

The original documents are located in Box 118, folder “Discrimination” of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Ron Nessen donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

4. What ~~does the President~~ intend to do to make sure that domestic ~~agencies follow through on his directives~~ on the discrimination issue?

GUIDANCE: The President has sent a private memo to the Departments of State, Defense, Justice and Commerce reiterating his position on discrimination as stated during his press conference in Florida and asking the departments to determine whether their agencies may be involved in discriminating practices.

3/4/75

May 5, 1975

SUBJECT:

GAO REPORT CHARGES GOVERNMENT
LAX IN ENFORCING NONDISCRIMINATORY
PRACTICES

According to a GAO report released by the Joint Economic Committee, the Federal Government is lax in enforcing its orders requiring Government contractors to follow non-discriminatory practices. The report cites that although the Executive Order requiring Federal contractors to be equal opportunity employers has been in effect for ten years, only one contractor has ever been barred from bidding on future contracts because of failure to comply with the order.

What's your reaction to the charge by GAO that government contractors are not following non-discriminatory practices?

GUIDANCE: We understand that the report was released by the Joint Economic Committee, and we have not yet had a chance to review that report. However, we expect to get a copy and review it thoroughly and if there are any problems or failures on the part of the U.S. Federal Government, we will take appropriate action to correct those deficiencies.

JGC

THE WHITE HOUSE

WASHINGTON

April 9, 1976

MEMORANDUM FOR: DICK CHEILEY

FROM: EDWARD SCHMULTS

SUBJECT: Justice Department Involvement in
Private School Bias Litigation

You requested some background for the President on this morning's news story concerning the position of the Justice Department in certain litigation affecting the right of private schools to discriminate on the basis of race. The material under "Background" and "Justice Department Involvement" was furnished to Dick Parsons by the Solicitor General.

BACKGROUND

The case in question was commenced by two private parties against several private schools in Virginia which discriminated in their administration policies on the basis of race. The contention of the plaintiffs was that such discrimination violated Section 1981 of the United States Code, which derives from the old Civil Rights Act of 1866. This law prohibits racial discrimination in the making of private contracts. The defendants in this case argue that Section 1981 could not be applied to private schools and, in the alternative, that if this section were applicable to private schools it was unconstitutional. The lower court and the U. S. Court of Appeals (Fourth Circuit) held for the plaintiffs. The case has been appealed to the Supreme Court by the defendants.

JUSTICE DEPARTMENT INVOLVEMENT

When the constitutionality of a federal statute is challenged in litigation before the Supreme Court, it is required that the Department of Justice be notified of the litigation, the statute in question and the nature of the constitutional challenge. As a general rule, the Department will defend, amicus curiae, the constitutionality of the statute, unless a constitutional prerogative of the President is being diminished.

I have been advised by the Solicitor General that it is clear from previous cases that Section 1981 is constitutional.

If the President is asked about this situation, I think he should respond that:

- (1) The Justice Department is participating in this case because of its duty to defend the constitutionality of an act of Congress; the Department believes its position is mandated by the statute and previous judicial decisions;
- (2) He has been advised that the Department's position is that the statute applies only to most sweeping forms of segregation;
- (3) According to the Department, the statute would not be applicable to religious schools or those organized on some other right of association; and
- (4) We should bear in mind the case involves a statute which is within the power of Congress to change.

PRIVATE SCHOOL DISCRIMINATION

Q. Mr. President, do you have any comment about the recent Supreme Court decision regarding discrimination by private schools and, in particular, about the position of the Department of Justice in that litigation?

A. The Justice Department is participating in this case because of its duty to defend the constitutionality of an act of Congress. The Department believes its position is mandated by the statute and previous judicial decisions.

We should bear in mind that the case involves a statute which is within the power of Congress to change.

Q: The military procurement bill which your Administration supports contains a provision to open the service academies to women. Earlier when you were asked what your views on this subject, you said that you would have to study the issue. Have you, and what is your view?

A: One service academy, the U.S. Merchant Marine, admitted women for the first time this past year. As I have said in the past opening up new doors to approximately half the world's population is vital to solving many of our international problems. This is just one more area, the military service, where women have served and served with distinction. Opening the doors to the finest education this country can provide for military training will enhance women's ability to serve in leadership positions in our service. I also believe that the American people have expressed this same opinion through their Congressional representatives.

BACKGROUND

On May 20, 1975, the House passed by a vote of 303-96 an amendment to HR 6674 to admit women to service academies. The Senate then by a voice vote approved an amendment offered by Senator Hathaway to admit women to the service academies. There were no objections voiced on the floor on this issue. After a Conference Committee retained this amendment, the military procurement bill passed the House. Then on the last day before the August recess, the Senate defeated the bill as they disagreed with the funding level,


Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

THE WHITE HOUSE

WASHINGTON

December 2, 1976

MEMORANDUM FOR: RON NESSEN

FROM: JEANNE HOLM 

SUBJECT: Possible Press Inquiries on the Subject
of Legislation to Eliminate Sex Discrimi-
nation in Federally-Funded Programs

Yesterday Stan Pottinger, Assistant Attorney General for Civil Rights, held a press conference to announce the publication of regulations in connection with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in "programs or activities receiving Federal-financial assistance". Title VII of that same Act forbids discrimination on the basis of sex only in employment. There is no statute on the books comparable to Title VI that is applicable to sex discrimination.

During the press conference, the subject of sex discrimination was discussed and Stan mentioned that he and I were working on a legislative proposal dealing with this subject which would be tacked to Title VI, that prohibits sex discrimination in any program or activity receiving Federal financial assistance.

I was subsequently contacted by Margaret Gentry of the Associated Press and John Cranford of the Higher Education Daily. The AP item hit the Washington Post and the television news this morning. The attached Post article accurately relates our discussion and is substantially correct.

For your information, should you receive further inquiries, I have been working on this subject for some time with Stan Pottinger, Ron Kienlen of OMB, Judy Hope of the Domestic Council, and Bobbie Kilberg of the Office of the Counsel.

The legislative proposal I am staffing was drafted by Pottinger in response to a request I made to him in April. It is currently in OMB, where it will be circulated to the agencies in the next few days.

My goal is to have it finalized in time for the State of the Union Message.

Attachment

Thursday, Dec. 2, 1976 THE WASHINGTON POST

Sex Bias in Federal Aid Target of New Legislation

Associated Press

women in hundreds of programs pro-