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Leadership Conference on Civil Rights

L.C.C.R. Memo

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A. PHILIP RANDOLPH, *Honorary Chairman*
ROY WILKINS, *Chairman*

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TO: Participating Organizations

FROM: Arnold Aronson, Secretary

ADMINISTRATION DROPS BOSTON MOVE--BUT SEEKS NEW WAYS TO LIMIT SCHOOL DESEGREGATION

For the time being, we have been able to persuade the Justice Department not to intervene in a school desegregation case. The New York Times (May 30, 1976) in reporting that Attorney General Edward Levi has changed his mind about using the Boston school case as a means for getting the Supreme Court to reconsider its stand on busing, notes that "Mr. Levi's decision is a substantial victory for civil rights advocates....." The story recalls that it was a delegation led by Leadership Conference Chairman Roy Wilkins that helped convince the Department to back off from Boston.

Mr. Levi, the story goes on to say was reportedly "stunned by the public outcry.... upset by the strength and heated nature of the criticism....and also did not understand it." The criticism came not only from the Leadership Conference and its constituent organizations. Many of Mr. Levi's professional peers, deans of law schools and law professors, urged him to reconsider a move that would bring into question the Department of Justice's readiness to defend constitutional rights and that would give aid and comfort to the Boston bigots defying the law.

A Fleeting Victory?

Of course the issue is not settled. Stunned though he may be, Mr. Levi still does not seem to realize that the objection of the civil rights delegation was not just to a possible intervention in the Boston case; the objection was to any intervention on the side of "anti-busing" forces that would suggest the Administration is playing politics with school desegregation. For the evidence suggests that is exactly what the Ford Administration is doing. It is surely more than accident that the announcement of the President's determination to seek Supreme Court reconsideration of the Swann decision, the unanimous 1971 ruling that busing is a necessary and legitimate tool of desegregation, came just before the Michigan primary. Nor does it appear accidental that he continued to express determination to do something about

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busing right through the Kentucky and Tennesse primaries, states with busing problems.

Mr. Levi Still Looking.....

At the same time that the Justice Department announced Mr. Levi had decided not to file a brief in the Boston case, it noted that "The Department continues to have under study the question of the scope of necessary remedies in school desegregation cases." Obviously the Attorney General is still looking for a case to intervene in, for the purpose of urging a reconsideration of Swann.

.....And So Is Mr. Ford

Mr. Ford also has the matter under study. He has told reporters on his campaign trail that he will ask Congress for legislation limiting what he calls "court-ordered forced busing" - a perjorative term for any court ruling that, upon a finding that a school district is violating the Constitution, may order transportation as part of a school desegregation plan. The President has met with Mr. Levi and other Cabinet members to consider legislation that would limit court-ordered desegregation only to those schools that have been segregated by "governmental factors," official state action.

One of the best analyses of why such legislation would be unwise and probably unconstitutional was indirectly given by the U. S. Court of Appeals for the First Circuit when it upheld District Court Judge W. Arthur Garrity's decision in the Boston case. The appellate court said: "To require a district court to preserve intact every scrap of segregated education that can somehow be separated from governmental causation is to involve the Federal courts in planning continued segregation and in perpetuating the community and administrative attitudes and psychological effects which desegregation should assuage."

We Are Still Trying to Meet With the President

On May 21, while Mr. Levi was still mulling over what to do in the Boston case, Roy Wilkins wired the President urging him to meet with a delegation from the Leadership Conference. There has been no reply to that telegram. This week, noting Mr. Levi's continued search for a case and the prospect of new legislation, Mr. Wilkins renewed his request. In a letter to the President he declared: "These latest developments suggest to us that it is more imperative than ever that we meet with you to discuss possible moves your Administration may make in this enormously complex and sensitive area."

Let the President Hear From You

If your organization has not yet done so, we urge you to express to the President and Mr. Levi your outrage at this attempt to sway the courts in their decisions and to play the sort of politics with "busing" that can only raise the hopes of the foes of desegregation and even provoke violence. If your organization is meeting in convention any time soon, letters from your members and convention resolutions will help. Please send us copies of anything you send the President and Mr. Levi. And any replies you get. But please act today!

SENATE FACES POSSIBLE DESEGREGATION FIGHT

As we have noted in recent MEMOs, a Senate fight over school desegregation may develop in connection with the omnibus school bill (S. 2657). This bill does not contain the amendments that were added by the House during its consideration last month of the Higher Education and Vocational Education bills (see MEMO No. 4-76). These "Eshleman-Esch" amendments, named after their sponsors, would place new obstacles in the path of the Department of Health, Education and Welfare in its enforcement of anti-discrimination laws. The bill is not expected to reach the Senate floor before the middle of the month. An attempt to add the Eshleman-Esch amendments is not all we have to fear. It is also possible that the kind of legislation President Ford is considering may be offered as an amendment.

We shall keep you alert to developments.

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