

THE WHITE HOUSE

WASHINGTON

January 28, 1972

MEMORANDUM FOR JOHN EHRLICHMAN

FROM THE PRESIDENT

Copy for Bob Haldeman -- no distribution beyond those two

Since reading Ed Morgan's memorandum on the Richmond School Case, I have been doing a lot of thinking about the whole problem of integrated education and integrated housing. I have reached some conclusions that will be at variance with those held by most members of the Domestic Council Staff. These conclusions have taken into consideration the most liberal views as well as the more moderate views expressed by those in the staff and outside the staff -- like Moynihan and Coleman. I have read everything from Buchanan on one extreme to Coleman on the other extreme and the position of compromise in between which we have faithfully tried to hold on all these issues since we came into office.

The conclusions that I have reached and the directions I shall now give are not primarily motivated by political considerations. I would have to agree, however, that from a political standpoint the position I have come down on is probably more salable than the place we presently find ourselves in and infinitely more salable, of course, than the extreme position of the liberals. However, I reiterate this is not the main consideration for my decision. The politics could turn clear around and the mass attack we will be under from the media after moving in this direction will be escalated on all issues because of the overwhelming support of the media for the extreme liberal position.

I begin with the proposition that freedom of choice in housing, education and jobs must be the right of every American. My support for family assistance, even though I have serious doubts as to whether it will work, is primarily based on the conclusion that only by such a program does freedom of choice have any chance to become a reality for millions of families

who live below the poverty line. By freedom of choice, of course, I mean in the deepest philosophical sense and not in the narrow obstructionist sense that the term was used in fighting the school cases in the South in 1966, '67, and '68. Legally segregated education, legally segregated housing, legal obstructions to equal employment must be totally removed.

On the other hand, I am convinced that while legal segregation is totally wrong that forced integration of housing or education is just as wrong.

I realize that this position will lead us to a situation in which blacks will continue to live for the most part in black neighborhoods and where there will be predominately black schools and predominately white schools in the metropolitan areas. While I cannot go as far as Scammon in contending that those who insist on forced integrated education are really practicing white supremacy there is unfortunately a grain of truth in it. Brown vs. Board of Education in effect held that legally segregated education was inferior education. Once the legal barriers which caused segregation were removed and the segregation continued the philosophy of Brown would be that any segregated education, whether it was because of law or because of fact, is inferior. That is why I see the courts eventually reaching the conclusion that de facto segregation must also be made legally unacceptable. But if we rip away all the hypocrisy of the extreme supporters of the Brown philosophy, we have to conclude that it is only segregated black education which is inferior and that actually segregated white education is probably superior to education in which there is too great a degree of integration of inferior black students with the white students. I realize that I am going counter against all the social arguments that a child's experience is greatly increased by being exposed to black children as well as white children when he is going to school. I am totally for that. I went to schools where we had some Black children, Mexican children and others in grade school, high school and in college. But at least they were children who were in the same school with a reasonable chance to do about as well as their white colleagues. They were not so hopelessly far behind that they dragged the others down with them. Again, let me say that I am aware of Coleman's and Moynihan's thesis that slow learners do not hold back fast learners, etc., but I simply don't agree with it, particularly when we add the extra ingredient of mixing Black and White teachers on a pro-rated basis.

In any event, I believe that there may be some doubt as to the validity of the Brown philosophy that integrating education will pull up the Blacks and not pull down the Whites. But while there may be some doubt as to whether segregated education is inferior there is no doubt whatever on another point -- that education requiring excessive transportation for students is definitely inferior. I come down hard and unequivocally against bussing for the purpose of racial balance.

The forced integrated housing, of course, has other ingredients. Fundamentally, we simply have to recognize that this goes far beyond the color problem -- people have resented for generations -- Italians, Mexicans, Irish and others moving into their exclusive neighborhoods. Also, people who have invested in a house don't like to see property values brought down by having homes of lower quality being built in their neighborhood. Putting a public housing project in a neighborhood of homeowners is, of course, totally wrong whether it is Black or White from an economic standpoint because it will not only reduce property values but it raises -- and we have to admit -- very grave questions with regard to the possibilities of increase in crime, etc. The abandonment after thirteen years of the St. Louis public housing project is a case in point. No one can possibly drive through the public housing areas that I have seen in Miami, Jersey City, etc. without reaching the conclusion that this is a bad bet and that we have to do a lot of thinking before we go further down that road.

Having made all these points, I come down hard on another point which I think is absolutely overriding. This country is not ready at this time for either forcibly integrated housing or forcibly integrated education. I know that you will get an argument from Lin Holton and from many people who live in central cities to the effect that this is the only way to save the cities, etc. But we simply have to face the hard fact the law cannot go beyond what the people are willing to support. This is true insofar as prohibition is concerned, it is far more true with regard to education and even more true with regard to housing where economic considerations enter the picture.

That brings us now to what we do about all this. From the Morgan memorandum it is quite clear that we are trying to stay out of problems as much as we can, to keep a low profile and in effect let the dust settle. I think this is fine short range policy and disastrous long range policy. We cannot sweep this issue under the rug. It is going to explode all over the landscape during this next year. The main point that I am afraid that you and your colleagues have not considered is that in our elation over finally having the "Nixon Court" we are now stuck with whatever decisions the new Supreme Court majority hands down. They will be Nixon's decisions and there is no way we are going to be able to get off that wicket. I am convinced that Burger and Blackmun, already having been exposed to the Washington elite, and Powell and Rehnquist, both smarting under the attacks of liberals, and Stewart, being somewhat of a soft-head due to so much pummeling by the liberal community during his service on the Court, so far, will come down on the side of an ultra-liberal decision on both forced integrated housing and in the school cases, including de facto segregation. I know that this is a very small minority opinion but no one is more aware than I am of how Senators, Congressmen and Supreme Court Justices are softened up by the media they read, the communities they live in, the parties they attend, and the very air they breathe on the Potomac. It is bound to happen to one or more of our new majority on the Court and then we will have lost the ball game.

This brings us to the hard point. We must act now before the Court acts and puts it to us. I know that all of you have concluded that a constitutional amendment in any of these fields is the wrong approach. I have grave doubts about it myself. I know the argument is made that the Constitution is a document of great general principles and that it should not deal with these limited matters. I would only suggest that the Constitution speaks to matters far less important and matters that have far less effect on the lives of virtually every American than the education of a man's children and the house he lives in.

Consequently, I have decided to go the constitutional amendment route. It will be difficult I realize to draft but I want the best brains in the government found to work on this on a crash basis. I want the amendment, if possible, to speak to both issues. If necessary, have two amendments. I am willing to consider, as an alternative, legislation but not the limited kind of approach on the legislative front of dealing with the emergency

school aid program or something like that. Tokenism is simply not enough now. We have to frontally attack the issue and if a constitutional amendment is the only way we can attack it then we will have to go the constitutional amendment route.

I know there are some terrible minefields in taking this route. There is nothing that disturbs me more than to have to appear before the country as a racist, a Wallace type, etc., on this fundamental issue. My feelings on race, as you know, are, if anything, ultra-liberal. But I cannot duck the responsibility for coming down on the side which is right. I was rather amused to hear one of our staffers say in one of our meetings that the party of Lincoln simply couldn't take a position which was not all out for forced integration of housing and education. He obviously was not a very good student of history. Lincoln we must remember freed the slaves only in the southern states when he signed the Emancipation Proclamation. He did so because his primary interest was in saving the Union rather than freeing the slaves.

This is my primary interest. Even if I should become convinced--and I don't think it would be possible to convince me -- that forced integration of education and housing was in the best interests of Blacks and not too detrimental to Whites I could not possibly support it in good conscience. What I am saying through this memorandum is that as a matter of conscience I have reached a conclusion, motivated not by politics but by my considered evaluation of all the issues involved, that I must speak to these two controversial issues now firmly, without equivocation, and if necessary through the advocacy of a constitutional amendment.

I realize that this will cause great disturbance in our own White House staff and perhaps in the Cabinet. Even Elliot Richardson, as well as some of our White House staffers, might feel that they would have to resign because of my taking this position. So be it. I would be sorry to see them leave, but I have to call these things as I see them and on this one I have reached conclusions that are reflected above which I now want you to implement in the most effective way possible.