UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS
SECOND SESSION

VOLUME 122—PART 10

APRIL 28, 1976 TO MAY 5, 1976

(PAGES 11495 TO 12740)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1976

eral. In June 1862, at the request of the Secretary of the Interior, Hon. Caleb B. Smith, to whose department the aqueduct had just been transferred, I accompanied the Secretary and a number of members of Congress on a tour of inspection of the aqueduct by way of the canal. Opposite Cabin John several of the party disembarked and walked to the bridge for a nearer view. Returning in hot haste, 'Do you know' said Hon. Galusha Graw to the Secretary, 'that d------d rebel Meigs has put Jeff Davis' name on the bridge.' Turning to me the Secretary said: 'The first order I give you is to cut Jeff Davis' name off the bridge.' A few days later I was appointed Chief Engineer of the Aqueduct. Not taking seriously the Secretary's remark, I did nothing in the matter. A week later Mr. Robert McIntyre, contractor, arrived to resume his work on the bridge and called to pay his respects to the Secretary. The Secretary said to him that they had put Jeff Davis' name on the bridge; he wished he would cut it off. 'With the greatest pleasure Mr. Secretary' was the reply. And the contractor's first work was to remove Mr. Davis' name."

As related in the section on Cabin John Bridge, Mr. Davis' name was restored on the inscription forty-six years later, by orders from President Theodore Roosevelt.

UNITED STATES AFFIRMS ITS COMMITMENT TO THE POLITICAL RIGHTS OF WOMEN

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues a series of events in which the United States took a welcome and positive position in connection with ratification of international human rights treaties. In December of 1975, at the tail end of International Women's Year, the Senate Foreign Relations Committee, at my request, favorably reported for ratification without one dissenting vote the Inter-American Convention on the Granting of Political Rights to Women, in force since 1949, and the U.N. Convention on the Political Rights of Women, in force since 1954. In January, the full Senate ratified the two long-pending treaties. On March 22, 1976, the President signed the two conventions, noting that—

The ratification of these two conventions serves to underscore our firm dedication to the principle of equality of political rights for women.

On April 8, 1976, Ambassador Barbara White, alternate U.S. Representative to the United Nations for Special Political Affairs, deposited at the U.N. the instrument of U.S. accession to the U.N. Convention on the Political Rights of Women. Ambassador White, who has worked tirelessly for women's rights at the U.N. and around the world, accurately asserts that U.S. accession to the U.N. convention gives credence to U.S. commitment to the principle of equal rights for women.

There is no more propitious time than in our Bicentennial Year and this International Women's Decade for the United States to take this positive action. To commemorate this occasion I ask unanimous consent that statements by the President and Ambassador White be printed in the RECORD.

There being no objections, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY AMBASSADOR BARBARA M. WHITE, ALTERNATE UNITED STATES REPRESENTATIVE TO THE UNITED NATIONS FOR SPECIAL POLITICAL AFFAIRS, ON DEPOSIT OF THE INSTRUMENT OF UNITED STATES ACCESSION TO THE UNITED NATIONS CONVENTION ON THE POLITICAL RIGHTS OF WOMEN, APRIL 8, 1976

It is with satisfaction that I herewith deposit the instrument of United States accession to the United Nations Convention on the Political Rights of Women.

What this Convention guarantees is simply stated: the rights of women—on equal terms with men, without any discrimination—to vote in all elections, be eligible for all publicly elected bodies, hold public office, and exercise all public functions established by national law.

These fundamental rights have indeed been guaranteed for some time in the United States. So the question may well be asked, why has the United States taken so long to accede to the Convention? The answer seems to be that it took the impetus of International Women's Year for this to happen.

As part of the process which the Year called for, the United States searched its conscience and examined its record. One of the results was that on January 22, 1976 the United States Senate, without dissenting vote, agreed to U.S. ratification of the Convention.

By this instrument, the United States makes a solemn commitment to its own people and to the world, that it will tolerate no broaching of these fundamental political rights for women. But no convention, no law can assure that women will take advantage of these rights. That is a matter of attitude, motivation, aspiration, and the very fabric of society itself. And here, too, the United Nations has a role. It cannot order or enforce, but it can and does help to raise consciousness, create a climate in which women will demand and exercise the rights that are their due.

This is what the United Nations has done in International Women's Year and will continue to do in the U.N. Decade for Women which has just begun. In this way the United Nations is making its contribution to what I believe will prove to be the primary frontier for progress in human rights in the last quarter of the Twentieth Century—the rights of women as full and equal human beings.

STATEMENT BY THE PRESIDENT

I am pleased to have the opportunity of signing the Inter-American Convention on the Granting of Political Rights to Women signed in Bogota in 1948 and the Convention on the Political Rights of Women signed by the United Nations General Assembly in 1953.

Our ratification of the 19th Amendment to our Constitution in 1920 granted women in this country equal voting rights with men. The ratification of these two Conventions serves to underscore our firm dedication to the principle of equality of political rights for women. Indeed the Preamble to the Charter of the United Nations to which our nation and others subscribe provides that we "reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small."

International Women's Year, 1975, has just concluded. We have now entered the United Nations Decade for Women as adopted by the 30th General Assembly of the United Nations. This Decade, 1975–85, will provide an opportunity to put into action the recommendations and suggestions resulting from IWY. This will serve as an opportunity for effectively measuring our commitment to continuing the advancement of the status of women. It is highly appropriate that the ratification of these two conventions by the United States Senate took place during the beginning of our Bicentennial year.

COMMUNITY AND JUNIOR COLLEGE RESOLUTION

Mr. MONDALE. Mr. President, recently I had the honor to address the annual convention of the American Association of Community and Junior Colleges. It was a great opportunity for me to pay tribute to the tremendous contribution that the community and junior colleges make to the educational development of our country. This commitment to the real meaning of full educational opportunity has expanded dramatically the number of Americans who have access to the fuller life that education makes possible.

At their convention, the association passed a resolution which addresses this issue of educational opportunity. I share their concern that the progress we have made toward greater access to postsecondary education not be lost. Community and junior colleges and other institutions of postsecondary education are designing innovative and creative new approaches to the diverse educational needs of the students/citizens in the communities they serve. However, they must be provided with the funds to carry out their services. This is a shared responsibility of the Federal and State governments. I am particularly pleased that I was able to convince my colleagues on the Senate Budget Committee to approve an additional $2 billion for education programs, including full funding of the basic grants program, in the budget it recently submitted to the Senate. I believe that this kind of additional support is critical to the educational goals that this country has established and which our excellent educational institutions are poised to carry out.

I commend this timely and eloquent resolution by the American Association of Community and Junior Colleges to the attention of my colleagues. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DOORS TO EDUCATIONAL OPPORTUNITY MUST BE KEPT OPEN

Millions of citizens—senior citizens, workers, minorities, and others—are in danger of being denied the services of their local community colleges. For the first time a number of state legislatures are, in effect, closing doors of educational opportunity which they have helped to open in community colleges.

State contributions have become important to community college financing during the past decade. Such contributions have made possible low cost educational and social services to a wide clientele: young persons preparing for careers, persons in mid-careers developing new skills, senior adults learning how to make retirement productive and satisfying.

Now state budgets are dictating an examination of priorities. In some states legislatures are placing ceilings on community college enrollments. They are, in effect, saying educational services to some citizens will not be supported. But, the needs are still there.

The danger is that priority decisions concerning community colleges will be based on out-of-date information. The nation's 1,200 community and junior colleges enroll more than 4 million persons in credit courses alone. More than half of these (2.2 million) are

part-time students. Additional large numbers of part-time students are enrolled in noncredit courses. The average age of community college students is age 29.

These are students who live in their communities. Most work part-time or full-time and pay taxes. The wide variety of services offered by community colleges are in response to their needs.

Community colleges also respond to the needs of their communities, working closely with human service agencies, business, industry, labor unions, to assess needs for manpower training and retraining.

The doors of community colleges have been traditionally open to all adults who can benefit from their services and there has been low or no tuition so that all who wish to learn may learn.

Nearly every state has opened new community colleges in the past decade. The result has benefited millions of persons in hundreds of communities. Increasingly the whole community is seen as the campus and every citizen a student. In many communities one in ten citizens are served by the community college each year. In some communities the average is higher.

Community colleges are not institutions for the young only. They are community resource centers to be used throughout every citizen's lifetime. They should be assessed in terms of responsiveness to community needs and the number of persons served. Services offered must be as broad as community and human needs.

We call on state legislatures to provide for new assessments of community educational needs. Educational needs in communities have changed remarkably in recent years. Adults and senior adults have increased their demands for educational services in many localities. Community colleges have responded. But now there is danger the gains made in extending educational opportunity may be lost in the name of economy.

We acknowledge the problems of finance in our present economy. But we cannot support solutions that simply propose a return to past priorities. Society's needs have changed, especially with regard to preparation for work, retraining, and retirement.

We call for each institution to examine itself toward increased productivity.

We urge alliances among those whose programs are often most needed but also most threatened by budget cuts: community colleges, community schools, organizations providing links between education and work, senior citizen groups, and others.

We call for new plans in each state to implement life-long learning opportunities for all citizens. State education priorities must consider our current economic *and* social needs. The educational opportunities of millions of citizens depend on it.

DESEGREGATION AND THE CITIES—PART I: THE LEGAL FRAMEWORK

Mr. BROOKE. Mr. President, during every session of Congress for the past decade there has been one or more attempts to limit the power of the Federal courts or executive agencies to end unconstitutional school segregation. Much of the debate in Congress has been emotional and there has been little effort to systematically review available information on urban desegregation since the completion of the work of the Senate Select Committee on Equal Educational Opportunity in 1972. Before the Senate begins its election year bebate on this issue it is important to review where we stand.

During the coming weeks Senator JAVITS and I will place in the CONGRESSIONAL RECORD a collection of background information on the law, changes in school and residential segregation, enforcement activities of Federal courts and executive agencies, social science evidence, and reports from individual communities. We hope that these materials will provide Senators and other readers of the RECORD with a broad perspective for analysis of the legislation that will be before us.

Today's insert contains the texts of the basic Supreme Court decisions on the rights of urban minorities. It begins with the 1971 decision in the Charlotte case, the unanimous decision that established the obligation of citywide integration in cities with a history of de jure segregation. It also provided that busing must not "risk either the health of the children or significantly impede the educational process." The next case, the 1973 Denver decision, first extended these principles to cities outside the South, defined the way that courts judge de jure segregation, and recognized the right of Mexican American children to a desegregated education. The third case, the 1974 Detroit decision, provided that remedies must be limited to a single district in the absence of proof of suburban or State government official action to preserve or extend segregation. The fourth case, Lau against Nichols, is not an integration decision but is a Supreme Court affirmation of the right of the rapidly growing non-English-speaking minorities in our cities to an educational program that meets their special needs. These four decisions have established the basic framework for urban desegregation policy.

Mr. President, I ask unanimous consent that the above-mentioned material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD,

SWANN V. CHARLOTTE-MECKLENBURG
402 U.S. 1 (1971)

Mr. Chief Justice Burger delivered the opinion of the Court.

We granted certiorari in this case to review important issues as to the duties of school authorities and the scope of powers of Federal courts under this Court's mandates to eliminate racially separate public schools established and maintained by state action. *Brown* v. *Board of Education*, 347 U.S. 483 (1954).

This case and those argued with it[1] arose in States having a long history of maintaining two sets of schools in a single school system deliberately operated to carry out a governmental policy to separate pupils in schools solely on the basis of race. That was what *Brown* v. *Board of Education* was all about. These cases present us with the problem of defining in more precise terms than heretofore the scope of the duty of school authorities and district courts in implementing *Brown I* and the mandate to eliminate dual systems and establish unitary systems at once. Meanwhile, district courts and courts of appeals have struggled in hundreds of cases with a multitude and variety of problems under this Court's general directive. Understandably, in an area of evolving remedies, those courts had to improvise and experiment without detailed or specific guidelines. This Court, in *Brown I*, appropriately dealt with the large constitutional principles: other Federal courts had to grapple with the flinty, intractable realities of day-to-day implementation of those constitutional commands. Their efforts, of necessity, embraced a process of "trial and error," and our effort to formulate guidelines must take into account their experience.

I

The Charlotte-Mecklenburg school system, the 43d largest in the Nation, encompasses the city of Charlotte and surrounding Mecklenburg County, N.C. The area is large—550 square miles—spanning roughly 22 miles east-west and 36 miles north-south. During the 1968–69 school year the system served more than 84,000 pupils in 107 schools. Approximately 71 percent of the pupils were found to be white and 29 percent Negro. As of June 1969, there were approximately 24,000 Negro students in the system, of whom 21,000 attended schools within the city of Charlotte. Two-thirds of those 21,000—approximately 14,000 Negro students—attended 21 schools which were either totally Negro or more than 99 percent Negro.

This situation came about under a desegregation plan approved by the district court at the commencement of the present litigation in 1965, 243 F. Supp. 667 (WDNC), a'd, 369 F. 2d 29 (CA4 1966), based upon geographic zoning with a free transfer provision. The present proceedings were initiated in September 1968 by Petitioner Swann's motion for further relief based on *Green* v. *County School Board*, 391 U.S. 430 (1968), and its companion cases.[2] All parties now agree that in 1969 the system fell short of achieving the unitary school system that those cases require.

The district court held numerous hearings and received voluminous evidence. In addition to finding certain actions of the school board to be discriminatory, the court also found that residential patterns in the city and county resulted in part from Federal, State, and local government action other than school board decisions. School board action based on these patterns, for example by locating schools in Negro residential areas and fixing the size of the schools to accommodate the needs of immediate neighborhoods, resulted in segregated education. These findings were subsequently accepted by the court of appeals.

In April 1969 the district court ordered the school board to come forward with a plan for both faculty and student desegregation. Proposed plans were accepted by the court in June and August 1969 on an interim basis only, and the board was ordered to file a third plan by November 1969. In November the board moved for an extension of time until February 1970, but when that was denied the board submitted a partially completed plan. In December 1969 the district court held that the board's submission was unacceptable and appointed an expert in education administration, Dr. John Finger, to prepare a desegregation plan. Thereafter in February 1970, the district court was presented with two alternative pupil assignment plans—the finalized "board plan" and the "Finger plan."

THE BOARD PLAN

As finally submitted, the school board plan closed seven schools and reassigned their pupils. It restructured school attendance zones to achieve greater racial balance but maintained existing grade structures and rejected techniques such as pairing and clustering as part of a desegregation effort. The plan created a single athletic league, eliminated the previously racial basis of the schoolbus system, provided racially mixed faculties and administrative staffs, and modified its free transfer plan into an optional majority-to-minority transfer system.

The board plan proposed substantial assignment of Negroes to nine of the system's 10 high schools, producing 17 to 36 percent Negro population in each. The projected Ne-

Footnotes at end of article.