowledge and views of 2,006 scientifically selected American adults. Sampling opinion about busing was

Marvin Wall is Director of the Office of Information and Publications of the U.S. Commission on Civil Rights.

nothing new. But testing the public's knowledge about key factors in the busing debate was new.

The comprehensive survey posed six simple true-false questions about important aspects of busing. The answers then were matched up with opinions about busing so as to relate knowledge and views. The final 35-page product was the most comprehensive poll yet con-



ducted on the explosive and sometimes complex busing issue.

The polling firm consulted with members of the Commission staff in selecting and wording questions. After the poll was conducted, the Commission purchased rights to the results.

That people are poorly informed about busing came as no surprise. It was evident from what people were saying—publicly and privately, officially and unofficially—that their information was faulty. The startling thing the survey found was the vastness of the misinformation.

Here are the questions on knowledge of school busing which were asked in the public opinion survey sponsored by the U.S. Commission on Civil Rights.

1. Court-ordered busing of children from suburban school districts into central city school districts is now taking place in some American cities.

2. Less than 1 out of 50 school children in the United States are being bused for purposes of desegregation.

3. White students' test scores have fallen sharply in desegregated schools.

4. As far as accidents are concerned, busing school children is safer than letting them walk.

5. Busing for desegregation adds 25 percent or more to local school costs.

6. The Supreme Court has ordered busing in spite of evidence that it would harm a child's ability to learn.

Those surveyed were asked to answer "true," "false," or "no opinion."

A great deal of thought and planning went into selecting and phrasing the questions. The questions selected (see box) were those with a direct and significant bearing on the school desegregation controversy. The wording was made as simple and straightforward as possible. The questions were pre-tested in the field in order to pinpoint and eliminate unfamiliar and ambiguous words.

Random guessing—just shutting one's eyes and picking an answer—would have resulted in at least a break-even score on the six questions. That the public did much worse by attempting to give answers reveals the depth and pervasiveness of erroneous information about busing and desegregation.

Two of the true-false questions related to the scope of court orders on desegregation. The other four covered bus safety, the educational effects of desegregation, and the cost and extent of busing.

Forty-one percent of the public is so poorly informed that it either missed all the questions or got only one right. About the same number—42 percent—got two or three correct answers. Only 16 percent was well enough informed to answer more than half the questions correctly.

The public's worst score came on the questions about the cost of busing. By a whopping six-to-one margin, those answering thought that busing to desegregate causes a jump of one-fourth or more in a school district's budget. The actual figure is far less—typically amounting to one or two percent. For example, in Prince Georges County, Maryland, the nation's largest suburban district, the cost of carrying out a court-ordered

desegregation plan will be .6 percent of the annual budget. Nationwide, the cost of *all* forms of pupil transportation was only 3.5 percent of the expense of operating the public schools during 1969-70, the most recent year for which this figure is available.

The public's best score came on bus safety. Forty-nine percent knew that busing is safer than walking, 33 percent believed erroneously that walking is safer, and 18 percent didn't answer either way. Safety statistics show conclusively that walking to school is more dangerous than riding a bus.

Interviewees in rural areas helped boost the public's score on the safety question. People from rural areas have considerable first-hand experience with the yellow school bus, and they knew—by a five-to-one margin—that riding a bus is safer than walking. Big-city people, by a margin of 42 percent to 39 percent, felt that walking is safer.

Next Best Score

The public's next best score was on the extent of busing. Despite the fact that all busing for desegregation purposes frequently is called "massive"—even when it involves only a handful of children—44 percent stated correctly that fewer than one child out of 50 is bused for desegregation reasons. Twenty-five percent thought incorrectly that busing for desegregation involves, nationwide, more than one child out of 50.

The only other question that got more right answers than wrong answers had to do with white test scores in desegregated schools. While 27 percent felt that white

scores drop "sharply" in desegregated schools, 35 percent recognized the assertion to be false. Although many white parents believe that desegregation adversely affects the scholastic achievement of their children, study after study has established that no such damage occurs. (For a discussion of studies of desegregation's educational impact, see page 2.)

In a somewhat related question, the public was asked whether the Supreme Court has ordered busing in the face of "evidence" that it would harm learning. Forty-one percent answered "true" and 31 percent answered "false." What the Supreme Court actually said, in the *Swann v. Charlotte-Mecklenburg* case, was that lower courts should consider whether the "time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process." A unanimous Court thus said almost exactly the opposite of what the public thinks it has said.

Because of a mixup, the sixth question was asked in two different forms. As put properly to about half the survey, the question asked if court ordered busing is taking place across school district lines in urban areas. Although Federal judges in Richmond and Detroit had issued orders of that type, neither had taken effect because of pending appeals. The proper answer, therefore, is "false."

The segment of the survey (959 adults) given the question in its proper form blew it badly. Sixty-eight percent answered "true" and only 13 percent said "false."

In fact, a subsequent Supreme Court decision, handed down May 21, 1973, deadlocked 4-4 on the Richmond appeal, thus insuring

that the high court will have another opportunity to decide the question.

As put to the other half of the survey, the question said "the courts now require" such busing. In that metropolitan desegregation orders had been issued but not yet put into effect, the answer is "true." In that such orders had been issued in only two cities and were being appealed, the answer is "false." In any event, 53 percent said "true" and 24 percent said "false." The mixup in administering this particular question to approximately half of those interviewed may have hurt the public's overall score on the true-false quiz, but not to a major degree.

"No Opinion"

In addition to giving a lot of incorrect answers, the public further revealed its lack of busing knowledge by frequently giving no answer at all. "No opinion" responses ranged from 18 percent on the question about bus safety to 38 percent on the one about white test scores.

Relating the quiz answers to opinions produced some interesting findings. For example, people with misconceptions about the educational impact of desegregation are especially likely to oppose busing. Among those who believe that the Supreme Court has ignored "evidence" that busing harms learning, 72 percent favor anti-busing legislation. In the survey as a whole, however, the level of support for anti-busing legislation was 57 percent. Among those who believe white test scores are adversely affected, the support soars to 67 percent.

Similarly, 44 percent of those

who believe test scores are damaged would support an anti-busing amendment to the U.S. Constitution, as would 39 percent of those who are misinformed about what the Supreme Court said about educational harm. Among the public at large, however, only 30 percent support an anti-busing amendment.

A close relationship was found between erroneous beliefs about busing and opposition to it. For instance, those who missed all the questions or got only one right were 61 percent for anti-busing legislation, but those who got four or more correct answers were only 43 percent in favor of anti-busing legislation. Likewise, 40 percent of the first group opposed a constitutional amendment, but the second group was 75 percent opposed. (The number expressing no opinion dropped as quiz scores went up. Thus 26 percent of the low scoring group had no opinion regarding a constitutional amendment, but only 5 percent of the high scoring category was neither for nor against.)

Like many a poll and referendum, the Commission's survey found the public in apparent contradiction about its views on school desegregation. Sixty-seven percent support school integration as a national objective, with 22 percent opposed. Yet only 21 percent favor busing—which generally is the only means of desegregating schools in urban areas—and 70 percent are opposed. Fifty-seven percent favor anti-busing legislation and 29 percent do not. The public draws the line when it comes to a constitutional amendment—53 percent against and 30 percent in favor.

Unlike other polls, the Commis-

sion's survey probed behind the anti-busing sentiment to see if it is as monolithic and obdurate as some of the poll results have made it seem. The Commission's survey did not merely record the 70 percent opposition to busing and let it go at that. Followup questions were asked to measure the depth and inflexibility of the anti-busing sentiment, and to look for clues to the pro-desegregation, anti-busing contradiction.

The 70 percent who said they were opposed to busing were asked first if they would go along with changing existing bus routes to desegregate, without increasing the amount of busing—a step many localities could take. Fifteen percent of the survey (which was 21 percent of the 70 percent opposition) agreed to this step.

Next, those who opposed rerouting were asked if they would accept busing as "a last resort," after all other means of desegregation had failed. Seven percent of the survey said they would.

The three-step process left this picture: From a start of 21 percent in favor of busing, add 15 percent who approve of rerouting and 7 percent who approve of busing as "a last resort"—which it almost always is when school districts meet the requirement to desegregate. That makes a total of 43 percent in favor of busing, 21 percent with no opinion, and a total opposition of 36 percent. Thus those expressing an opinion were, in the final analysis, more for busing than against.

This was an important finding. It indicated that many people who say they are against busing believe that there is some other way to desegregate, and that busing is unnecessary and is being imposed by

arbitrary courts and politicians. Many are not aware that busing is, in most communities, indeed the last resort and an essential desegregation tool.

The response to this series of questions helps explain—in part at least—the apparent contradiction of people saying they favor school desegregation but oppose busing.

Previous national polls have themselves contributed to public confusion and misunderstanding about busing. The polls have used such loaded words as "compulsory" busing and have repeatedly suggested that the objective is not desegregation but "racial balance."

One of the aims of the Commission's poll was to determine if an accurately worded question



might not produce a result more favorable to busing than that reported by previous polls. As it turned out, the result was only slightly more favorable. Timing may have been a factor. The Commission's poll was conducted during the latter part of last November and the early part of December, just after the November elections and some of the congressional busing debates.

Incidentally, the size of the Commission's survey—2,006 interviews—compares quite well with a typical national poll, which generally has a sampling a fourth or fifth smaller. The poll was conducted by Opinion Research Corporation of Princeton, New Jersey, and the Commission acquired and interpreted the data.

When the survey results were released in March, the Commission took note of the irony in the public's support of legislation to restrict busing and opposition to a constitutional amendment. Since the constitutional rights of children are at stake, courts very likely would declare a law restricting busing unconstitutional. Thus a constitutional amendment, which the public overwhelmingly opposes might well be the only way to make possible the legislation that 57 percent of the public supports. The Commission commented, in an 18-page analysis of the poll issued March 11:

"It seems not to occur to many Americans that if it is a mistake to diminish the rights of citizens by amending the Constitution it

is an even more grievous error to attempt to deny constitutional rights by a simple act of Congress."

As the Commission analysis noted, not even a tidal wave of precise and accurate information about busing would wash away all the myths and opposition. Some people have arrived at faulty conclusions and have uncritically accepted antibusing slogans because they are against integration or simply don't like busing. By the same token, it is probable that many of those who support integration and busing have taken the trouble to inform themselves about the issue and to examine and reject the antibusing myths.

In any case, the survey documented widespread confusion and misinformation about busing and the relationship between this misinformation and busing opposition. As the Commission's March statement put it: "The more people know, the less willing they are to restrict the constitutional rights of black children." The Commission continued:

"The challenge to our public and private leadership at all levels to present the facts accurately is an extremely important one. If the people are accurately informed, we believe that they will oppose moves to restrict the right of ghetto children to attend better, desegregated schools and that they will accept the changes necessary to fulfill the national objective of integrated education.

Much of what the survey found is subject to interpretation and open to argument. But the central finding is clear: What the public doesn't know about busing and desegregation can hurt race relations in America—perhaps catastrophically.

The myth that black Americans are just as opposed to busing as white Americans bit the dust in the Commission's national survey.

Forty-nine percent of the non-whites interviewed favored busing, 40 percent opposed it, and 11 percent had no opinion. Among whites, 17 percent favored busing, 73 percent opposed it, and 10 percent had no opinion.

While 41 percent of the non-white survey participants said they would favor anti-busing legislation, 43 percent said they were against it. Fifty-eight percent of the white respondents were for the legislation and 28 percent against.

Sixty-five percent of the white adults favored racially integrated schools, but the figure jumped to 80 percent for nonwhites.

The pros outweighed the cons in every part of the country on the question of integrated education. Support ranged from 53 percent in the South to 81 percent in the West.

The South, which supplied about a third of the survey, fell far below the rest of the country in furnishing correct answers to the true-false questions. Only 19 percent of those who correctly answered more than half the questions were from the South.

In a "side" question, the Commission survey asked whether parents would send their children to a new and better school in a neighborhood predominantly occupied by residents of another race. Forty-nine percent of the nonwhite respondents said they would choose such a school, while 34 percent would stick with their neighborhood school. Seventy-five percent of the whites, however, would cling to the neighborhood school, and only 17 percent would send their children into a new and better school in a predominantly black neighborhood.

Congress, Busing, and Federal Law

The roots of antibusing laws and how they grew

by Michael Wise

Since the Supreme Court's 1954 *Brown* decision, the Federal courts have played the major role in desegregating the Nation's public schools. Such leadership by the courts is not necessarily mandated by the Constitution. The Chief Executive and the Congress have not only the power but the duty to ensure black children's rights to equal educational opportunities.

The history of school desegregation since 1954 records, however, that few and mainly ineffective actions have been taken by these two branches to meet such Constitutional responsibility. In fact, particularly since the Supreme Court's decision in *Swann v. Charlotte-Mecklenburg*, the Executive and a majority of Congress have come to the point of actively opposing court decisions defining what school districts must do to end segregation.

Not until ten years after the *Brown* decision did Congress provide assistance toward desegregating public schools. Up until that time, private citizens and groups had used the courts methodically to strike down the various techniques used in the South's massive resistance. These private parties could accomplish only token desegregation. In the 1964-65 school year, only 2.25 percent of all black children attended school with whites in the 11 States of the old Confederacy.

In the Civil Rights Act of 1964, however, the Congress included provisions designed to speed up the process of desegregation. Title IV required the Department of Health, Education, and Welfare to report on the progress of public school desegregation, and authorized financial and technical assistance to school districts undergoing desegregation. Title IV also authorized the Attorney General to bring suit to desegregate public schools or colleges on behalf of individuals who were unable to bring private suits for various reasons.

Title VI of the 1964 Civil Rights Act was perhaps

Michael Wise is an attorney in the Office of Congressional Liaison of the U.S. Commission on Civil Rights.

even more important. It provided that no program or activity receiving Federal financial assistance could discriminate against anyone on the ground of race, color, or national origin. Much of the school desegregation accomplished in the late 1960's and early 1970's was brought about by HEW enforcement of Title VI regulations under the threat of withholding Federal funds from school districts which failed to comply.

The Civil Rights Act of 1964 did not become law easily. The full efforts of the bill's proponents in both the House and Senate, of civil rights groups, and of President Johnson and his administration were necessary to win its enactment.

Yet even as Congress took its first, long overdue step, issues were arising which would turn congressional efforts away from implementing school desegregation toward directly opposing it.

In large part the development of these issues stemmed from the growing realization that most Northern school districts with large minority student populations were as racially segregated, in fact, as those in the South. Partially in order to solidify Northern support, Title IV explicitly sought to draw a distinction between *de jure* segregation, imposed by law, and *de facto* segregation, occurring by circumstance rather than official conduct. The definition of desegregation contained in the Act was amended to say that the word would "not mean the assignment of students to public schools in order to overcome racial imbalance."

The amendment's sponsor, Representative William Cramer (R-Fla.), explained its intent thusly:

The purpose is to prevent any semblance of congressional acceptance or approval of the concept of "*de facto*" segregation or to include in the definition of "desegregation" any balancing of school attendance by moving students across school district lines to level off percentage where one race out-



weighs another.

The amendment was accepted without objection by the chief sponsor of the 1964 Civil Rights Act, Chairman Emanuel Celler of the House Judiciary Committee.

Title IV contained another provision concerning the *de jure—de facto* distinction. The provision which authorizes the Attorney General to file desegregation suits included this limitation:

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

These examples show that as Congress took its first positive steps toward assisting desegregation, it was already becoming embroiled in disputes which would change the posture of the majority to one of hostility toward the courts and school desegregation.

The shift in congressional opinion reflected the shift of public opinion in general. When the 1964 and 1965 civil rights acts were passed, the public consensus in support of the civil rights movement was at its peak. Millions of Americans had seen the police brutality against peaceful civil rights demonstrators in Birmingham and Selma on television and perceived the civil rights movement as merely an attempt to adjust the aberration of the South. They had been moved by the thousands of peaceful demonstrators of Dr. Martin Luther King's March on Washington.

By the fall of 1966, however, the consensus in support of civil rights efforts had largely evaporated with the smoke of Northern urban riots and with the cries of "black power" that splintered the civil rights movement itself.

The ebbing of Congressional support for civil rights was clearly shown when President Johnson's proposed Civil Rights Act of 1966 was rejected. That legislation encompassed several subjects, but it became a vehicle by which many Southern legislators expressed their opposition to the desegregation guidelines applied to Southern school districts by HEW.

Numerous amendments were proposed to protect freedom-of-choice desegregation plans which had in fact left the races almost totally separated. One House amendment requiring HEW to accept such plans was defeated by the close margin of 127 to 136.

The House did adopt another amendment which

would have prevented HEW from requiring "assignment of students to public schools in order to overcome racial imbalance." Although the House grudgingly passed a mutilated form of President Johnson's proposal, the bill died quickly in the Senate because its supporters were unable to override a Southern filibuster.

Congressional concern about school desegregation began to focus on how far school districts would be required to go in order to achieve a unitary, unsegregated school system.

Growing out of that fundamental question were a number of other concerns: Were the North and West included in these requirements or shielded by the *de facto—de jure* distinction? Was a balancing of the races required in the schools? Could established school district lines be ignored by courts seeking to end segregation? But the issue which had the greatest effect on Congress was the highly emotional controversy over busing.

The busing controversy arose as a reaction to later court-ordered desegregation plans. In 1968 the Supreme Court ruled that so-called "free choice" plans were acceptable only if they actually abolished racially identifiable schools.

The Court also held that a school district must come up with a desegregation plan "which promises realistically to work and promises realistically to work now." In line with that directive, the Supreme Court rejected attempts of the newly-installed administration to delay desegregation in Mississippi and Louisiana school districts.

On March 24, 1970, President Nixon called on Congress to enact a two-year \$1.5 billion expenditure to assist communities desegregating under court or administrative order and those seeking voluntarily to integrate their schools. On May 21, 1970, he issued a second message calling on Congress to appropriate \$150 million immediately to assist desegregation in these districts.

Congress appropriated \$75 million in August 1970 as "The Emergency School Assistance Program." The program was criticized by some as rewarding those school districts which had most resisted school desegregation. It was continued annually, however, until the Congress acted on the President's major proposal, the Emergency School Aid Act, in 1972. By that time the act had become enmeshed in the busing controversy that so pre-occupied the 92nd Congress.

Opposition to school desegregation in the 92nd

Congress grew in intensity as the Federal courts began to require busing as a remedy in larger urban areas. The issue of whether the lower Federal courts could order busing—indeed, whether they were required to order busing—reached the Supreme Court in the case of *Swann v. Charlotte-Mecklenburg Board of Education*. In that case, a U.S. District Court ordered a desegregation plan which required a substantial increase in student transportation—about twice as many students as the district had transported previously.

In its 1971 *Swann* decision, the Supreme Court for the first time considered the remedial actions which the District courts could order to create a unitary school system. The Court's unanimous opinion discussed and approved several remedies, and specifically upheld the student transportation provisions of Judge James McMillan's order.

The Supreme Court indicated only one limitation. It stated: "An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

Reaction to the Court's decision came quickly. In Congress, antibusing forces tried three approaches to undermine the *Swann* decision.

First, many members began an effort supported by the White House to add antibusing amendments to pending education legislation. They were successful, at least in part.

Second, many members rallied behind the comprehensive legislation proposed by the President which attempted to prescribe what remedies the courts could order and to restrict greatly the use of busing.

Third, the continuing efforts to prohibit busing by constitutional amendment received greatly increased support. Each of these efforts will be discussed in some detail.

The Education Amendments of 1972

The Supreme Court announced the *Swann* decision April 20, 1971. The following day the White House issued a statement saying that the decision was the law of the land and must be followed by all school districts. The statement also indicated that HEW and the Justice Department would live up to their statutory responsibilities to enforce the law.

Soon, however, the administration reversed its position and joined those opposing the *Swann* decision. On July 30, 1971, HEW informed all school districts that no funds would be granted under the Emergency

School Assistance Program to meet the cost of additional student transportation required by court order. That policy had a severe impact on several school districts facing large first-year costs to implement court orders. Furthermore, it was contrary to the Emergency School Assistance Program's aim of helping local school districts desegregate.

On August 3, 1971, the Administration requested the Congress to amend the Emergency School Aid to prohibit using funds to pay for busing. At that time the bill was pending in the House Education and Labor Committee, and had already passed the Senate without such a limitation. The Emergency School Aid Act eventually became Title VII of the omnibus Education Amendments of 1972, with its antibusing amendments grouped separately under Title VIII.

The majority of the House, whose members faced reelection in 1972, responded quickly to the antibusing pressure which mounted after the *Swann* decision. In fact, the adamancy of the House in insisting on strong antibusing provisions at times threatened enactment of the entire package of Education Amendments, which included several other programs.

The House debated the Education Amendments for almost a week before approving the bill by a vote of 332 to 38 on November 4, 1971. Several antibusing proposals were added to the bill on the floor in a session which lasted past midnight.

The most far-reaching of these was known as the Broomfield amendment. It would have postponed enforcing any Federal district court order requiring students to be transferred and transported "for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status" until all legal appeals had been exhausted. Another, the Green amendment, prohibited Federal executive agencies from requiring or even urging local school districts to use State and local funds for busing.

A third, the Ashbrook amendment, prohibited the use of Federal funds for busing to overcome racial imbalance or to desegregate any school system.

The Education Amendments of 1972, including the antibusing provisions, then went to the Senate, where supporters of school desegregation were in a stronger position than their colleagues in the House. The Senate rejected the House antibusing proposals, as well as other potentially even more damaging amendments proposed in the Senate to limit the jurisdiction of Federal courts.

Instead, the Senate adopted the milder compromise

provisions proposed by Majority Leader Mike Mansfield and Minority Leader Hugh Scott. The Scott-Mansfield amendment allow Federal funds to be used for transportation under desegregation plans or orders if local school authorities requested it and if the *Swann* standard concerning children's health and education was met. Several other less significant antibusing proposals were also adopted.

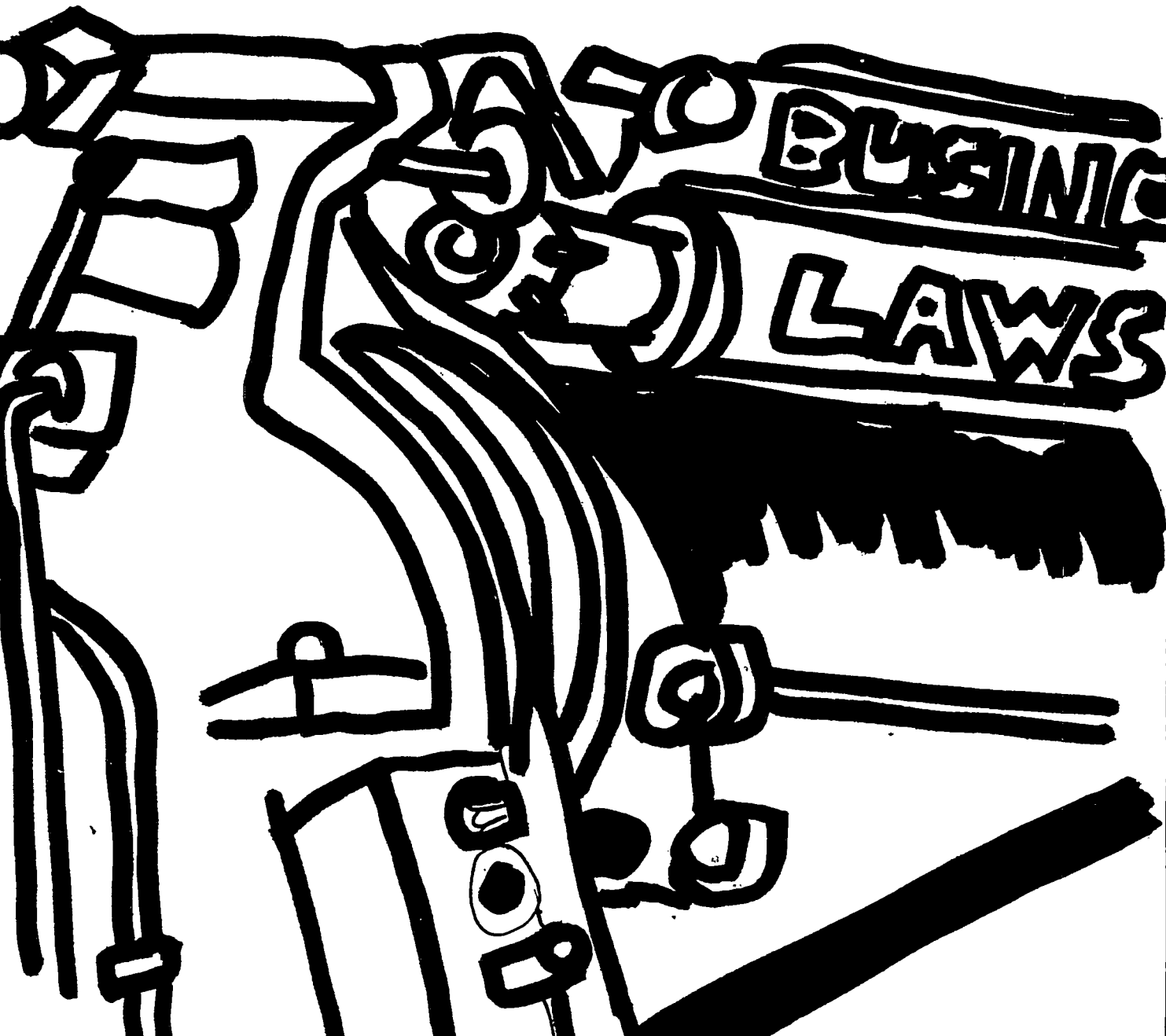
Shortly after the Senate completed its action March 1, 1972, the House appointed its conferees and took the unusual step of instructing them to insist on the antibusing provisions. On May 11, during the course of the long House-Senate conference, the House made the even more unusual move of repeating its instructions.

The joint conference committee met for more than

two months, and its final 15-hour session lasted all night. The compromise adopted by the conference committee retained the House amendments, but contrary to House instructions, they were tempered with language from the Scott-Mansfield amendment.

The Broomfield amendment stayed, but a provision was added to make it inoperative after January 1, 1974. The conferees agreed to prohibit the use of Federal funds for busing, "except on the express written voluntary request of appropriate local school officials."

In addition, Federal funding was prohibited if the transportation violated the *Swann* standard of risk to health or education, or if the educational opportunities at a student's new school were substantially inferior to his old one.



The amendment prohibiting Federal officials from urging schools to use their own funds for busing was retained, "unless constitutionally required." The conference committee also retained the other less significant Senate amendments.

The Senate approved the conference report on May 24, 1972, by a vote of 63 to 15, and the House finally approved the report on June 8, 1972, by a vote of 218 to 180.

In his remarks at the signing ceremony June 23, 1972, the President denounced Congress for not passing stronger antibusing provisions and characterized those enacted as "inadequate, misleading, and entirely unsatisfactory."

The President's prediction concerning the effectiveness of the most damaging provision, the Broomfield amendment, was correct. In *Drummond v. Acree*, Supreme Court Justice Powell held that the language concerning racial balance did not affect desegregation orders because those orders are intended to eliminate the dual school system, not to establish racial balance.

The Student Transportation Moratorium Act

On March 16, 1972, shortly after the Senate-House conference committee began its work on the Education Amendments, President Nixon made a nationally televised address in which he strongly criticized "massive busing" and announced that he was sending legislation to the Congress designed to limit busing.

The following day he proposed the Student Transportation Moratorium Act of 1972 and the Equal Educational Opportunities Act of 1972.

The Student Transportation Moratorium Act was uncomplicated. It proposed that the Congress make a number of findings of fact stating, in essence, that the courts were ordering excessive busing.

To halt such busing and to give Congress time to formulate a permanent solution, the measure would have delayed any desegregation court order or HEW plan requiring student transportation until July 1, 1973, or until Congress enacted further anti-busing legislation. The Moratorium Act did not apply to voluntary busing plans.

In the House, the Student Transportation Moratorium Act was referred to the Judiciary Committee. Its Chairman, Representative Emanuel Celler of New York, was a staunch supporter of minority rights.

Under great pressure from antibusing Representatives, Celler had already reluctantly begun hearings on proposed constitutional amendments to restrict student

transportation. Following introduction of the Moratorium Act, these sessions were expanded to include the President's proposal.

After extensive hearings the Committee took no action. In the Senate, the Judiciary Committee did not even hold hearings on the proposed moratorium.

The Moratorium Act failed for several reasons. The bill was strongly attacked by civil rights groups, labor organizations, and legal scholars as an unconstitutional attempt to overturn the Supreme Court's directive that desegregation must take place at once.

Moreover, few Southerners were willing to push for the bill since it would halt only new busing orders. In most Southern jurisdictions, busing orders were already being implemented.

Finally, when it seemed that the House Committee on Education and Labor would take action on the Equal Educational Opportunities Act, busing opponents redirected their efforts toward enacting that bill.

The Equal Educational Opportunities Act

The Equal Educational Opportunities Act was a much more complex proposal. Its text began with the somewhat contradictory declaration that it is the policy of the United States to give all children equal educational opportunity regardless of race, and that the neighborhood is an appropriate basis for public school assignments.

The act went on to declare that its purpose was "to provide Federal financial assistance to educationally deprived students and to specify appropriate remedies for the orderly removal of the vestiges of the dual school system."

Title I redirected funds already appropriated for compensatory education programs. No new monies were authorized or appropriated under the title. Its inclusion may have been primarily a tactical maneuver to ensure that the bill was referred in the House to the Committee on Education and Labor rather than to Representative Celler's Judiciary Committee.

Title IV of the act contained the most controversial provisions—those which sought to limit busing. First, the title erected several conditions to be met before busing could be ordered. Second, it flatly prohibited any increase in the average daily time or distance or in the average daily number of elementary school students transported before desegregation.

Third, increases in the transportation of secondary students could not be ordered until all alternatives had been exhausted, and then only with the adoption of

long-range plans for alternative desegregation methods. Increases would be stayed at the request of a school district until all appeals were exhausted.

Title IV contained three other significant provisions. One prohibited, in effect, court-ordered metropolitan school desegregation. Another authorized the reopening of all existing court orders to make them conform with provisions of the Act.

In addition, Title IV required that the transportation provisions of any court order lapse after 5 years of good-faith compliance and that other desegregation provisions of court orders lapse after 10 years.

President Nixon proposed the Equal Educational Opportunities Act at a time when active campaigning for the 1972 elections had already begun, and shortly after Gov. George Wallace had won an overwhelming victory in the Florida primary where busing was a major campaign issue. After the President announced his proposals to limit busing, Governor Wallace stated: "I knew the message from Florida would get to Washington pretty quick."

Representatives who opposed busing, particularly those from districts where busing plans were on the horizon, applied enormous pressure to ensure that they would have an opportunity to vote against it before Congress adjourned for the election.

The act's opponents on the House Education and Labor Committee attempted to delay action as long as possible. They reasoned that the bill was likely to be reported out of the Committee and would then certainly be adopted by the House. They hoped, however, that House passage would come so late in the session that the Senate would not have time to act on the measure before adjournment. Unless the Congress took the highly unusual step of holding a post-election session, the proposal would then die.

These opponents were able to delay the bill, but they were unable to soften it. The bill reported out of committee was even more of a threat to continued school desegregation than the original proposal.

The committee threw out the administration's plan prohibiting any increase in the average time, distance, or number of students transported and substituted a provision limiting busing to the closest or next closest appropriate school. This limitation was absolute for elementary school students. Further busing could be ordered for secondary school students only in the absence of any other adequate remedy.

The full House began considering the act on the afternoon of August 17. In the early morning hours

of August 18, the House passed the measure with even more restrictive amendments by the overwhelming vote of 282 to 102.

The floor debate was heated and long, but antibusing Representatives clearly had their day. They amended the statement of national policy to read that the neighborhood is *the* appropriate basis for public school assignment rather than just *an* appropriate basis. They added sections declaring that once a court determined that a school district was satisfactorily desegregated, population shifts occurring thereafter shall not constitute cause for additional desegregation.

The House also removed any distinctions between transportation orders involving elementary and secondary students. As amended, the bill flatly prohibited the transportation of any student beyond the closest or next closest school.

Other changes were made in the committee bill. The section authorizing the reopening of past desegregation cases was reinstated. New sections were added prohibiting additional busing to overcome re-segregation resulting from residential shifts, prohibiting busing if no person were excluded from any school because of race, and terminating any desegregation order if the school system had become unitary.

Although the bill passed by the House was much more regressive than the administration's original proposal, supporters of desegregation were not totally disheartened. The tactic of delay in the Committee on Education and Labor had been fairly successful; adjournment was only weeks away.

Opponents hoped that when the bill was sent to the Senate it would be referred under normal procedure to the Committee on Labor and Public Welfare chaired by Senator Harrison A. Williams (D-N.J.). He and the Chairman of the Subcommittee on Education, Senator Claiborne Pell (D-R.I.), could ensure that it would not be reported to the Senate floor for action.

The bill was not so easily defeated, however. When it was formally transmitted from the House to the Senate, Senator James B. Allen (D-Ala.), a staunch opponent of busing, used a little-known procedural rule which resulted in the bill being placed directly on the Senate calendar.

When the bill reached the floor, however, liberal supporters of school desegregation turned the tables on the opposition by launching a filibuster. It began October 6, 1972.

On October 12, after the third unsuccessful cloture attempt, the Senate voted to take up other pending

business. The Equal Educational Opportunities Act had died as far as the 92nd Congress was concerned.

Constitutional Amendments to Prohibit Busing

The attempt to enact a constitutional amendment was the third and least successful effort to limit busing following the *Swann* decision. Numerous similar amendments were proposed in both the House and the Senate, but most supporters of the amendment strategy focused their efforts on a joint resolution introduced by Representative Norman F. Lent (R-N.Y.). The Lent amendment stated that:

Section 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

Section 2. Congress shall have the power to enforce this article by appropriate legislation.

The Lent amendment was referred, with others, to the House and Senate Judiciary Committees. In the Senate, Chairman James O. Eastland (D-Miss.) supported such amendments but the Chairman of the Subcommittee on Constitutional Amendments, Senator Birch Bayh (D-Ind.), did not. In the House, Chairman Celler of the Judiciary Committee was unalterably opposed.

For most of 92nd Congress the proposals lay dormant. But as the November elections came closer, the pressure for action mounted in the House.

Antibusing Representatives tried to circumvent Chairman Celler. A discharge petition to force the Lent amendment out of committee eventually received over 150 signatures.

In response to the discharge effort and to other pressures, Chairman Celler began hearings on antibusing amendments in March of 1972, but no resolution proposing such an amendment was ever reported out of his Committee.

Congressional supporters of antibusing amendments also sought the President's support, and he announced that he did not oppose amending the Constitution to prohibit busing. However, in his March 16, 1972 television address the President indicated that a constitutional amendment was unacceptable "as an answer to the immediate problem" because that approach had "a fatal flaw—it takes too long."

The Busing Controversy and the 93d Congress

A great number of proposals designed to prevent busing and otherwise limit desegregation have already been introduced in the 93d Congress. In general these

bills follow the same approaches used before.

The proposed constitutional amendments are identical or similar to the Lent amendment. In the 92nd Congress hearings were not held on such amendments until the second session. This year, Senator Eastland has already recalled antibusing amendments from the Subcommittee on Constitutional Amendments, and he conducted three days of hearings in April.

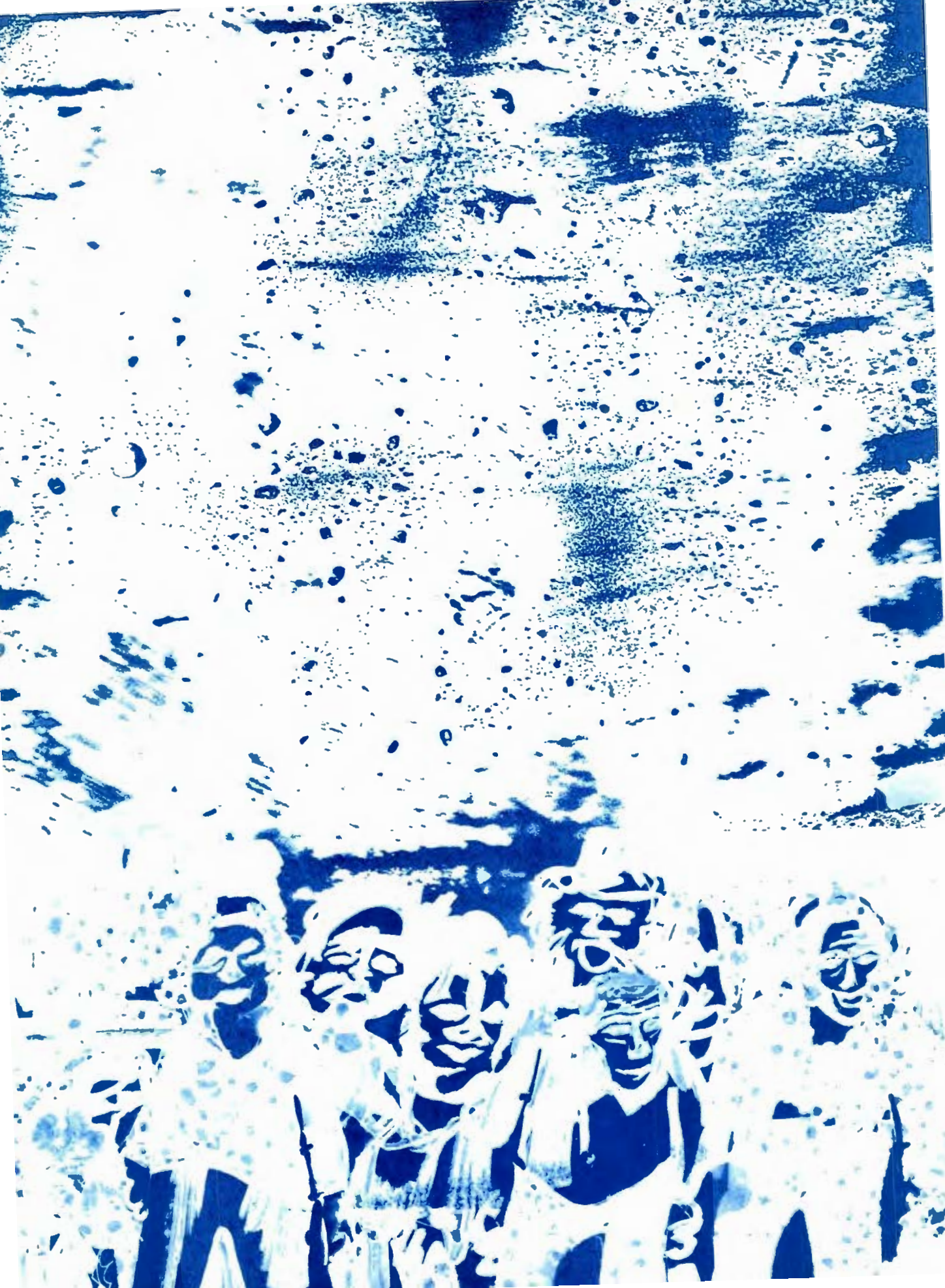
Other bills resembling the Student Transportation Moratorium Act and the Equal Educational Opportunities Act have already been introduced to limit busing, although the administration has not yet re-submitted its own proposals. Previously, its antibusing bills have all been designed to limit the legal remedies applied by the courts. Speculation this year is that the White House will sponsor another approach—attempts to limit the jurisdiction of the lower federal courts and funnel all cases through the state courts before they could be appealed to the Supreme Court. Such measures have already been introduced in the Senate.

Other bills have been proposed removing the language regarding "racial balance" in order to force the Federal courts to uphold the Broomfield amendment. Hearings on these measures will most likely be held after the administration makes its recommendations.

Busing opponents undoubtedly will not wait for committee action on the comprehensive proposals, however. They are likely to try to add busing restrictions to pending legislation as they did in the 92nd Congress.

The prospects of defeating antibusing legislation again are discouraging. In the last years of the Johnson administration, congressional supporters of school desegregation received the full support of the administration in their successful efforts to defeat attempts to bring that process to an end. Now, however, particularly after the *Swann* decision, supporters of continued desegregation have been increasingly isolated, opposed by an apparent majority in Congress and by the Executive as well.

Only a filibuster in the last days of the 92nd Congress brought about defeat of the misnamed Equal Educational Opportunities Act. While some of the pressure against busing has been mitigated by the Court's recent decision disallowing metropolitan school desegregation in Richmond, Va., those who still cherish the goal of an equal education for all children must regard the 93d Congress with real apprehension.



Confronting Bigotry Brings it Home

A diehard racist meets the post-60's generation

by Peter L. Kranz

Teaching a class in black-white conflict at the University of North Florida at Jacksonville has intensified my awareness and concern regarding the failure of white students to recognize and understand the extent of racism within the United States.

In considering an approach to emphasizing the seriousness of this dilemma, I decided to invite a local white supremacist and Regional Director of the Conservative Citizens Council to present his beliefs to my class. The seven white and six black students enrolled in the class were receptive to the idea.

To arrange this class experience, I had four telephone conversations with the proposed speaker. During each conversation he voiced animosity toward blacks, making reference to their "inferior intellect," "animal tendencies," "constant trouble-making," and the hope that, once-and-for-all, white America would insulate itself from black encroachment.

In response to his erroneous perceptions and suppositions, I found myself trying unsuccessfully to convince him of his faulty logic. As a consequence, I became aware of intense feelings within myself of frustration and anger. There seemed to be no way of convinc-

Dr. Kranz is an assistant professor of psychology at the University of North Florida at Jacksonville.

ing him to look at his information beyond an emotional level. This fruitless phone exchange provoked an equally emotional reaction within me: I found it very difficult to communicate with effective objectivity.

Initially, he seemed very interested in the invitation. In our ensuing conversations, however, he repeatedly created obstacles in the form of "ground rules." If I wanted him to appear in class, I would have to agree to his terms. These stipulations were written out and sent to me on December 4, 1972. His letter read in part as follows:

This letter is to thank you for your kind invitation to speak to your class on the morning of Wednesday, December 6, 1972; and likewise to inform you in *writing* as I did verbally this morning, that certain ground rules would of necessity, need to be established and agreed upon, *prior* to any intentional direct disclosure of my racial and/or political views, before your class, seven of which, I understand are students who are members of the superior Caucasian race . . . The *only* race (as indicated during our discussion of this a.m.) with whom I care to discuss matters under consideration.

As further stated during our

heated telephone 'debate' of this a.m., I am of the opinion, the proper time and place for ground rules to be determined, should have been during our verbal exchange this morning. However, since you have 'copped out' (to use your own terminology), and laid also the same accusation at my door, it appears you leave no alternative other than to forego your invitation altogether (or perhaps I should say, your obvious enticement), or else appear on your campus at the time and place agreed upon for the express and *only* purpose of setting the stage and indeed laying the basic ground rules at which you balked and backed out on this morning—i.e., to exclude from verbal dialogue the black members of your class, insofar as their direct participation with the undersigned is concerned....

These "ground rules," if accepted, would have had the effect not only of enhancing his own white supremacy position but also of reinforcing his control of the intended situation. I would not compromise my beliefs for his campus appearance. Therefore, in my final telephone conversation with him I explicitly and emphatically stated that if he still planned to attend my class he would have no alternative but to

speak to and with both black and white students.

He continued his resistance telling me again that I was afraid to tell the blacks they could not take part in his presentation. Tired of his reluctance to change his "ground rules," I told him that I was canceling his class appearance. At that moment, he changed his mind, stating that he would meet me on campus at the designated time and place. As I hung up the phone, I felt ready and eager for a face-to-face confrontation.

On December 6 at 10:20 a.m., he was standing with another member of his organization at the front entrance of the University waiting to meet me. I approached them, we introduced ourselves, and immediately the encounter began. He started berating my inability to fulfill his demands. I countered with his fear of facing blacks with his racist position and permitting free verbal exchange.

We appeared stalemated, neither of us willing to compromise his original position. As we debated, our voices grew louder attracting students and faculty. At one point we had approximately eighty persons in a circle surrounding us.

Questions began coming at him from all sides, as students became quickly involved. My class became part of the student group which was experiencing a living laboratory of the many racist issues we had dealt with throughout the quarter. Because of the personal nature of the encounter, these issues took on added relevance.

At first students appeared startled at the remarks of this outspoken racist, but they quickly moved to a position of concern and involvement. I could hear students

around me talking with each other.

"Is he for real?"

"I can't believe what he is saying and in front of everyone."

"He is crazy."

"He is sick."

"I have heard about racists but never actually seen one like this man."

As the encounter continued, the black students moved closer to him, trying to get his attention. He ignored them. Either he turned away from them or, if forced into a position of face-to-face confrontation, he did not respond to them. This angered many blacks. They stepped up their verbal onslaught.

"Answer me, man. I am right in front of you."

"Tell me why you feel about me as you do."

Even these efforts were ignored and he continued as though the blacks were not present.

Incredibly throughout the whole exchange he was not physically touched or threatened with bodily harm. I have a feeling that he would have liked nothing better than to have been physically or verbally abused, so that he could have attracted greater support for his cause. However, the students--black and white--surprised him by showing admirable constraint.

At one point, I asked him to justify his white supremacist position. He answered by referring to the moon landings as white accomplishments and evidence of superiority, while blacks still had relatives in Africa throwing spears. After about 40 minutes of this, the group of students, fed up with the man, began dispersing.

Sensing damage to his prestige and racist position, he asked me where the University president's office was located and then left to

talk with the President. I later learned that the president did meet with him briefly before sending him on his way. What they discussed, I do not know.

After he left the campus, students could be found in small groups discussing the encounter. The impact of what this person represented could not be easily forgotten. Student comments varied, but some themes were heard over and over:

"I was surprised to find that people still hold views of white supremacy."

"I felt both the whites and blacks getting it together against this racist."

"It was good to see the students involved."

"At least I know where this man stands on racial issues but I wonder about some of the other white folks."

"I don't like his views but I respect his honesty."

"We need more things like this on campus."

I believe that this experience was a significant step forward in the educational process at the University of North Florida. The presence of a racist vividly illustrated a major problem that has been with this country throughout its history. Before the encounter, significant problems of racism often were tucked away and dealt with on an impersonal level. The direct confrontation gave racism a new reality which forced each student to examine his position.

In my own students, racial awareness became more personally focused. The result was a cohesiveness between the black and white class members as they all saw the need to eliminate the racist pathology evidenced by this man.

Reading & Viewing

BOOKS

La Causa Chicana, edited by Margaret M. Mangold. New York: Family Service Association of America, 1972. Intended for the information of social workers and others, this book consists of essays on the historical background, the cultural derivatives, and value systems of Mexican Americans.

Women and the "Equal Rights Amendment" and *Discrimination Against Women*, both edited by Catharine R. Stimpson. New York: Bowker, 1973. Two invaluable books—one containing transcripts of the Senate hearings on the Equal Rights Amendment, and the other, House hearings on the provisions banning discrimination included in the Higher Education Act.

Busing and Backlash: White Against White in a California School District, by Lillian E. Rubin, Berkeley, Calif.: University of California Press, 1972. A sociological analysis of a deeply divisive community struggle in Richmond, Calif., with conclusions

linking the fight for desegregation with larger democratic issues.

Grosse Pointe, Michigan: Race Against Race, by Kathy Cosseboom. East Lansing, Mich.: Michigan State University Press, 1972. How open housing—and less extensively, desegregated schools—fared in this wealthy suburb of Detroit.

Selection of Teachers and Supervisors in Urban School Systems, edited by Paul Tractenberg. New York: Agathon Publication Services, Inc., 1972. An invaluable document—the transcript of public hearings held before the New York City Commission on Human Rights in January 1971.

Deadlock in School Desegregation: A Case Study of Inglewood, California, by Edna Bonacich and Robert F. Goodman. New York: Praeger, 1972. One of the still infrequent cases in the North that resulted in a court-ordered desegregation plan.

PAMPHLETS

The Puerto Ricans: A Resource Unit for Teachers, by Ana Batllé,

et al. New York: Anti-Defamation League of B'nai B'rith, 1973.

The Forgotten American: A Resource Unit for Teachers on the Mexican American, by Luis F. Hernandez; *Mexican Americans: A Brief Look at their History*, by Julian Nova; *Mexican Americans of the Southwest*, by Ernesto Galarza; all, New York: Anti-Defamation League of B'nai B'rith, 1973.

FILMS

Mexican Americans: Quest for Equality. Dr. Ernesto Galarza and others present a moving account of Mexican-American history, interspersed with documentary footage. 28 minutes long. *The Distorted Image*. A cassette/slide presentation developed from a collection of 19th century graphics, mainly cartoons, on the history of prejudice and stereotyping of minority groups in America. Commentary is by Dr. John Appel of Michigan State University, and a discussion guide is included. 28 minutes long; also available in reel-to-reel or LP. Both produced by the Anti-Defamation League of B'nai B'rith, 315 Lexington Ave., New York, N.Y. 10016.

Book Review

To Kill a Child's Spirit: The Tragedy of School Segregation in Los Angeles by John Caughey, with La Ree Caughey. Itasca, Ill.: F. E. Peacock Publishers, Inc., 1973.

By Meyer Weinberg

A decade or so ago, at the dawn of the current civil rights movement, Northern school segregation was generally viewed as an unfortunate, if unavoidable, result of housing segregation. Enveloped by a mantle of injured innocence, northern school systems perfected their tongue-clucking while pursuing a policy of unequal expenditures on poor and minority children. Educators, social scientists, and lawyers shared the belief that while the deprivation was evil, the segregation just happened to happen.

Only the children and their parents dissented. All over the North, community movements arose to challenge the prevailing diagnosis. This activity, and nothing else, gave rise to a new understanding. The whole educational world was shaken by it. Even the courts began to catch a glimmer of the new light. Segregation and deprivation began to be viewed as the consequence of positive school board policies.

The Caugheys' new book is by far the best single study yet of the fate of equal educational opportunity in a large Western metropolis. It enables the reader to understand the lack of accountability of a big city school board. The slimmest tokenism, presented by school authorities as major measures, is





exposed by the authors as no more than a shadow of a shadow.

In 1967, the Los Angeles school board adopted an extremely limited voluntary busing plan in the name of integration. The three high schools involved, however, turned out to be segregated Negro schools. After objections, two white schools were added. After nearly a whole school year, one-half of one per cent of the school system was integrated. Annual state-wide ethnic surveys showed increasing segregation in Los Angeles and other districts but no action resulted. Nor did the state legislature require any.

Unique in the book is the extensive section centering on the trial of the *Crawford* case against the city school board. Here is where the professional expertise of the senior author becomes invaluable. (He is president of the Western History Association, past president of the Organization of American Historians, and was for years editor of the *Pacific Historical Review*.) Boiling down some 12,000 pages of trial transcript into a few pages of lean prose is a high service to readers. The junior author's many years of work against segregation in the city's schools give the work an empirical, concrete character lacking in many more theoretical treatises.

The Caugheys reveal that the chief lawyer for the plaintiffs, Bayard F. Berman, at first believing that the Los Angeles school board did not create the segregation, bowed under the weight of the evidence gathered by his staff and late in the trial changed his mind. After finding the board guilty, Judge Alfred Gitelson is shown suffering the fate of political retaliation and even attempted

violence.

The school board's defenses in court were: (1) desegregation is not necessarily educationally productive; (2) the board had taken all feasible steps toward desegregation; (3) busing would be too expensive.

In reply, much contrary evidence on the first contention was presented. Tokenism characterized the steps taken. And the expense of busing, assuming the board's projections were correct, amounted to about three per cent of its present annual budget.

"Never in the trial," declare the Caugheys, "did the board represent that integration was impossible." To have done so would require ignoring the plainest realities. In February 1970, when Judge Gitelson ruled, schools in Mississippi had just installed a sweeping desegregation plan. Northern cities like Pasadena were under court order. Six days later, Pontiac joined Pasadena and Los Angeles.

Also discussed in the book are issues such as decentralization and desegregation, the relation of local developments to the policies of the national administration, and the dispute over the Armor article on busing.

Thus far, thoroughgoing desegregation has not been achieved anywhere, except Berkeley, except by court order. The problem yields only to legal means because it was created by legal means. Northern school segregation is a product of deliberate human design. It can only be undone by the same means.

The Caughey book is a vital, authoritative portrayal of a highly representative case study that merits the closest attention. It is that rarest of works—scholarly and yet readily understandable.

An Interview With Father Hesburgh

Recollections of the last decade by one of its
principal movers and shakers

by Paige Mulholland

MULHOLLAND: Did you know Lyndon Johnson in any way prior to the time he became Vice President in 1961 from your work with the Commission on Civil Rights after '57?

FR. HESBURGH: Not really. I think I probably met him casually. I had one particularly joyful session with him—it's on the wall there (picture)—when I received the Medal of Freedom from him.

MULHOLLAND: You didn't get involved with him in the civil rights activities when he was still in the Senate?

FR. HESBURGH: No, I wouldn't say so. It was a very peripheral involvement, in any event.

MULHOLLAND: You served, as you said, in the Civil Rights Commission, from its inception in 1957, so that means you served through four Presidents.

FR. HESBURGH: That's right — all four.

MULHOLLAND: Did Mr. Johnson use the Civil Rights Commission any differently from either President Eisenhower or Kennedy, or for that matter — ?

FR. HESBURGH: Yes, I think so. First of all let me say that we only met with him as a Commission once to my memory, although I could be wrong on this — it could have been twice. But the once we met with him, I remember very well as one of my stronger memories of Mr. Johnson. The thing that he did with the commission that no other President did, to my knowledge, was that he called us one day and said he wanted a special study made on racial imbalance in the public schools, and dug up somewhere a million dollars

Father Theodore Hesburgh was a member of the U.S. Commission on Civil Rights from its inception in 1957. He was appointed chairman by President Nixon in 1969 and served in that capacity until his resignation in November 1972. He was interviewed by Paige Mulholland in 1971 for the archives of the Lyndon Baines Johnson Library in Austin, Texas. The interview has been excerpted for Civil Rights Digest by permission of the Lyndon Baines Johnson Library.

HERATON-PARK
HOTEL



AN



for this purpose. And we spent a full year of the Commission's life with a good proportion of our staff working on that report. I didn't think we could do it in a year, but we did. It stands today as one of the classic books in the area.

Apart from that, I think he tended to do things rather directly as a President. He didn't lean too hard on us except in this one instance where he really needed something done and he needed it done rather quickly because there was a big problem with school integration at that point, and the application of Title VI and all of the rest. And I think he wanted to get this job done. We did it for him in the appointed time.

MULHOLLAND: Did he see you personally less than other Presidents? Had he less personal contact or did all of them follow the same (procedure)?

FR. HESBURGH: I'd say that none of them saw a good deal of us. We saw Mr. Kennedy I think two or three times possibly. We saw Mr. Eisenhower, I believe as a Commission once, possibly twice. I guess twice because when we were inaugurated during this term we saw him, then when we made our first report. We've seen Mr. Nixon once.

MULHOLLAND: So you didn't get the idea that (President Johnson) was avoiding the Commission or not utilizing it?

FR. HESBURGH: No. He knew we were around and in the nature of events, the Commission is a kind of burr under the saddle; I don't think anybody in charge wants to see too much of them.

MULHOLLAND: That may be.

FR. HESBURGH: He did put us to work though for that year, and actually it was an excellent thing to have done at that time. We would have never been able to do it ourselves because we didn't have the money for it, and I think that the fact that he was perceptive enough to ask us to do it — not that we were all that great, but we rose, I think, to the occasion and did come up with a report that has become a classic in the field.

MULHOLLAND: You say "he found the money somewhere." Does that imply that he went out and found some private money as opposed to (Federal funds)?

FR. HESBURGH: No, it was public money, I believe. It might have come out of his emergency budget; I don't remember. I think what he probably did was get us an emergency allocation through the Congress.

MULHOLLAND: When he became President so suddenly and tragically in late 1963, did you and the

members of the Commission have serious doubts about what his policy on civil rights, with which you were so concerned, might be?

FR. HESBURGH: We didn't really know, although I think we felt at the time that as a Southerner he would be in a position to do something on civil rights if he wanted to that others would not be able to do. That's why we saw him rather early on, as I recall, and told him quite specifically what we thought were the crucial issues in this area. And I must say, he responded very well to these issues and at least in my own judgment, in the area of legislation, did the greatest job of any of the four Presidents I've served under — by far.



MULHOLLAND: Did you and the Commission get an adequate chance to make your points of view heard when they were considering those acts of '64, '65?

FR. HESBURGH: I think so. We were quite active in all those acts. There was a good deal of interchange because they had groups — private groups with all the civil rights people in the government that met privately over a six-month period. We were not ever in very close liaison — let me put it this way — with the White House as such, although we were certainly much involved in the legislation the White House was proposing.

One thing that might illustrate this better than anything else was Title VI, which I think is perhaps the most important piece of civil rights legislation, with the possible exception of the Voting Rights Act of 1965. But we brought up Title VI and as I recall —

again I'm running on memory on date — at the time of our Indianapolis hearing . . . some terrible things were happening in Mississippi. While we were having a hearing at Indianapolis — and they had their share of the problems too — the Mississippi thing had just gotten to a point where we felt that there were murders being perpetrated, there were counties with the greatest number of black voters that didn't have a single black registered to vote there. It was almost a state of revolution, we thought, against the Constitution and the Bill of Rights as far as black people were concerned.

And when something particularly horrible happened — I don't recall what it was at the moment, because there were so many things happening in a long series there — we put out a very short, quick report and sent it to President Kennedy. As I recall the essence of the report — again, don't hold me to the figures — was that the State of Mississippi was putting about \$250 million dollars into the Federal budget every year and taking out \$650 million, and still yelling about states' rights. And we thought the President should tell them that unless they were going to follow Federal law, the equality of opportunity in the expenditure of all these Federal funds, the funds should be cut off.

Well, Mr. Kennedy got very irate with us for this suggestion — why I never knew, because I still think it was a very good suggestion — and he told us that we ought to reconsider. But of course we were an independent agency, if we still wanted to get the statement out and make it public, we could. And we did.

At that point, he had a press conference on a number of other matters. And during the press conference said he thought this was a bad suggestion, probably unconstitutional, and he didn't want that kind of power. And others in his administration talked about us as “the free-wheeling Civil Rights Commission.” I think you'll find that in Sorensen's book.

My general impression is that while the Kennedy administration got very high marks on civil rights because of the personal attractiveness of the President, and his rather outspoken manner, the simple fact is that the performance I thought was rather miserable as far as legislation. There was no legislation passed during that era, whereas on the other hand during President Johnson's time you had the Civil Rights Act of 1964, you had the Voting Rights Act of '65 and you had the Housing Act of '68. And these are three spectacular acts that couldn't have possibly been gotten through under the kind of attitude and ideas we were getting during the Kennedy Administration.

I won't say the ideas — the ideas were good — but the attitude was “don't do anything until you absolutely have to.” It seemed to me anyway on the legislative side.

If you recall, the whole first year President Kennedy was concerned in getting the tariff thing through, and he couldn't get it through without the help of the Southern segment of the Congress. So he was not about to lean on them on the civil rights act to get it through.

I recall that we went in to see President Kennedy one day with a set of our unnegotiable demands on civil rights — things we thought absolutely had to be done. One of them had to do with integrating the National Guard, which doesn't seem like such a spectacular thing, in the State of Alabama. I believe there was something like 50 blacks in the whole National Guard in the State of Alabama, although the proportion (of blacks) actually serving in the Army at that time was quite high — higher than their place in the population, I believe.

President Kennedy said at that time he was very worried about West Berlin, and that he wasn't about to complicate the situation of the Guard if he had to suddenly mobilize and send it to Berlin. This was true of the Reserves as well. He didn't want to be in the middle of a social campaign or a social-action campaign when he had to use this force as a military force.

Well, I remember on that same occasion, we said “We don't want to embarrass you, Mr. President, but in your campaign, you constantly said that President Eisenhower could have solved this housing thing with a stroke of a pen. You've been President for over a year and you haven't made that stroke of the pen.”

He said, “Well, we're going to have a meeting on it in Hyannis Port this weekend and I think we'll decide to do it this weekend.” The fact is, they didn't decide to do it, or he got talked out of it — I think he wanted to do it. And it was a year and a half from the beginning of his taking office until he got that order out.

When he got the order out, it wasn't all that great. It had rather restrictive coverage. It's been advanced greatly, of course, through the Civil Rights Act of '68 and another Executive Order since then.

So against that background, in came President Johnson and we felt early on that we should meet with him and talk with him. As I recall, we went over as a whole Commission to talk with him one night and — I say “one night” because it was about, as I recall, 5:30 or some such time as that that we had this appointment. I don't remember the month, or the year

even. But it was very early on in his administration.

And as I recall the British were in town, because I remember the door opened in that back corridor in the White House and out came all of the people I've ever heard of in the political life of Great Britain. They walked past us down the corridor with Dean Rusk, who is an old friend of mine, which is the only reason I mention his name. And then we went in.

President Johnson had a formal dinner coming up that night, as I recall. We were half an hour late getting in, and obviously we shouldn't stay too long because he had this dinner coming up maybe within an hour and a half, and he probably had to dress and shower and everything beforehand. But he had (the British) all day long talking problems. And we went into the Oval Office and he said, "Gentlemen, I'm awfully weary and I've got another party ahead of me tonight. Do you mind if we go in my little small office here on the side?" And we said, "Not at all."

And we went in and he had a kind of couch there and he stretched out on the couch, he was so tired. We sat all around the couch, practically poking our knees in his ribs because it was a rather tight little room there and there were seven of us, counting the staff director, plus himself, and he's—I've always been impressed with what a large man he was.

Well, we sat down that night and he asked us to talk just one at a time, or as we wished, to tell him what we thought the situation was in civil rights and what he could do about it. And while he was worried and while he was lying on his back there, and I thought I was going to see another President die right on the scene, you know—but he was listening eagerly to everything we said, I could tell.

MULHOLLAND: He was listening, letting you all talk?

FR. HESBURGH: He was listening. And this was another thing. We were told beforehand, "You won't get a word in edgewise."

MULHOLLAND: That's what I've heard so often.

FR. HESBURGH: "He'll twist your arm and do all the talking." The fact is, though, that he listened—maybe that was part of his being tired, but he did listen carefully. Our chairman, John Hannah, began and talked for maybe 15 or 20 minutes. A number of other people talked—I remember Dean Griswold, I believe—and a number of others. I think our vice chairman talked too; at that time he was Gene Patterson, I believe. And I remember it got my turn to talk, and I said, "Look, we've practically covered the civil

rights field. Can I say something about another one of your programs?" And he said, "Certainly."

And he had a way of fixing you while you're talking—giving you the eye, you know, looking right at you, and you knew you were being listened to at that point. And I said, "You've got a big deal coming off now with Shriver and this poverty program." And I said, "I understand what you're trying to do, and I'm in complete sympathy with it, but I think it's just a terrible title." I said, "When you were a youngster, you were probably poor and there may have been times you didn't want some city slicker coming out to your home-
stead saying, 'Now, I'm going to help you poor people and show you how to get ahead.' You were probably perfectly happy and having a good time, and while you were poor, you didn't intend to be poor all your life and you had hope. But the word 'poor' applied to you right then, wouldn't really have described whether you were happy or unhappy, because you were probably as happy then as you are now, maybe. On the other hand, you did have hope and you could work hard, and you could get an education and these things were opened up to you, and that's what equality of opportunity is all about. All I'm saying is, if you're going to put in this program, you really ought to call it the Equality of Opportunity Program, or Equal Opportunity Program, rather than the Poverty Program, because Poverty does have that kind of deprecatory or pejorative sense, that you're looking down at people and calling them poor. And you wouldn't have liked being looked down on when you were poor. You might have been happier than the city slicker who came out to tell you how to get rich."

Well, he laughed and said, "That's perfectly true, and I guess you're right. Poverty Program is a kind of bad title, it ought to be Equal Opportunity." I think it eventually did come out Equal Opportunity, but by that time Poverty had caught on and even today they call it the Poverty Program, even though I believe the bill is called Equal Opportunity.

But at that time, having been suddenly turned on by this thought, I think, of so discussing the poor, he took off himself and began to talk. We thought we were going to have been dismissed at least a half-hour before this, because by this time we were probably in there about 45 minutes and he had, as he told us, another engagement. But he started to talk then and he said, "You know, when I came to Washington first, the country was in terrible shape and I don't know how many—there might have been 30, 40 million poor

people in a population much smaller than our population today. Maybe half. And these people were really up against it, and I've seen it and I've lived through it in the South. But it was true all across the country — bread lines and everything else.”

And he said, “What made me love President Roosevelt was that he really pushed forward on this thing, and he really diminished that number of poor people from maybe 40 million down to 30 million, or possibly even 25.” He didn't know the exact number; who does? But he said, “I'd like to say that if there is only one thing I can do in the years I'm President, it's when I'm out of here they can say, ‘When he came in there were maybe 25 or 30 million poor people, and now there are only 20 million or 15 million.’ Then I think I will have been a good President. Because that's really the test I want to pass.”

Now here was a President who was tired, who was lying on his back, who had had a long day, and a long night stretching out ahead of him. And I felt that he was not just play-acting; that really came from the heart. And since that moment or that night in that office I had a deep impression that here was a man who, whatever you say about him, was deeply concerned about the poor, about the distressed, about the down-and-outers, those without hope, and that he really wanted to do something about this. And that's why I think he was rather forthright in his statement on civil rights in the way that none of his predecessors were and certainly his successors have been, or his successor, I guess you have to say.

It took a lot of sheer courage for a Southerner to stand up before both houses of Congress and say, “We shall overcome.” And I don't think he was doing it for play-acting; I think he really meant it. I remember his voice quavering a little as he said it, and it took a lot of courage to say it because of all the overtones of Martin Luther King and everything else that was behind that in the whole movement in the South. I thought it was quite an interesting point that here in just about a year before we had been rather excoriated by President Kennedy for suggesting cut-off of funds, and in the 1964 legislation he actually put it through as Title VI — and it made the whole difference. From being excoriated one time, 12 months later it became a matter of law.

Now I still have to say in all honesty that I don't think that law could have been passed if President Kennedy hadn't been shot and all the resentment that built up in the country about the people that were

being murdered, and Martin Luther King and all the rest, helped other subsequent laws come through.

MULHOLLAND: There is no way to measure that, although you know it's a factor.

FR. HESBURGH: You can't know it, but I've got to say the one thing I find curious and I've had to make this correction speaking to people around the world as a matter of fact, when we get into conversations about the Presidents of the United States: that there is an enormously strong myth that President Kennedy was the strongest, most courageous guy in the area of civil rights. And if you read Sorensen's book or Schlesinger's — Sorensen's I remember particularly because there's a whole chapter on civil rights — and I said, “Is he writing about the guy that I had to do business with?” Because we were called off three times — twice, they tried it the third time and we resisted, to have a hearing in Mississippi under that administration, despite the fact it was obviously the worst State in the Union and we'd had the most complaints from there and we'd taken a oath to investigate these complaints.

We finally, the day that Katzenbach got sworn in as Attorney General, did resist their pleas to call off our hearing. That same day, Katzenbach was at the Commission saying, “Don't have the hearing in Mississippi, it will complicate our trial at Philadelphia.” And we said, “Look, we've already been asked to call it off twice by this administration, once by the President and once by the Attorney General, and we've got to go through or we're going to lose faith with all these people who have put their necks 'way out to testify in Mississippi against the state of affairs in voting, police brutality, and the administration of justice generally.” So he was very upset with us, but we went ahead and had that hearing anyway.

I must say, we had no suggestion of that type out of the Johnson administration. As a matter of fact, we were pulled in for the Civil Rights White House Conference. I was put on the organizing committee for that, with Cliff Alexander.

MULHOLLAND: Oh, you were?

FR. HESBURGH: Yes.

MULHOLLAND: This occurred later ?

FR. HESBURGH: Yes. But I remember seeing the President that night which is another incident that is getting us off the track, but remind me to come back to that night of that meeting.

Well, anyway, against that background, President Johnson, I find again around the world, gets very little credit for these matters. I suppose the Viet Nam thing

so blackens his reputation in a way around the world, or in certain groups of intellectuals or students or whatever, that they were blinded to what he had accomplished in the field of human opportunity and civil rights. Now the fact is that if you were to put his civil rights legislative record against any other President of the United States, there just wouldn't be any contest. First, there were no civil rights laws until 1957 when President Eisenhower got through the one creating the Civil Rights Commission. There were none in the Kennedy administration. They finally got around to proposing one after some terrible things happened, but he died unfortunately before that came to pass.

I think President Kennedy was very good administratively on civil rights. He did a lot of personal things as an administrator, as the President. But as far as the law went, there was not a single law passed in his administration on this matter.

But then when President Johnson came in you get these three tremendous laws which were unthinkable even a decade or five years before he came in. The fact that he got those through as a Southerner struck me as quite an accomplishment. And if he goes down in history for any reason, this should give him great credit. Because I think his record here is not only good; it's great as compared to those who went before him and even this present administration.

MULHOLLAND: Did he call on you as a Commission member sort of as an informal adviser from time to time? He was supposed to have been a great telephone user.

FR. HESBURGH: He may have called my predecessor as chairman John Hannah, but I don't think he did. I think when we saw him we almost had to ask for an appointment. I know occasionally John Hannah did go over to see him when something came up that needed talking about.

MULHOLLAND: I talked to John Hannah in this same project before.

FR. HESBURGH: And he, I think, did see the President as chairman when we had budget problems or other types of problems, and there was this coordinating committee meeting thing for a while during his administration — for about six months — of civil rights people from various agencies around the government. But a little personal thing that let me say first of all: I was indebted to him to get the Medal of Freedom, because it's a very nice to get, first of all — quite undeserved I might add in my own case. But in any event, he was very cordial about this. I brought my mother and sister down, and he was always very gracious with

people like your mother or your sister or whatever, and he made them feel at home in the White House.

Getting back to the Commission, we've been peripherally involved in a lot of things, but we tried on balance to keep the Commission from being a fire-department operation. For example, we were called in by the present administration on the Black Panther thing. We recently got very much pressure to go into Los Angeles on the Salazar killings.

But on the whole, we have felt the Commission is a long-range activity, where we do the tough, grinding study and we make the long-range propositions for the kinds of laws and the kinds of administrative practice that will correct the situation. Nobody else is going to do that. We have put out about 60 full-fledged books, the latest one running, in that edition anyway, 1115 pages — a monumental study. And we have put out probably 300 reports — printed reports — on state situations: a hospital here, a prison there, and so forth. And we have had over 60 percent of our recommendations to the President and Congress passed into Federal law — which is pretty good considering that until 1957, when the Commission was created, there hadn't been a civil rights law in 80 years.

MULHOLLAND: And compared to all the other Commissions formed since then, and usually forgotten about immediately.

FR. HESBURGH: Oh yes, not much has happened. As a matter of fact President Eisenhower told us that he was amazed when we came up with our first report. He didn't think we'd come up with anything. He was very frank; he told us so. Because he said, "Here you are — you are three Republicans, three Democrats, and three Southerners and three Northerners." And I said, "Mr. President, you made a mistake. We were six fishermen and we wrote this report up in a fishing camp in Wisconsin!"

MULHOLLAND: You can't write that into law!

FR. HESBURGH: I think the Commission has had almost too much impact for its size and ability. But the reason I think is, of course, that there were all of these other side pressures and the whole student movement and the whole civil rights movements, and the pressure for voting and the pressure for desegregation and all the other things, plus a lot of tragedies. Sadly I have to admit this country has made its real progress moving forward from tragedy to tragedy. And after a tragedy like the death of President Kennedy or Martin Luther King or Bobby Kennedy, we always make a jump forward, because people are ashamed of the image portrayed by the nation.



U. S. COMMISSION ON CIVIL RIGHTS

WASHINGTON, D. C. 20428

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE \$300

Thomas Cictor Pilla CRC-17
c/o White
207 N. Satair Ave.
W. Los Angeles, Calif. 90049

POSTAGE AND FEES PAID
U. S. COMMISSION ON CIVIL RIGHTS

