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Vanguard of the Right: The Department of Education Battle, 1978-1979

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VANGUARD OF THE RIGHT: THE DEPARTMENT OF EDUCATION BATTLE,
1978-1979

A Thesis
Presented to
The Faculty of the Department of History
Western Kentucky University
Bowling Green, Kentucky

In Partial Fulfillment
Of the Requirements for the Degree
Master of Arts

By
Logan Michael Scisco

May 2014

VANGUARD OF THE RIGHT: THE DEPARTMENT OF EDUCATION
BATTLE, 1978-1979

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140 Pages

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Satisfying a campaign pledge to the National Education Association (NEA), President Jimmy Carter pushed for a federal Department of Education in 1978 and 1979. In the ensuing legislative battle, Carter confronted opposition from states' rights, social, and religious conservatives that were beginning to form the nucleus of the New Right in the Republican Party. Using divisive racial and religious issues, these conservatives tried, and failed, to thwart the Department of Education project. Congressional testimony, the Carter administration's internal documents, and newspaper editorials illustrate that the Department of Education battle foreshadowed the Reagan Revolution of 1980.

Chapter One: Early Battles for a Department of Education, 1830-1976

On October 17, 1979, in front of more than two hundred government officials, President Jimmy Carter signed the Department of Education Organization Act into law, which took the Office of Education out of the Department of Health, Education, and Welfare, and gave it cabinet-level status.¹ In his remarks at the bill signing, President Carter said that he did not “know what history will show, but my guess is that the best move for the quality of life in America in the future might very well be the establishment of this new Department of Education.”² What President Carter failed to mention was that there was once a sub-cabinet Department of Education in 1867. That department existed for only a year, brought down by internal mismanagement and partisan discord, but its tenuous existence foreshadowed the struggles that the new Department of Education would wage with Reagan conservatives in the 1980s. The initial Department of Education gathered statistics, but made little headway in improving education quality in the United States. More than a hundred years later skeptics in conservative circles and the press echoed these sentiments. Small government conservatives expressed hostility toward the new department, viewing it as a federal power grab over state education policy. Religious conservatives viewed a federal department as an intrusion into parochial education. Although liberals sought to assuage these concerns, President Ronald Reagan would make it a point in 1981 to seek the abolition of President Carter’s pet project.

1. Beryl A. Radin and Willis D. Hawley, *The Politics of Federal Reorganization: Creating the U.S. Department of Education* (New York: Pergamon Press, 1988), 1.

2. “Carter Signs Measure Creating a Department of Education: Political Aspects of Decision,” *The New York Times*, October 18, 1979, <http://www.proquest.com>.

Modern studies of the Department of Education's creation, such as Beryl A. Radin and Willis D. Hawley's *The Politics of Federal Reorganization: Creating the U.S. Department of Education* and David Stephens' "President Carter, the Congress, and the NEA: Creating the Department of Education,"³ paid attention to the Carter administration's lobbying efforts for the Department of Education Organization Act and the role of interest groups in pushing the legislation. However, these studies overlook the importance of the role racial issues played in establishing a Department of Education in the modern era and how that issue, in conjunction with a limited view of federal powers, foreshadowed the Reagan coalition of 1980. One of the most sensitive topics in the debate over a Department of Education in the late 1970s was the issue of race. Issues like busing, affirmative action, the powers of the Office for Civil Rights, and the fate of education programs like Head Start motivated both supporters and opponents, liberals and conservatives, in the battle to create a new cabinet department.

Nevertheless, these battles over federal control of education began in the antebellum period. Antebellum reformers sought the creation of a Department of Education in conjunction with state-level education reforms regarding compulsory education and teacher training. For the next 150 years the political battles surrounding the Department would involve a collection of civil rights, religious, economic, and political actors, all of whom sought either to overturn or to protect the status quo in favor of their respective core constituencies: racial minorities, women's groups, academics, parochial communities, segregationists, or teachers' unions. The debates that ensued

3. David Stephens, "President Carter, the Congress, and the NEA: Creating the Department of Education," *Political Science Quarterly* 98, no. 4 (Winter 1983-1984), <http://www.jstor.org>.

forced political reformers to adjust their rhetoric and strategies, often at the expense of racial equity in education, which was a source of constant political friction.

Antebellum State Education Reform Efforts & The Creation of State Boards of Education

The antebellum era was a time for significant education reform in the United States, aided by the beginnings of American industry, new immigration patterns, and the growth of American cities. Education reformers saw schooling as a way to fix the un-American habits of immigrant groups, child labor, crime, poverty, and as a vehicle for preserving American democracy.⁴ These efforts focused on state reform during this period, since America's federalist system of government vests education policy with the states, and reformers did succeed in getting states to recognize their role in the education process.

Education reform efforts grew most in the Northeast, which had a history of valuing educational instruction and institutions dating back to colonial times. The immigration of families to the Northern colonies and the religious zeal that brought the Puritans to the New World placed an emphasis on local schooling so that future generations could read the Bible. In 1789, Massachusetts passed the first general school law in the country, creating a network of public schools under the supervision of certified teachers.⁵ During the antebellum era, Massachusetts was the center of the first American Industrial Revolution, and Governor Levi Lincoln worried that this trend toward

4. Jay Pawa, "Workingmen and Free Schools in the Nineteenth Century," *History of Education Quarterly* 11, no. 3 (1971): 291, <http://www.jstor.org>.

5. Murray N. Rothbard, "Historical Origins," in *The Twelve Year Sentence*, ed. William F. Rickenbacker (LaSalle, IL: Open Court Publishing, 1974), 14.

industrialization, which encouraged long hours and involved entire families, would create a permanent, uneducated underclass.⁶ To remedy this problem the state, spurred on by the efforts of the Massachusetts Working Men's Party, sought to limit child labor in 1837 by not allowing children to work until the age of fifteen unless they had received some public schooling.⁷

In 1837 Massachusetts also created the nation's first state board of education to give the state a greater role in education policymaking, even though suspicion of distant political authorities allowed local schools to keep most of their powers.⁸ The principle of local control over education, which may have originated from Massachusetts's use of selectmen for local governance and its later emphasis on having separate school districts financed at the local level, thwarted serious attempts to fix education problems regarding truancy until the late nineteenth century.⁹ Local authorities were loathe to give any of their power to state authorities, and the unwillingness of state authorities to directly intervene in local education matters let local authorities claim they were fulfilling state laws without doing so. The use of political patronage networks in cities also significantly undermined reform efforts.¹⁰ To cite two examples, some officials refused to cooperate with state laws and some local boards in Massachusetts failed to hire truancy officials to get children to school. Nevertheless, the idea of creating a state supervisory board for

6. Forest Chester Ensign, *Compulsory School Attendance and Child Labor* (1921; reprint, New York: Arno Press, 1969), 36-37.

7. Ensign, *Compulsory School Attendance and Child Labor*, 36-39.

8. Deborah Land, "Local School Boards Under Review: Their Role and Effectiveness in Relation to Students' Academic Achievement," *Review of Educational Research* 72, no. 2 (2002): 230-231, <http://www.jstor.org>.

9. Land, "Local School Boards Under Review," 231.

10. Land, "Local School Boards Under Review," 231.

education soon spread to other states, as Michigan created one in 1849, and New York and Maine followed in 1854. The creation of these boards suggests that these states saw an interest in directing education policy, but were loathe to use their legislative powers as a coercive instrument at this time.

It is also significant that these reforms were taking place in Northern states. In a disparity that dates back to the colonial period, the South failed to invest in its education institutions as much as Northern states for social and economic reasons. Immigration to the Northern colonies involved more family units than the Southern colonies, which encouraged the gradual growth of publicly funded local schools. Also, Southern families were chronically unstable due to diseases like malaria that reduced life expectancy, which restricted some of the same impetus behind family-centered education policies like those present in Northern states. Finally, the Southern planter aristocracy was unwilling to fund schools that would provide educational opportunities for poor whites, seeing this as an unjustified redistribution of wealth. They were content to provide tutors for their children, send them to private schools and universities, and devote their finances and energies into other pursuits. The presence of millions of slaves also made Southerners hostile to education policy. Slaveholders agreed that an educated slave was a dangerous one.¹¹ At the same time that Northern states established state boards of education, Southern states believed that they were in a state of siege. The Missouri Compromise of 1820 closed off slavery north of 36°30', Denmark Vesey's plan for a slave uprising in Charleston was narrowly averted in 1822, and Nat Turner's slave rebellion in Virginia in 1831 left more than fifty whites dead. The effect of these incidents, aside from producing

11. Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Vintage Books, 2004), 27.

a greater Southern paranoia about the slave question, was harsher slave codes that prohibited teaching reading and writing to free and enslaved blacks.¹² Thus, as Northern states proceeded to upgrade their educational frameworks, Southern states moved to restrict them, thereby enhancing the division of the sections in the tumultuous years leading up to the Civil War. Despite the tension, however, Northern education reformers began calling for a federal Department of Education, which was an idea ahead of its time.

Initial Calls for a Federal Role in Education Policymaking & Initial Success

The idea for a federal Department of Education emerged in the late 1830s from Northern reformers who sought to collect and disseminate education statistics and promote more educational opportunities within the states.¹³ This was a good idea, since there were few meetings of state education authorities, and a federal agency could be a vehicle for spreading best practices. State authorities in Massachusetts, Ohio, and Connecticut called for a department that would promote the adoption of uniform school standards and be a clearing house for educational practices.¹⁴ During a period when state educational bureaucracies were in their infancy, having a federal agency coordinate their actions and share information would have accelerated the nation's educational development. The federal government could have promoted forums for improving compulsory education laws, funding of schools, and teacher training. Also, these forums had the potential to increase the stature of education on Capitol Hill and accelerated the development of education reforms that would have to wait for another century.

12. Kluger, *Simple Justice*, 27.

13. Donald Warren, "The U.S. Department of Education: A Reconstruction Promise to Black Americans," *The Journal of Negro Education* 43, no. 4 (1974): 438, <http://www.jstor.org>.

14. Warren, "The U.S. Department of Education," 438.

In 1854, Henry Barnard, a Northern education reformer who was then the “superintendent of common schools” in Connecticut submitted one of the first serious proposals for a federal Department of Education. Barnard’s plan called for a national bureau that would be an international repository for knowledge about education history and schools, assess the nation’s schools, promote education experimentation and innovation, and supervise model schools in Washington D.C.¹⁵ Barnard’s proposal mirrored the Northern attitude of what a federal Department of Education should look like, but it was a proposal that was only acceptable to states that had already created state boards of education. Southern states, which largely neglected these measures, had little interest in creating a new federal agency and states like New York, which were forming their own state boards of education, saw themselves as too busy to champion the proposal.¹⁶

Race became an element in the discussion of Barnard’s idea following the American Civil War, which further eroded the possibility of a national consensus on the issue. After four bitter years of fighting, the Northern public and their Congressional representatives saw the end of the war as an opportunity to remake the South. The Southern plantation culture was in shambles, the region’s slaves acquired their freedom, and its states forced to adopt constitutional amendments that, it was hoped, would reshape its political, social, and economic way of life. In 1865, New England educators joined Barnard in renewing the fight for a Department of Education, which they claimed would lead to the effective teaching of reading, writing, and arithmetic, as well as moral

15. Warren, “The U.S. Department of Education,” 438.

16. Warren, “The U.S. Department of Education,” 439.

education and industrial training. Notably, this group argued that the newly freedmen and women needed these skills the most, which made it a pressing issue for the federal government.¹⁷ However, in recognizing that the motive behind the department was racial uplift, supporters unwittingly tied the fate of the department with Reconstruction and the attitudes of Congressmen in assisting the nation's black population. In late 1865, Minnesota Republican Congressman and future Populist Party vice-presidential nominee Ignatius L. Donnelly proposed an educational counterpart to the Freedmen's Bureau that would enforce the provision of adequate education in states that did not meet federally defined minimum standards. However, it did not pass since members of Congress were not comfortable expanding the federal government's powers over education.¹⁸

One of the principal spokesmen for a Department of Education in 1866, Republican Representative and future President James Garfield of Ohio, demonstrates why supporters of racial and immigrant groups and the poor found the idea attractive. Garfield was an ideal choice for spearheading the education effort as he was a powerful public speaker and a self-made man in the education field, who rose from poverty and working the Erie Canal to the President of the Western Reserve Eclectic Institute, where he had served as a janitor as an undergraduate.¹⁹ Garfield was also a champion of civil rights, sponsoring Congressional legislation that would allow blacks to walk freely

17. Warren, "The U.S. Department of Education," 440.

18. Allan Peskin, "The Short, Unhappy Life of the Federal Department of Education," *Public Administration Review* 33, no. 6 (1973): 572, <http://www.jstor.org>.

19. Candice Millard, *Destiny of the Republic: A Tale of Madness, Medicine, and the Murder of a President* (New York: Anchor Books, 2011), 20-26.

through the streets of Washington D.C. and supporting black suffrage after the Civil War.²⁰

Garfield took to the House floor on June 8, 1866, and demanded that the United States establish an education department to expand its intellectual empire.²¹ He noted that in the 1860 census there were over 115,000 schools in the United States that employed more than 150,000 teachers and 500,000 school officers and were responsible for the instruction of five and a half million pupils.²² Garfield chronicled a history of federal intervention in education policy prior to 1865, which included the 1787 Northwest Ordinance, which provided that “religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, and the means of education shall forever be encouraged,” and federal land grants of over fifty-three million acres to fourteen states and territories for the purpose of establishing education institutions.²³ He then lamented that despite these generous grants and legislative prerogative to improve America’s schools there were over one million inhabitants over the age of twenty-one in the United States, according to the 1860 census, that were illiterate. This did not include the four million freedmen recently emancipated from bondage, and he noted that the federal government only had complete education statistics from seventeen states.²⁴ Linking to previous education efforts, Garfield concluded by observing that new waves of immigrants were arriving on America’s shores making

20. Millard, *Destiny of the Republic*, 31.

21. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3050, <http://memory.loc.gov>.

22. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3049, <http://memory.loc.gov>.

23. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3049, <http://memory.loc.gov>.

24. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3049, <http://memory.loc.gov>.

education a required national prerogative if the United States was going to endure as a nation for generations to come.²⁵

Unfortunately, the Department of Education bill that Garfield supported had many structural flaws that would make it easy for opponents to exploit at a later date. The bill was a carbon copy of the one used to establish the Department of Agriculture in 1862, and a seven-man committee that examined the bill never called witnesses because they lacked an adequate staff.²⁶ The bill called for a weak federal agency, with sub-cabinet status, that would collect statistics and spread information about the management of school systems and effective teaching methods. A commissioner would be in charge of the department and was required to make an annual report to Congress. Congress appropriated \$20,000 for the new department, but this budget could be changed at the will of Congress.²⁷ The Department of Education mirrored the goals that Henry Barnard outlined in 1854, but it was weakened because of Garfield's concerns that a powerful department could dictate textbooks, schoolhouses, and teachers.²⁸ The result was a frail department that could merely gather data and issue recommendations, but could not make policy rulings or enforce its requests. In the turf wars of Reconstruction-era Capitol Hill, it would just take a stiff gust of legislative wind to knock it aside.

Aside from its faults, other prominent Republican legislators assisted Garfield's proposal and saw the idea as a way to help the downtrodden and assist Reconstruction. Massachusetts Republican and future Governor George S. Boutwell argued that even

25. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3049, <http://memory.loc.gov>.

26. Peskin, "The Short, Unhappy Life of the Federal Department of Education," 572-573.

27. "Article Four," *The New York Times*, March 2, 1867, <http://www.proquest.com>.

28. Peskin, "The Short, Unhappy Life of the Federal Department of Education," 573.

though the proposed department would not help New England states it would help spread valuable instructional methods to other states. Boutwell pointed out that during the Civil War, the Union Army enrolled regiments in Arkansas where less than ten percent of soldiers could sign their pay stub.²⁹ Former Massachusetts Governor Nathaniel P. Banks, who now represented his state in the House, said that the new department did not represent a federal attempt to control education policy, but merely to collect information for the benefit of Congress, which would aid in the process of Reconstruction and the formation of a new nation.³⁰ In the Senate, Wisconsin Republican and future Postmaster General Timothy O. Howe eloquently stated “the struggle to emancipate the nation is just ended. The struggle to enfranchise the nation is almost ended. The struggle to educate the nation is just commencing, and commencing with this bill.”³¹ Massachusetts Republican Charles Sumner, whose brutal caning by Preston Brooks in 1856 previewed the explosive sectional tensions that led to civil war, echoed his state’s viewpoint that the failure to educate the nation’s citizens would destroy the republic and weaken universal suffrage.³²

Opponents of Garfield’s bill warned that it violated religious liberty and that it paved the way for equality between the races. Northern Democrats, who relied on Catholic votes, warned that a federal Department of Education would undermine religious liberty by issuing punitive sanctions against private, parochial schools. This argument found some bipartisan appeal as Frederick A. Pike issued a parade of horrors

29. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3048, <http://memory.loc.gov>.

30. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3046, <http://memory.loc.gov>.

31. *Congressional Globe*, 39th Cong., 2d. sess., 1866-1867, 1843, <http://memory.loc.gov>.

32. *Congressional Globe*, 39th Cong., 2d. sess., 1866-1867, 1843, <http://memory.loc.gov>.

by warning that if the government took control of education then churches, railroads, telegraphs, and schoolhouses would soon follow.³³ Other Democrats, like Pennsylvania Representative Samuel Jackson Randall, who in 1876 would become Speaker of the House, used debates about the Department of Education to rail against the Freedmen's Bureau and its spending of taxpayer money on schools and organizing systems of instruction, which he believed to be unconstitutional.³⁴ Thus, the Department of Education's legislative struggle in 1866 mirrored debates over national Reconstruction policy regarding how far the federal government should go to help the newly freed slaves and correct social injustices of the past, present, and future.

When the House took up the federal education bill it was defeated by two votes, with sixty-one abstentions, but was swiftly reconsidered and passed on June 19, 1866. It is unclear whether the switch occurred because the abstentions reconsidered their non-vote or whether they decided to enact the legislation to appease and humor Garfield and his allies.³⁵ The Senate followed the House's lead on Garfield's education bill and on March 2, 1867, the first federal Department of Education was established. Henry Barnard was made its first commissioner.

Despite having limited funds and influence, Barnard set about drafting complex plans for fixing Washington D.C.'s public school system, a task which still absorbs the energies of education reformers to this day, and enhancing federal influence on education

33. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3046-3047, <http://memory.loc.gov>.

34. *Congressional Globe*, 39th Cong., 1st. sess., 1865-1866, 3048, <http://memory.loc.gov>.

35. Peskin, "The Short, Unhappy Life of the Federal Department of Education," 573; Henry Barnard, *Report of the Commissioner of Education with Circulars and Documents* (Washington: Government Printing Office, 1868), 63. The Department of Education bill, H.R. 276 (14 Stat 434) failed in the House on June 8, 1866 by a vote of 59-61, but passed on June 19th by a vote of 80-44. The second House vote saw 57 abstentions.

policy.³⁶ However, Congress failed to adequately support the department and made Barnard pay for his own office, books, and supplies, and kept moving his headquarters around as if playing some type of Capitol Hill “hide and seek” game. In fact, Barnard was forced to operate his department out of a local restaurant.³⁷ Barnard possessed few powers to operate his department effectively; he had no funds to gather data and no power to make state and local officials cooperate by filing out surveys and returning them in a timely manner.³⁸ There is also little evidence that President Andrew Johnson paid heed to any recommendations from the new department.

After existing for only one year, the new Department of Education was in shambles and Barnard failed to create a political consensus to sustain it. Republicans saw little use in having a federal department that merely collected statistics and Democrats attacked Barnard and the inefficiency of the department, couching their language in a racial framework used to initially oppose the new department. For example, New York Democrat Fernando Wood championed the department’s abolition on the grounds that “thousands of lazy, idle Negroes...people who do not work, people who will not work, people who are supported out of the public Treasury by appropriations of Congress for illegal and improper purposes” took advantage of government largesse.³⁹ Even prominent Radical Republicans came to see the new department an ineffective tool of Reconstruction. In the next session of Congress, Radical Republican leader Thaddeus Stevens of Pennsylvania said that creating the department was a mistake and that the first

36. Peskin, “The Short, Unhappy Life of the Federal Department of Education,” 574.

37. Peskin, “The Short, Unhappy Life of the Federal Department of Education,” 574.

38. Warren, “The U.S. Department of Education,” 445.

39. Warren, “The U.S. Department of Education,” 443-444.

annual education report that Barnard issued to Congress was “the gathering up of... facts by a worn out man who embodies them in his report.”⁴⁰ Although Stevens championed Radical Reconstruction of the Southern states, he sided with Democrats to abolish the department on the grounds that it was a misguided attempt to help African Americans, who needed a political rather than a liberal arts education. Since the Department of Education collected statistics, Stevens saw it as a useless tool in the campaign to reconstruct the South.⁴¹ As the corruption within Reconstruction state governments became apparent, the Department of Education, which was tied to those efforts, saw its standing erode and Congress decided in 1868 to remove its appropriation and in a compromise measure, reduced it to bureau status within the Department of the Interior with Barnard’s salary and staff reduced.⁴² The new bureau was rechristened the Office of Education in 1929 and would remain in the Department of Interior for more than seventy years before it was reassigned to the Federal Security Agency by President Franklin D. Roosevelt in 1939.⁴³ As historian Allan Peskin observed, “born in indifference, [the Department of Education] expired in frustration – an example of the futility of an idea whose time had not yet come.”⁴⁴ However, while the Department of Education suffered a quick bureaucratic demotion its fate was not yet sealed. It continued to file reports throughout the nineteenth century, and its preservation as a government agency signified that the federal government found there to be an appropriate role for education at the

40. *Congressional Globe*, 40th Congress, 2d. sess., 1867-1868, 3704, <http://memory.loc.gov>.

41. Warren, “The U.S. Department of Education,” 444.

42. Peskin, “The Short, Unhappy Life of the Federal Department of Education,” 574.

43. Radin and Hawley, *The Politics of Federal Reorganization*, 15.

44. Peskin, “The Short, Unhappy Life of the Federal Department of Education,” 574.

national level. What that role would be was uncertain, but in the twentieth century a new wave of education reformers brought back the idea of a Department of Education and this time they sought to make it a cabinet-level department.

The Renewed Offensive for a Department of Education in the Twentieth Century

Even after it was demoted from sub-cabinet status in 1868, the renamed Bureau of Education in the late nineteenth and the early twentieth century continued its collection of education statistics inside of the Department of Interior as education professionals sought a stronger voice for it on Capitol Hill. Whereas the first Department of Education was a sub-cabinet department, education advocates now sought to elevate its stature to a cabinet department in order to enhance the prestige of American education in the eyes of voters and to give the president a readily accessible education representative. Throughout the early and mid-twentieth century, advocates for a cabinet-level Department of Education proposed different structures for the new department and tried to make the issue prominent in several presidential elections from the 1920s through the 1970s. They also utilized the legislative chambers of Congress to make their case as between 1908 and 1951 there were more than fifty bills introduced to establish a cabinet-level Department of Education, with more than twenty days of hearings held on the subject, and six bills sent to the House or Senate floor, but no action was taken on any of them.⁴⁵ Over time, education forces changed their advocacy from moral and racial uplift to reforming the federal education bureaucracy and heavily politicizing the education issue. Still, they faced obstacles from social and religious conservatives who resented federal interference in state education policy.

45. Radin and Hawley, *The Politics of Federal Reorganization*, 23.

The First World War provided ammunition to advocates of national education reform as the military discovered that thousands of draftees were illiterate. Education reformers argued that the United States had sixty times the illiteracy rate of Germany, more than fifty thousand teachers in the country lacked proper training, and there was significant repetition in data collected by the states and the federal government.⁴⁶ The Smith-Towner Bill of 1919 attempted to address these concerns by proposing the establishment of a federal Department of Education and distributing \$100 million in federal aid to states for Americanization and public health programs, teacher training, and combating illiteracy.⁴⁷ However, Smith-Towner failed because Catholic forces lobbied against its passage, arguing that more federal control of education would significantly harm the Catholic education system.⁴⁸

The political momentum behind the Department of Education idea continued in the 1920s, as national politicians saw it as a way to win over women voters. In the 1920 presidential election, the first presidential election after ratification of the Nineteenth Amendment, Republican candidate Warren G. Harding pledged his support for a cabinet-level department tailored to feminine concerns about “[physical and mental] health, education...and the things closest to human life.”⁴⁹ Harding’s call for a new department appealed to politically mobilized women’s groups like the National Council of Women of

46. Harry Gump and Henry Biggs, Jr., “Shall We Have a Federal Department of Education?,” *The High School Journal* 10, no. 5 (1927): 127-128, <http://www.jstor.org>.

47. Richard Tompkins, “Federal Control of Schools Fought,” *New York Times*, April 19, 1936, <http://www.proquest.com>.

48. See Douglas J. Slawson, *The Department of Education Battle, 1918-1932: Public Schools, Catholic Schools, and the Social Order* (Notre Dame, IN: University of Notre Dame Press, 2005).

49. Constance Drexel, “Women Back Harding Plan,” *The Los Angeles Times*, February 17, 1923, <http://www.proquest.com>.

the United States, which supported a cabinet-level Department of Education because they hoped that the first secretary of the department would be a woman.⁵⁰ Thus, the Department of Education idea became infused with ideas of female political empowerment, while also catering to the gender stereotypes of the period that placed women in a maternal and moral role.

Presidents Calvin Coolidge and Herbert Hoover, who followed Harding into the White House in the 1920s, continued to advance the idea of establishing an education department in the cabinet, but did not address racial inequities in American education, thereby showing how the issue could poison the chances of the department's passage. In the 1924 presidential election, Coolidge addressed the sixty-second convention of the National Education Association (NEA) and made it clear that he supported his predecessor's goal of a Department of Education to solve national ignorance, poverty, vice, and crime.⁵¹ However, nowhere in Coolidge's address was there mention of racial inequalities in the American education system that the federal government could play a stronger role in addressing, namely in regards to unequal funding for racially segregated schools. In 1929, Herbert Hoover had his Interior Secretary, Ray Lyman Wilbur, organize a study on the merits of a Department of Education.⁵² The study came to the conclusion that the federal government should not attempt to direct, control, or interfere

50. "A Department of Education," *The Washington Post*, November 16, 1920, <http://www.proquest.com>.

51. "Coolidge Endorses Federal School Aid," *The New York Times*, July 5, 1924, <http://www.proquest.com>.

52. "The Government and Education," *The New York Times*, June 7, 1929, <http://www.proquest.com>.

with the education administration of the states.⁵³ However, it endorsed the idea of a weak cabinet-level federal Department of Education, where the cabinet secretary could not withhold federal funds to secure compliance with federal acts.⁵⁴ This was not acceptable to some African-American education advocates, and Dr. John W. Davis of West Virginia State College, Mordecai W. Johnson of Howard University, and R.R. Moton of Tuskegee Institute, spokesmen for the African-American educators on the advisory committee, noted that in eighteen states, black children were granted fifteen dollars per capita for education versus eighty dollars per capita for the nation as a whole.⁵⁵ These spokesmen created a minority report that forcefully pressed the federal government's responsibility to oversee the education of disadvantaged citizens and called for a system of federal grants to blacks.⁵⁶ The failure of the Department of Education idea in the 1920s, as well as the failure of the federal government to heed calls for educational equality, demonstrates that the political will to address both issues was lacking and that national politicians were aware of how racial issues could wreck national reform projects.

The NEA pushed for a cabinet-level department throughout the twentieth century and added another constituency to the federal education reform effort. Established in 1857, the NEA by 1900 became a lobbying group for education interests and a professional organization for teachers. It was a progressive organization that championed the rights of women and minorities and saw a cabinet-level Department of Education as

53. Tompkins, "Federal Control of Schools Fought."

54. R.L. Duffus, "Seat for Education in Cabinet Weighed," *The New York Times*, November 22, 1931, <http://www.proquest.com>.

55. Duffus, "Seat for Education in Cabinet Weighed."

56. Duffus, "Seat for Education in Cabinet Weighed."

the best way to advocate for better education on the national level. NEA conventions throughout the 1920s called for a cabinet-level Department of Education, but they did not endorse presidential candidates. Also, the NEA did not emphatically tie its support for women and minorities directly into its advocacy for a cabinet-level Department of Education, showing a recognition of the dangers of making the department seem like a reward to either group. Instead, it backed the research capabilities of the department and the symbolic role that a cabinet official of education would occupy.⁵⁷

The NEA suffered attacks during Congressional debates in the 1920s over education legislation, portrayed by opponents as a money seeking organization that only wanted an education department after it failed to secure a higher federal subsidy for education.⁵⁸ The NEA also suffered dissension within its own ranks that same year, as George W. Wanamaker, superintendent of schools in South Carolina, opposed a federal Department of Education at the organization's annual convention in Atlanta on states' rights grounds.⁵⁹ Considering the poor quality of South Carolina's segregated schools for minority students, Wanamaker's concerns likely express an underlying fear that a powerful federal Department of Education would expose his state's failure to adhere to the terms of *Plessy v. Ferguson*, which established the "separate but equal" doctrine in public accommodations. While Northern philanthropy aided the development of black education in the South after Reconstruction, white supremacists found it a threat to the

57. "Favor Cabinet Head of Education Work," *The New York Times*, July 3, 1925, <http://www.proquest.com>.

58. "A Federal Department of Education," *The Washington Post*, February 28, 1929, <http://www.proquest.com>.

59. "No Department of Education," *The Washington Post*, July 8, 1929, <http://www.proquest.com>.

political order of the region and by 1905 significant pressure led to the abandonment of these efforts.⁶⁰ Also, as Southern states raised taxes, the taxes that black Southerners paid went to white education institutions and state funding of their institutions declined, which meant that blacks were subsidizing white education.⁶¹

American Catholics strongly opposed the creation of a cabinet-level Department of Education in the 1920s and 1930s, which mirrored their role on the state level in opposing education reforms that they feared would undermine parochial schools. In the midst of an anti-Catholic atmosphere during the Gilded Age and the early twentieth century, illustrated by hostility to increased immigration by Southern and Eastern Europeans and the emergence of the second Ku Klux Klan in 1915, these concerns had some justification. Non-Catholic critics alleged that parochial schools did not encourage free thought, noting that Pope Pius IX at the First Vatican Council of 1869-1870 declared papal infallibility and opposed democratic reforms.⁶² Republican critics also tied Catholic schools to Democratic corruption in metropolitan areas and cartoonist Thomas Nast depicted Catholics as isolated from mainstream American values.⁶³ At the state level, Catholics opposed compulsory education laws because the increased enrollments in public schools would lead to higher taxes, which Catholic parents would be forced to pay in addition to the cost of attending parochial schools. Catholic educators blasted this tax “racket” to fund the textbooks, furniture, and school construction that compulsory

60. Edward Ayers, *The Promise of the New South: Life After Reconstruction*, 15th ed. (New York: Oxford University Press, 2007), 419.

61. Ayers, *The Promise of the New South*, 420.

62. Francis Ellingwood Abbot, “Compulsory Education,” *The Index Tracts*, no. 7 (1892): 2.

63. Benjamin Justice, “Thomas Nast and the Public School of the 1870s,” *History of Education Quarterly* 45, no. 2 (2005): 175, <http://www.jstor.org>.

education laws required.⁶⁴ By the 1920s, white supremacists and the Ku Klux Klan attempted to close down parochial schools nationwide, an effort that ended in failure in *Pierce v. Society of Sisters* in 1925 when the Supreme Court found an Oregon law banning parochial education unconstitutional on Fourteenth Amendment grounds.⁶⁵

While successfully preserving parents' rights to educate their children in a parochial school, Catholics opposed the NEA's Congressional efforts to create a cabinet-level Department of Education. These fears increased because the same forces that supported compulsory education laws supported a Department of Education.⁶⁶ Catholics argued that a federal education department would create federal control of educational practices and that the standards mandated by the department would become political and patriotic propaganda.⁶⁷ Catholics leaders like Reverend James H. Ryan, director of the Department of Education of the National Catholic Welfare Council, argued in 1929 that if the federal government gave funds to the states for educational purposes then it could dictate how that money was spent, harming local control over education and setting a precedent that children belonged to the state instead of their parents.⁶⁸ Concerns also abounded, from Catholic and non-Catholic sources, that the department would eventually be forced to set standards for moral instruction and in doing so would attempt to regulate

64. Patrick Francis Quigley, *Compulsory Education: The State of Ohio Versus the Rev. Patrick Francis Quigley* (New York: Robert Drummond, 1894): v, xii.

65. *Pierce, Governor of Oregon, et al. v. Society of Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510 (1925).

66. Douglas J. Slawson, *The Department of Education Battle, 1918-1932: Public Schools, Catholic Schools, and the Social Order*, 246.

67. Tompkins, "Federal Control of Schools Fought."

68. "Fears Federal Rule in Education," *The New York Times*, December 12, 1924, <http://www.proquest.com>.

the country's morals.⁶⁹ Considering that a significant portion of the early twentieth century debates on the feasibility of a cabinet-level Department of Education took place in the Prohibition era, a time when urban areas believed that rural religious types had imposed their version of morality onto the population, having the government determine moral behavior became a popular call to oppose federal initiatives that possessed a moral flavor.

The Great Depression ended many of the lobbying efforts that sought a Department of Education, but the Cold War of the 1950s and, later, President Lyndon B. Johnson's Great Society programs brought those efforts back to the forefront. By this time, the Bureau of Education had become the Office of Education and was moved into the Department of Health, Education, and Welfare (HEW) in 1953. The Soviet Union's launch of *Sputnik* in 1957 raised national anxieties about the state of American education and led to increased federal funding to math and science programs with the passage of the National Defense Education Act in 1958. Increased federal funding to education came with the Elementary and Secondary Education Act of 1965. This activity on Capitol Hill spurred the growth of a number of education interest groups that advocated for broad programs like compensatory education and specific education approaches, like art education or conversion to the metric system.⁷⁰

The new environment of bureaucratic reform led to renewed calls for a federal Department of Education in the late 1960s, but reformers continued to avoid controversial issues of racial equity and focused their attention on bureaucratic efficiency.

69. "A Stroke for Liberty," *The Washington Post*, May 5, 1929, <http://www.proquest.com>.

70. Radin and Hawley, *The Politics of Federal Reorganization*, 13-14.

Reformers noted that the Office of Education was swamped within HEW, as it was responsible for more than 150 programs that absorbed fifty percent of all federal expenditures and that Congress would never have a Congressional committee for health, education, and welfare issues because it would represent too great a concentration of power.⁷¹ Rufus E. Miles, Jr., a former assistant secretary to six HEW cabinet secretaries, emphasized that a cabinet position would attract top talent to the position; that no other country in the world combined health, education, and welfare activities into a single department; that communist countries thought that America did not value education because it did not have a separate department; and that a new department would give education a national spokesperson.⁷² These arguments would be repeated by a growing coalition of education groups that forcefully advocated for a new department, which included the NEA, the American Association of School Administrators, the National School Boards Association, the National Association of State Boards of Education, the Chief State School Officers, and the National Congress of Parents and Teachers.⁷³

The arguments fell on deaf ears during the presidency of Richard Nixon, but his Democratic opponent in 1972, South Dakota Senator George McGovern, a former schoolteacher, received a standing ovation at the NEA's annual convention by claiming that he would establish a separate Department of Education and appoint a woman to lead it since seventy-five percent of all teachers were female.⁷⁴ McGovern's appeal to the

71. Rufus E. Miles, Jr., "The Case for a Federal Department of Education," *Public Administration Review* 27, no. 1 (1967): 4-5, <http://www.jstor.org>.

72. Miles, Jr., "The Case for a Federal Department of Education," 2-5.

73. Helen Bain, "An Argument for a Department of Education," *The Clearing House* 48, no. 8 (1972): 481, <http://www.jstor.org>.

NEA was again based on bureaucratic concerns about HEW being too large and played to identity politics by trying to rally the female vote against Nixon. The goals of a new department were not directly linked to more federal power over the states or of addressing civil rights concerns of speeding up integration, busing, or affirmative action, which were becoming hot topics of national conversation. Instead, the justification for a Department of Education was linked to bureaucratic efficiency, cost savings, and appeals to crucial electoral voting blocs.

Finally, in 1976 the NEA decided to use its two million members as an active agent in the next presidential election and press for its issues of better federal financing of education and the establishment of a cabinet-level Department of Education. Changes in campaign finance laws enabled the NEA to form a political action committee and the organization held political organizing workshops and built a campaign infrastructure.⁷⁵ The organization also possessed a staff of more than a thousand workers on Capitol Hill, and this would give it clout in influencing the direct of education legislation.⁷⁶ In 1975, the NEA formed an alliance with the United Automobile Workers and other trade unions to maximize its influence. The result was that it helped elect more than four hundred delegates to the 1976 Democratic National Convention.⁷⁷ Former Georgia Governor Jimmy Carter, who was considered a long shot for the nomination, quickly caught the NEA's eye in 1975 when he told a group of Iowa teachers that "the only department [he]

74. Gene I. Maeroff, "McGovern Tells NEA He Backs Education Unit," *The New York Times*, June 30, 1972, <http://www.proquest.com>.

75. Radin and Hawley, *The Politics of Federal Reorganization*, 40; *Federal Election Campaign Act of 1971*, Public Law 92-225, 86 Stat. 3 (February 7, 1972); *Buckley v. Valeo*, 424 U.S. 1 (1974).

76. Radin and Hawley, *The Politics of Federal Reorganization*, 40.

77. Radin and Hawley, *The Politics of Federal Reorganization*, 40.

would consider creating would be a separate Department of Education.”⁷⁸ During his time as governor, Carter enacted a bevy of educational reforms to introduce early childhood education, provide better education services to special education students, and allocate state funds by number of teachers instead of the number of instructional units.⁷⁹ The NEA provided Carter with 172 votes at the 1976 Democratic National Convention, and his selection of Minnesota Senator Walter Mondale as his vice-president solidified the NEA’s support for him, since Mondale was a strong supporter of organized labor and his brother was an NEA official in the Midwest.⁸⁰ Carter received more than \$400,000 from the NEA for his 1976 campaign and received the first presidential endorsement from the organization in its 119-year history.⁸¹ In a close election where Carter squeaked by incumbent President Gerald Ford, the NEA believed that its support for Carter is what got him to the White House, and it would soon demand that he succeed where his predecessors had failed in establishing a Department of Education.

During the twentieth century, advocates for a cabinet-level Department of Education gradually changed their approach to achieve their goal. Whereas nineteenth century efforts focused on the need for moral and racial uplift, twentieth century advocates began to drift away from that approach in the late 1920s and towards a bureaucratic, funding, and symbolic argument. In the twentieth century, a federal Department of Education became a vehicle of national political debate and was used to

78. Radin and Hawley, *The Politics of Federal Reorganization*, 41.

79. Deanna L. Michael, *Jimmy Carter as Educational Policymaker: Equal Opportunity and Efficiency* (Albany, NY: State University of New York Press, 2008), 83.

80. Radin & Hawley, *The Politics of Federal Reorganization*, 41.

81. Radin & Hawley, *The Politics of Federal Reorganization*, 41.

cement alliances with different blocks of voters, especially women. Education forces also became stronger interest groups, as illustrated by the NEA using campaign finance adjustments to its advantage to become a forceful advocate within the Democratic Party for a Department of Education.

From the early nineteenth century to 1976, attempts to establish a federal Department of Education won one major victory, but suffered many defeats. Whereas early reformers pressed the need to take care of the nation's immigrant population, reduce moral decay, and provide a form of education to the recently freed slaves, later reformers moved away from these issues and began to wage a political battle to enhance the prestige of education nationwide and secure more federal financing of education projects. Although the rhetoric changed, and with it the direct advocacy of minority concerns by prominent education groups in fighting for a Department of Education, the specter of any federal department with influence on national education policy was anathema to political conservatives. They destroyed the first incarnation of the Department of Education in 1868 and they inflamed the passions of other interest groups, like Catholic education advocates, to defeat other education reform efforts in the early twentieth century. As President Carter assumed office in 1977, these conservatives prepared to challenge his goal of providing a Department of Education to satisfy the political interests of the NEA. To do so, they would revert to their traditional warnings of federal overreach and sprinkle in an array of issues that inflamed modern conservative passions: busing, affirmative action, religious freedom, and government planning.

Chapter Two: Busing, Affirmative Action, Evangelical Religion, and the Collapse of the Liberal Consensus

The Civil Rights Movement of the 1950s and 1960s successfully pressured the federal government to remove societal barriers against racial minorities. In 1954, the Supreme Court found racially segregated schools unconstitutional in *Brown v. Board of Education*. Ten years later, Congress passed the Civil Rights Act of 1964 that prohibited racial segregation in public accommodations and the following year passed the Voting Rights Act of 1965 that empowered the federal government to oversee state election practices that barred racial minorities from voting.

However, while the Civil Rights Movement dismantled elements of the American apartheid state it began to lose political support when it expanded its focus beyond the South, where the most heinous civil rights violations occurred. The liberal consensus that fought for civil rights reform saw Northern liberals work with intellectuals, organized labor, and other elements of the New Deal coalition, but the late 1960s and 1970s saw divisive political issues fracture this consensus. The drive for busing programs to remedy racially segregated schools in Northern states, which had been created from discriminatory housing policies, placed political pressure on Northern liberals. Similarly, as civil rights leaders pushed affirmative action programs they alienated the white working-class, who came to see themselves as victims of “reverse discrimination.” They also alienated evangelical Christians, who resented federal charges that their parochial schools were racially discriminatory.

These debates on busing, affirmative action policies, and the desegregation of private, parochial schools would later poison the political debate concerning a federal Department of Education. Each of these issues had a racial component at their center and

served to unify a growing political body of conservative thought in American politics. Evangelical conservatives, white working-class voters, states' rights supporters, and social conservatives saw Jimmy Carter's push for a Department of Education as a betrayal of his campaign promise to limit the size of government and an unwarranted federal intrusion into education policy. Therefore, it is important to see how each of these issues eroded the liberal consensus on civil rights reform and how they heightened suspicions of the Department of Education project.

Busing: The Struggle for Racial Equality in Metropolitan America

Before *Brown v. Topeka Board of Education* in 1954, African-American students in many parts of the country were not allowed to attend white community schools, even if those schools were closer to their homes. Although the quality of education afforded to African Americans under segregation was not universally poor, the materials provided for these students were not equal to their white counterparts.¹ As a result, following the *Brown* decision, the federal government began to take a stronger role in forcing schools to desegregate. Title IV of the Civil Rights Act of 1964 gave the Justice Department the power to sue schools if they did not desegregate, and Title VI of the legislation allowed the federal government to cut off federal funds to schools that remained racially segregated.² In response to federal pressure, many local school districts tried to create freedom of choice plans that would enable parents to send their children to neighborhood schools. However, these plans were not effective desegregation mechanisms because of

1. Jonathan Tilove, "In Black Schools Before Brown, Keys to Success," April 28, 2004, accessed December 1, 2013, <http://jonathantilove.com/black-schools-before-brown/>.

2. Davison M. Douglas, ed., *School Busing: Constitutional and Political Developments*, Vol. 1 (New York: Garland Publishing Inc.), x.

the changing demographics of urban areas. The increased minority presence in cities like Chicago, Detroit, and Richmond, Virginia over the first half of the twentieth century caused white families to flee to suburban areas, which drained financial resources and ethnic diversity from these cities.³ Additionally, local governments manipulated real estate and financial markets. Urban renewal programs did very little for minority communities, and African-American families met resistance when they tried to move into white neighborhoods.⁴ Other practices, such as redlining, in which African Americans would be charged more for financial services in white neighborhoods, kept urban and suburban neighborhoods racially segregated. For these reasons, the Supreme Court ruled in 1968 in *Green et al. vs. County School Board of New Kent, Virginia et al.* that New Kent County, Virginia's freedom of choice plan, which enabled students to choose the school they attended, was unconstitutional because it would not desegregate the country's school system as quickly as other methods.⁵

As the federal courts announced what they would and would not accept in school desegregation plans, some school systems began to experiment with busing. What made busing controversial was that it moved students away from their neighborhood schools in an attempt to achieve a defined racial balance at all schools in a school district. The Supreme Court validated the practice of busing in 1971 when it found in *Swann v.*

3. Joseph T. Durham, "Sense and Nonsense About Busing," *The Journal of Negro Education* 42, no. 3 (1973): 330; see also Lizabeth Cohen's *A Consumer's Republic: The Politics of Mass Consumption in Postwar America* (New York: Vintage Books, 2003).

4. James W. Guthrie and Matthew G. Springer, "Returning to Square One: From *Plessy* to *Brown* and Back to *Plessy*," *Peabody Journal of Education* 79, no. 2 (2004): 12-13.

5. Durham, "Sense and Nonsense About Busing," 326; *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968); see also Alan B. Anderson and George W. Pickering's *Confronting the Color Line: The Broken Promise of the Civil Rights Movement in Chicago* (Athens, GA: University of Georgia Press, 1986).

Charlotte-Mecklenburg Board of Education that intradistrict busing was an appropriate and constitutional remedy for desegregating school districts. The Court hoped that this ruling would settle the busing controversy, but not surprisingly, it only fueled a national debate that would last for over a decade.⁶

Whereas busing supporters argued that busing would diversify public schools in metropolitan areas and provide greater educational opportunities for underprivileged minority students, opponents argued that parents had the right to send their children to their neighborhood school.⁷ White parents in areas affected by busing rulings in Charlotte couched their arguments in a rights-based rhetoric that emphasized white, middle-class victimization. Opponents also argued that the quality of their children's education would be negatively affected by long bus rides and the probability of white flight from white majority districts.⁸ Opposition to busing was also couched in class-based arguments and shaped by class realities, since whites of lower socioeconomic status typically saw their children bused to minority areas first because of their proximity to minority neighborhoods. For example, middle and upper-class Bostonians had largely abandoned the city's public school system by 1974, when federal district judge W. Arthur Garrity, Jr. ordered more aggressive desegregation of the city's schools.⁹ In Charlotte,

6. Guthrie and Springer, "Returning to Square One," 17; above paragraphs in this section from Logan Scisco, "Forced to Ride: The Impact of Busing on Minority Student Achievement," unpublished paper in author's possession.

7. Harrell R. Rodgers, Jr. and Charles S. Bullock, "School Desegregation: Successes and Failures," *The Journal of Negro Education* 43, no. 2 (1974): 140.

8. Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 153-154; see also Tracy E. K'Meyer's *From Brown to Meredith: The Long Struggle for School Desegregation in Louisville, Kentucky* (Chapel Hill: University of North Carolina Press, 2013) for a similar busing struggle in Louisville, Kentucky.

whites who lived in north and west Charlotte saw the more prosperous southeastern suburbs lead the anti-busing movement and create plans that largely exempted the latter's children from busing arrangements.¹⁰ For these lower-class whites, busing was a form of class-based discrimination against their children, and they saw actions taken by the Justice Department, the National Association for the Advancement of Colored People (NAACP), and federal judges promoting it as a way to stifle their economic advancement. In their minds they had worked hard to move out of the inner cities and have their children attend a neighborhood school, but now liberal politicians, activist groups, and judges were depriving their children of these rights.¹¹ These voters, who had been a significant part of the New Deal coalition, now began to reconsider their political allegiances and increasingly agreed with conservative forces that sought to limit post-*Brown* desegregation.

In the same way, busing threatened the New Deal coalition because of the tensions that existed between Northern liberals and Southern conservatives within the Democratic Party. Since the 1930s, both sides had an uneasy relationship and were kept together by federal spending and relief projects. Whereas prominent liberals like Minnesota Senator Walter Mondale and Connecticut Senator Abraham Ribicoff championed civil rights, Southern conservatives like John C. Stennis of Mississippi and

9. Julia Wrigley, "From Housewives to Activists: Women and the Division of Political Labor in the Boston Antibusing Movement," in *No Middle Ground: Women and Radical Protest*, ed. Kathleen M. Blee (New York: New York University Press, 1997), 259-260, 269-270; see also J. Anthony Lucas *Common Ground: A Turbulent Decade in the Lives of Three American Families* (New York: Vintage Books, 1986).

10. Lassiter, *The Silent Majority*, 176-177.

11. Jefferson Cowie, *Stayin' Alive: The 1970s and the Last Days of the Working Class* (New York: The New Press, 2010), 3-4.

Herman Talmadge of Georgia supported racial segregation and less federal interference in Southern affairs. The busing controversy assisted Southern segregationists like Stennis and Talmadge because it exposed the hypocrisy of Northern forces that saw segregation as a largely Southern problem. Having lost battles over the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the right to maintain segregated school systems, Southern politicians in 1969 launched a new strategy to force the North to accede to the same desegregation standards. Whereas Southern segregation had been *de jure* in nature, Northern states had *de facto* segregation patterns, created by whites leaving inner city communities after the Second World War. The U.S. Census Bureau estimated that during the 1960s there was a net loss of more than two million whites from America's central cities, while the black population of these cities rose by three million.¹² Although a 1963 Gallup poll revealed that seventy-five percent of Northerners supported the *Brown* decision, Northern support for desegregation declined if Northern schools were affected. Whites in Northern communities like Buffalo, Brooklyn, and Montclair, New Jersey, argued that they were not responsible for the racial segregation of their neighborhoods and that the real racists were civil rights officials and government workers who collected racial data to pursue desegregation policies.¹³ These attitudes mirrored the feelings of Southern whites who were affected by federal desegregation orders, which created a common sentiment that Southern politicians could draw upon when making their case in Congress.

12. "Integration in Suburbs Found Slight in 1960s," *The Washington Post*, January 16, 1971, <http://www.proquest.com>.

13. Thomas Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (New York: Random House, 2008), 464-467.

On the floor of the Senate, Senator Stennis began his assault on federal desegregation in 1969 by arguing that the North was just as guilty of segregating its schools as the South. Cleverly, Stennis pointed to data from the U.S. Commission on Civil Rights from 1959, which revealed that housing patterns in the North had produced racially segregated schools and from their 1967 report that found that racial isolation and segregation in the North had increased. Despite these problems, Stennis alleged that the federal government was using selective enforcement against the South, since the Department of Health, Education, and Welfare (HEW) took little action against Northern schools.¹⁴ In January 1970, Stennis and sixteen other Southern senators offered two amendments to the Elementary and Secondary Education Act (ESEA) that attempted to eliminate busing plans in the South and force the federal government to apply a uniform standard for school desegregation. The measure divided liberal opinion, as Mondale spoke against Stennis's proposal, correctly reading it as an attempt to muddle the desegregation issue by depriving the federal government of resources to take on the most egregious violators of the *Brown* decision. Mondale worried that a national standard would be weaker than the one the federal government was applying toward Southern states and could erode decades of civil rights gains in the region. However, Ribicoff took the opposite view, supported Stennis, and argued that America could not survive as a segregated society. Stennis's amendment for a uniform desegregation standard passed

14. *Congressional Record* of August 4, 1969, Vol. 115, No. 131, John C. Stennis Collection (JCSC), B-12 Funding in School 1969, Series 29, Box 12, Congressional and Political Research Center (CPRC), Mississippi State University (MSU) Libraries.

the Senate on February 18, 1970 by a vote of 56-36, but a House-Senate conference committee diluted its language and made it meaningless.¹⁵

Undeterred, Stennis continued to collect statistics on the lack of racial desegregation efforts by Northern school districts. In 1971, he cited a HEW report that found that the South doubled its percentage of black students in majority-white schools from 18% to 39% between 1968 and 1970 while majority-white schools in Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania in these same years saw fewer black students attend and over 100,000 more black students enrolled in 95% to 100% minority schools.¹⁶ Newspaper reports also emphasized that less than five percent of school systems that faced school desegregation suits were located outside of the South.¹⁷ Armed with this evidence, Stennis again pressed for his amendment in 1971, which passed the Senate, but was again weakened in conference.¹⁸ Although Stennis failed to get the federal government to commit to a uniform desegregation standard, he succeeded in his real aim to force the American public to reconsider how desegregation was enforced. It also started to drive a wedge between Northern liberals within the New Deal coalition as they had to consider whether it was fair to demand a tough desegregation standard for the South that they were unwilling to

15. Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton: Princeton University Press, 2007), 190-199; “Stennis Again Presses All-Region Integration,” *The Washington Post*, April 15, 1971, <http://www.proquest.com>.

16. “HEW School Desegregation Figures,” June 14, 1971, JCSC, B-12 School Desegregation, 1970-1972 One of Three, Series 29, Box 12, CPRC, MSU Libraries.

17. “Busing of Schoolchildren by Senator Gambrell,” September 13, 1971, JCSC, Busing – Congressional Record Excerpts – 1971 One of Two, Series 29, Box 11, CPRC, MSU Libraries.

18. Crespino, *In Search of Another Country*, 202.

apply to their own section of the country. Thus, Stennis's effort posed a difficult question for Northern liberals as the Civil Rights Movement moved north.¹⁹

The proof of Stennis's success was found in the national outcry over busing plans that followed the *Swann* decision. Public outrage over desegregation in Detroit prompted James G. O'Hara, a liberal Democrat from Michigan, to cast his lot with anti-busing forces. In 1972, President Nixon signed an education bill containing anti-busing amendments and the administration supported a 1972 anti-busing measure. However, this failed to clear the Senate because Northern liberals feared what the measure would do to school desegregation policies in the South.²⁰ The rhetoric in Congress illustrated that public opinion was turning against busing and civil rights advocates and liberals who supported the practice were on the defensive. Senate Majority Whip Robert Byrd argued that busing took money away from the classroom, interfered with a child's freedom of association, and produced white flight from local schools.²¹ Republican Representative John G. Schmitz of California alleged that busing showed that liberals sought to socially engineer society instead of creating a color-blind, equal-opportunity society and alleged that liberalism stood for intolerant, totalitarian, and elitist ideas.²² More stridently, House Democrat John R. Rarick of Louisiana compared busing to genocide and argued that it

19. Memo to Senator Stennis from Lester Fant, RE: "de jure" Segregation in Mississippi, August 13, 1971, JCSC, Memos – 20, 1971-1976, Series 29, Box 3, CPRC, MSU Libraries.

20. Crespino, *In Search of Another Country*, 203.

21. "School Busing and Forced Integration – A Dissenting Opinion by Senator Byrd," September 8, 1971, JCSC, Busing – Congressional Record Excerpts – 1971 One of Two, Series 29, Box 11, CPRC, MSU Libraries.

22. "Busing Schoolchildren According to Race by Representative John G. Schmitz of California," September 30, 1971, JCSC, Busing – Congressional Record Excerpts – 1971 Two of Two, Series 29, Box 11, CPRC, MSU Libraries.

violated the Geneva Convention, since it destroyed local communities and races.²³

Busing became so toxic that a candidate for the presidency had to go on record opposing it, which was the path taken by Vice President Hubert Humphrey in 1968 and Georgia Governor Jimmy Carter in 1976.²⁴

Yet even as presidential candidates and national political figures spoke against busing, the public's anxieties continued to grow, which created a flurry of legislative activity in Congress during the 1970s to prohibit the practice. Although the Supreme Court ruled in *Milliken v. Bradley* in 1974 that students could not be bused across district lines to achieve racial desegregation in Detroit, Congress took steps to restrict the federal government's ability to force local school districts to use busing as a desegregation remedy.²⁵ In 1974, the Esch Amendment, which prevented a federal department, agency, or court from busing children away from their neighborhood school, was added to the Equal Opportunities Act of 1974.²⁶ In 1975, Congress approved the Byrd Amendment, which was attached to an appropriations bill for HEW and barred it from using federal money to require busing by segregated local school districts. President Ford vetoed the amendment, but Congress overrode his veto, illustrating the appeal of the anti-busing

23. "Genocide by School Busing – Rarick Reports to His People by Rep. John R. Rarick of Louisiana," September 8, 1971, JCSC, Busing – Congressional Record Excerpts – 1971 One of Two, Series 29, Box 11, CPRC, MSU Libraries."

24. Charles Mohr, "Carter on Busing," *New York Times*, May 26, 1976, <http://www.proquest.com>. Carter's position on busing in the 1976 presidential election was that he would not ask the Attorney General to have the Supreme Court review busing cases.

25. Lassiter, *The Silent Majority*, 314-315.

26. Stephen C. Halpern, *On the Limits of the Law: The Ironic Legacy of Title VI of the 1964 Civil Rights Act* (Baltimore: The Johns Hopkins University Press, 1995), 153-154; the Esch Amendment lost some of its power when the Senate modified it to have no bearing on ongoing litigation or prohibit the federal courts from recommending the use of busing.

movement.²⁷ In June 1977, after the Third Circuit Court of Appeals upheld a busing order that affected more than sixty percent of Delaware’s schoolchildren, Senator Joseph Biden co-authored an anti-busing amendment with Democratic colleague Thomas Eagleton of Missouri. The Eagleton-Biden Amendment restricted HEW from using federal funds to implement busing plans for non-special education students and closed the loophole in the Byrd Amendment that enabled the executive branch to support busing policies among paired or clustered schools.²⁸ The amendment became law and would later be attached to HEW appropriations bills for the 1979 and 1980 fiscal years until the busing controversy died down.²⁹ The fact that liberal politicians like Biden were championing anti-civil rights legislation by the late 1970s and speaking the language of conservative anti-busing opponents – Biden justified his measure on the grounds of protecting the “integrity of the neighborhood school system” – is a testament to how the busing issue was alienating white ethnics in the North who had traditionally been a reliable Democratic voting bloc.³⁰ Their disillusionment with liberal policies provided a receptive audience for conservative voices that critiqued liberal social policies and

27. Jeffrey A. Raffel, *Historical Dictionary of School Segregation and Desegregation: The American Experience* (Westport, CT: Greenwood Publishing Group, 1998), 45; the Byrd Amendment failed to stop busing remedies, as the Carter administration later adopted the position that *de jure* segregation could still be alleviated through busing.

28. James N. Giglio, *Call Me Tom: The Life of Thomas F. Eagleton* (Columbia, MO: The University of Missouri Press, 2011), 151-152; Lawrence John McAndrews, *The Era of Education: The Presidents and the Schools, 1965-2001* (Champaign, IL: The University of Illinois Press, 2006), 83; Raffel, *Historical Dictionary of School Segregation and Desegregation*, 90.

29. McAndrews, *The Era of Education: The Presidents and the Schools*, 84-85; Raffel, *Historical Dictionary of School Segregation and Desegregation*, 90.

30. Letter, Joe Biden and William V. Roth to John C. Stennis, August 22, 1978, JCSC, Elementary and Secondary Education – 1978, Series 33 (Labor & Public Welfare), Box 37, CPRC, MSU Libraries.

confirmed Stennis's belief that the Northern public could not stomach effective and aggressive desegregation measures.

The busing controversy provided a test for of the nation's commitment to school desegregation and to a large extent the United States failed it. Southern segregationists effectively used the issue to weaken support for desegregation measures. Furthermore, the strong support anti-busing measures enjoyed in Congress and the unwillingness of presidential candidates to commit themselves to busing policies illustrated the widespread revulsion whites felt toward the practice. Since busing saw federal courts and distant authorities impose these arrangements on local school districts, the late 1960s and 1970s was a time of increased distrust of liberal authorities and as Carter sought to create a federal Department of Education there were anxieties about what powers this new department might possess. Conservatives were suspicious of Carter's motives because Mondale was Carter's vice-president and was advocating for the department idea within the administration. Therefore, as Carter pushed for his new department he encountered suspicion and hostility toward granting the federal government anything that resembled increased power in education on the grounds that it would use that power to promote schemes like busing that had been deemed harmful by a large portion of the electorate.

Affirmative Action: Alleviating Past Discrimination & White Backlash

The Progressive Era and New Deal reforms that laid the foundations of the modern American welfare state in the first half of the twentieth century were rooted on the family wage principle that men were the primary providers of the family. These reforms primarily benefitted blue-collar workers, who were mostly white as a result of discriminatory practices in union hiring. By the end of the Second World War, this

system had entrenched white economic power and kept blacks and other racial minorities in a subservient position. Whites largely enjoyed the new benefits of the welfare state that included worker's compensation, unemployment insurance, and Social Security, programs that excluded workers in primarily black occupations like domestic and farm labor from participating. White ethnics, especially those of older immigrant communities, also benefitted from political patronage networks that had existed for a century or more in large Northern cities like Boston and New York that provided them with special benefits over other workers. As the post-war Civil Rights Movement secured equal access to public accommodations and voting rights it became clear to its leadership that economic gains needed to be made in order to secure these freedoms. Civil rights leaders pressured private firms to recruit and hire minorities and the federal government to use its power over federal contracts to make businesses hire more minorities. Since these contracts constituted more than one-third of the business in the country such a result would lead to substantial gains for minority communities.³¹

To satisfy the growing demands of minority groups, government-imposed racial quota policies, also referred to as "affirmative action," became a way to correct economic injustice. Federal affirmative action policies began under President John F. Kennedy, who issued Executive Order 10925 in 1961. This made the acquisition of a diverse government workforce a top priority and the federal government reached voluntary

31. Nancy MacLean, *Freedom is Not Enough: The Opening of the American Workplace* (Cambridge MA: Harvard University Press, 2008), 13-19, 38-43; Martin Kilson, "Accommodating Merit – and Affirmative Action," *The Washington Post*, March 11, 1981, <http://www.proquest.com>.

minority hiring agreements with eighty-five companies. However, these agreements lacked adequate enforcement mechanisms.³²

Beefing up the government's ability to mandate change, President Lyndon Johnson's Executive Order 11246 in September 1965 dictated that federal agencies had to establish "numerical goals and timetables" for minority hiring in order to provide equal opportunity in the workplace. This achieved the goal of civil rights leaders to tie affirmative hiring processes to the winning of federal contracts. Johnson justified his push for affirmative action on the grounds that "You do not take a person who for years has been hobbled by chains...bringing him up to the starting line of a race and then say 'You're free to compete' and justly believe that you have been completely fair."³³

Richard Nixon's administration continued federally-based affirmative action policies with the Philadelphia Plan of 1969. This sought to integrate building trades that had traditionally been closed off to African Americans. Although Nixon may have been attempting to use the plan to sow divisions within the labor movement, which was an important part of the Democratic base, the Philadelphia Plan established the federal government's support for affirmative hiring policies to correct racial discrimination.³⁴ In January 1970, Nixon enlarged the scope of the Philadelphia Plan to all federal contracts worth more than \$50,000 and women were included the Plan's numerical targets for the first time in December 1971.³⁵ As a result, by 1976, more than 100,000 firms that

32. Eric Porter, "Affirming and Disaffirming Actions," in *America in the 70s*, ed. Beth Bailey and David Farber (Lawrence: University Press of Kansas, 2004), 57; MacLean, *Freedom is Not Enough*, 44.

33. T.R. Reid, "Affirmative Action is Under a New Gun," *The Washington Post*, March 27, 1981, <http://www.proquest.com>.

34. Cowie, *Stayin' Alive*, 150-151.

worked with the federal government were required to meet numerical hiring quotas. Furthermore, between 1966 and 1974, minority participation in the private sector grew from three to five million, an increase from 11.4% to 16.5%. Minorities made the biggest gains as officials, managers, professionals, technicians, sales workers, and craft workers.³⁶

Although affirmative action policies were designed to give previously excluded groups an opportunity to establish themselves on a higher economic plane and equalize economic opportunity, the plans were poorly timed. Deindustrialization and automation that began in the late 1960s began to eliminate the blue-collar jobs that were the entry positions needed to obtain middle-class status. As a result, while affirmative action held out hope for minority communities, they were trying to achieve an American dream that was already in decline.³⁷ The fall off in industrial jobs also made members of the white working class grow sensitive to numerical quotas and hiring targets that they felt stifled their rise to upper management positions. In 1971, the Supreme Court sided with the goals of affirmative action in *Griggs v. Duke Power* by ruling that hiring practices and tests that appeared neutral but resulted in a serious racial imbalance in the workplace were unconstitutional.³⁸ With the economy in decline and job opportunities diminishing,

35. Sugrue, *Sweet Land of Liberty*, 506.

36. Margaret A. Kilgore, "Affirmative Action: Is it All that Affirmative?," *The Los Angeles Times*, February 1, 1976, <http://www.proquest.com>.

37. MacLean, *Freedom is Not Enough*, 56-57.

38. Porter, "Affirming and Disaffirming Actions," 58.

white, blue-collar workers began to criticize “reverse discrimination” policies and soon found a conservative ideology that spoke to their concerns.³⁹

The public divisions over affirmative action boiled down to what constituted an effective remedy for prior patterns of workplace discrimination and what role whites played in fomenting these past discrimination patterns. A majority of American whites were sympathetic to the demands of the Civil Rights Movement, but by the late 1960s, many whites felt that the Civil Rights Movement had accomplished its goal and there was little discrimination left in American life. According to this logic, it therefore made little sense to create affirmative action policies that, on their face, discriminated against the white majority.⁴⁰ Those who felt victimized by affirmative action policies, sometimes blaming them for being unemployed in the declining economy of the 1970s, reverted to a twentieth-century Social Darwinist argument that blamed African Americans for their own poor socioeconomic status and argued that other minorities, like Asians, did not need a “protected status.” They also warned that compensating for past injustices could continue indefinitely, to the detriment of the country because those who were affected by affirmative action would attach their status in society to their ethnicity.⁴¹ Conservative columnists like Patrick Buchanan blasted affirmative action policies as another version of liberal hypocrisy as liberals loudly sermonized about injustice, but refused to match their rhetoric with their deeds. Linking affirmative action to busing, Buchanan suggested that some of the most ardent champions of busing and affirmative action put their children in

39. Cowie, *Stayin' Alive*, 240-241.

40. Sugrue, *Sweet Land of Liberty*, 506-507.

41. Nathan Glazer, *Affirmative Discrimination* (Cambridge, MA: Harvard University Press, 1975), quoted in *The Rise of Conservatism in America, 1945-2000: A Brief History with Documents*, eds. Ronald Story and Bruce Laurie (Boston: Bedford/St. Martin's, 2008), 98-100.

private schools or refused to resign their positions so a woman or minority could take their place in Congress.⁴² Conservatives like William F. Buckley, Jr. and James J. Kilpatrick, who had linked the fight against segregation to the erosion of constitutional principles in 1964, saw their ideas gain support among lower-class, blue-collar, and ethnic whites who believed that busing and affirmative promoted “reverse racism.”⁴³ Older white workers lamented that white workers between the ages of 25 to 65 were an “endangered species” because they did not have anyone willing to help them.⁴⁴ As Elaine Calhoun, a distraught Mississippian, wrote Senator Stennis in April 1976, “Do white people have rights anymore?”⁴⁵

The controversy surrounding affirmative action in the job market soon entered the education arena as universities adopted affirmative action policies in the wake of the federal government pursuing school desegregation and enforcing compliance by private businesses. Universities justified quotas and minority recruitment programs on the grounds that enhanced diversity benefitted the intellectual environment of their respective campuses. This diversity principle was different from the affirmative action practiced in the workplace as it was devoid of an economic rationale. Instead, advocates of diversity emphasized its social benefits.⁴⁶ Nevertheless, there was still an implicit link to economic progress since the admission of more minority students to top tier universities

42. Patrick J. Buchanan, “Can Racial Bias Serve Noble Ends?,” *The Chicago Tribune*, December 15, 1977, <http://www.proquest.com>.

43. MacLean, *Freedom is Not Enough*, 62-64.

44. Kilgore, “Affirmative Action: Is It All That Affirmative?”

45. Letter from Elaine Calhoun to John C. Stennis, April 6, 1976, JCSC, Correspondence – 11 1976, Series 29, Box 3, CPRC, MSU Libraries.

46. Sugrue, *Sweet Land of Liberty*, 507.

had the potential to provide able candidates for upper management positions that minorities were underrepresented in by the end of the 1970s. Also, although affirmative action programs by universities were meant to assimilate and integrate students of different ethnicities, the practice sometimes had the opposite effect. Minority students felt that they were used by universities as a form of tokenism, and many adopted an ideology of hard multiculturalism and saw value in their separate identities.⁴⁷

As the Carter administration weighed the benefits of a Department of Education, the federal court system began ruling on the benefits and constitutionality of affirmative action. Opponents of affirmative action argued that the proposals violated the Equal Protection Clause of the Fourteenth Amendment and Title VII of the Civil Rights Act of 1964, which prohibited job discrimination on the basis of race. In 1978, the Supreme Court took up the case of *Regents of the University of California v. Bakke*. The case resulted when Allan Bakke, a white man and thirty-six-year-old engineer, sued the University of California system because he had been denied admission to the University of California-Davis School of Medicine due, in his view, to the school reserving sixteen of its one hundred seats for minority students.⁴⁸ In a divided and complex 5-4 ruling, the Supreme Court ordered Bakke admitted, but argued that affirmative action proposals were constitutionally permissible because diversity was a “compelling public interest.”⁴⁹ In 1979, the Supreme Court ruled on the “blue-collar *Bakke*” case of *United Steelworkers*

47. Gary Gerstle, *American Crucible: Race and Nation in the Twentieth Century* (Princeton: Princeton University Press, 2001), 355-356.

48. James A. Henretta, David Brody, and Lynn Dumenil, *America's History*, 6th ed. (Boston: Bedford/St. Martin's, 2008), 907; Ellen Goodman, “Affirmative Programs,” *The Washington Post*, March 5, 1977, <http://www.proquest.com>.

49. Sugrue, *Sweet Land of Liberty*, 507.

of America v. Weber. The case originated from 1974 when Brian Weber, a white laboratory analyst, sued the Kaiser Aluminum and Chemical Corporation and his union, the United Steelworkers of America on the grounds of reverse discrimination. After the *Griggs* decision, Kaiser had adopted an affirmative action training program to increase the presence of minorities in skilled occupations, and Weber was denied a spot in the program. Weber sued on the grounds of “reverse discrimination,” basing his opposition on Title VII of the Civil Rights Act. In *United Steelworkers of American v. Weber* the Supreme Court by a 5-2 vote found that Kaiser’s affirmative action plan was constitutional because it was trying to correct past discrimination.⁵⁰

The *Bakke* and *Weber* decisions reinforced judicial sanction of affirmative action programs, but the scope of affirmative action programs was never as widespread or as beneficial to minorities as whites assumed them to be. The primary beneficiaries of many affirmative action programs tended to be white women instead of those from racial minority groups.⁵¹ This eventually produced tensions in the workplace as African Americans and white women competed for promotions.⁵² Additionally, affirmative action programs largely benefitted those who were near the upper socioeconomic strata of minority communities and did little to help those from poorer and socioeconomically disadvantaged backgrounds.⁵³ Despite this, the economic conditions of the 1970s made lower-class whites feel that they were under assault from liberals in the federal

50. Cowie, *Stayin' Alive*, 241-242.

51. Porter, “Affirming and Disaffirming Actions,” 58.

52. Thomas A. Johnson, “A Debate Over Affirmative Action,” *The New York Times*, August 12, 1980, <http://www.proquest.com>.

53. Porter, “Affirming and Disaffirming Actions,” 58.

bureaucracy. Affirmative action proponents faced the problem that Bayard Rustin in 1974 termed “Affirmative Action in an Age of Scarcity.”⁵⁴

The debate over the Department of Education took place surrounded by these battles over affirmative action. The Carter administration supported affirmative action plans and centralized the EEOC and the Contract Compliance Office to enforce hiring timetables in the private sector. In 1978, the Labor Department’s Contract Compliance Office also saw a drastic increase in hiring, as its staff expanded from 200 to 1,400 employees and seventy offices were set up around the country to more actively oversee compliance with federal affirmative action policies.⁵⁵ Conservatives equated a strong federal government to the government coercing private businesses and education institutions to adopt hiring targets and increase minority admissions. They feared that a Department of Education would become an institution that would seek to do what the EEOC was doing in the business world. Republican Senator Orrin Hatch of Utah, elected to the Senate in 1976, was a vocal critic of affirmative action programs, and those who shared his views would be waiting in Congress to ensure that the new cabinet department would not have the power to force universities to adopt affirmative action policies. It would be an obstacle the Carter administration would have to overcome if it was to maintain support for its next bureaucratic enterprise.

The Rise of Evangelicals: School Prayer, Parochial Schools, and Tuition Tax

Credits

54. Cowie, *Stayin’ Alive*, 268.

55. “Washington Plans Affirmative Action Push in ’79,” *The New York Times*, December 24, 1978, <http://www.proquest.com>.

The racially divisive battles of the 1970s concerning busing and affirmative action would also give birth to the Religious Right, although the origins of this strand of political conservatism date back much earlier. Christian fundamentalists in the early twentieth century emphasized the literal truth of the Bible and rejected teachings of mainline churches, which had adopted a liberal Protestant ethos of progress and good works. After the Scopes Trial in 1925 fundamentalists retreated from mainstream American life. Fundamentalists opposed secular music, drugs, and alcohol, but by the 1940s an offshoot of fundamentalist doctrine emerged. These Christian evangelicals emphasized being “born again,” while retaining fundamentalist beliefs in the truth of the Bible. After the Second World War and during the early stages of the Cold War, Billy Graham became the most prominent evangelical minister in the country, criticizing the Soviet Union’s godlessness and describing it as an instrument of Satan.⁵⁶

Evangelical Christians had characteristics that made them an ideal conservative voting bloc. Evangelicals rejected established institutions, viewing the early unhierarchical church of Christianity, as a model. They also shared conservative beliefs towards gender roles, with evangelical leaders being very critical of the feminist movement of the 1960s and 1970s and female evangelicals rarely occupying leadership positions. Conservative Christian ministers like Jerry Falwell, who preached at the Thomas Road Baptist Church in Lynchburg, Virginia, were also critical of the rights-based activism of the 1960s. In 1965, after the passage of the Civil Rights Act of 1964, Falwell gave a sermon entitled “Ministers and Marches” in which he denounced the

56. Grace Elizabeth Hale, *A Nation of Outsiders: How the White Middle Class Fell in Love with Rebellion in Postwar America* (Oxford: Oxford University Press, 2011), 247-248; Mark A. Noll, *God and Race in American Politics: A Short History* (Princeton: Princeton University Press, 2008), 159-160.

political activism of Christian ministers like Martin Luther King, Jr. because it distracted from the task of saving and transforming souls.⁵⁷ The sermon served to increase Falwell's stature among conservative Christians and illustrated a growing commonality of purpose between conservative Christians and opposition to the Civil Rights Movement.

However, despite their conservative social beliefs, evangelical Christians refused to express themselves as a political force prior to 1970. Focusing more on religious salvation than redeeming the modern world, evangelicals and fundamentalists were content to focus on the next world and the return of Christ, which they believed would happen soon. However, by 1970, it became apparent to many of them that the modern world was changing and threatened existing religious institutions. In 1962 the Supreme Court ruled in *Engel v. Vitale* that mandatory school prayer was unconstitutional, and in 1963 the Court held in *Abington School District v. Schempp* that mandatory Bible reading in schools was unconstitutional. These changes, in conjunction with the integration promoted by the Civil Rights Movement, alerted conservative Christians that their conception of the United States as a Christian society was under assault. The Supreme Court's rulings also threatened local control of schools since predominantly conservative Christian communities could no longer use public schools to promote their religious faith.⁵⁸ These changes occurred in the midst of strident anti-communism falling out of favor and the Warren Court's restriction on aggressive investigations of Communists by Congress, making some Christians fear that liberals were trying to create an environment

57. Hale, *A Nation of Outsiders*, 250, 262-263.

58. Hale, *A Nation of Outsiders*, 265.

where communism could fester.⁵⁹ Christians also became alarmed over the push for sex education in schools, and in Anaheim, California, conservative parents successfully dismantled the Anaheim Union School Board's sex education curriculum by 1970.⁶⁰ Over time, the conservative perception that liberal ideas were eroding the foundations of society and teaching their children ideas contrary to their faith mobilized conservative Christians to enter the political arena.

Although Carter's presidential campaign in 1976, where Carter identified himself as a "born again" Christian, is seen today as a sign of the growing political power of the evangelical community, conservative Christians had launched national political offensives prior to that point. In 1971, for instance, conservatives in the House of Representatives succeeded in getting a constitutional amendment that would permit school prayer onto the floor through a discharge petition.⁶¹ However, the conservative Christian community was not united behind the proposal, and evangelicals joined the United States Catholic Conference, the Southern Baptist Convention, the Executive Council of Churches, the American Jewish Congress, the United Presbyterian Church, the United Methodist Church, and other groups in opposing the measure on the grounds that the wording was too vague. The text, which read "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through expenditure of public funds, to participate in

59. William Martin, *With God on Our Side: The Rise of the Religious Right in America* (New York: Broadway Books, 1996), 77-78.

60. Lisa McGirr, *Suburban Warriors: The Origins of the New American Right* (Princeton: Princeton University Press, 2011), 227-230.

61. "School Prayer Proposal Seen in Tough Fight," *The Los Angeles Times*, October 30, 1971, <http://www.proquest.com>.

nondenominational prayer,” would have accomplished little, they reasoned, and may have endangered denominational prayers in public buildings. Religious forces also disagreed over what constituted “nondenominational prayer.”⁶² As a result of this opposition, the amendment failed on the floor by a vote of 240-168, twenty-eight votes shy of the two-thirds threshold needed to send the measure to the Senate.⁶³

However, the very fact that Congress was forced to weigh in on a prayer amendment, which had been bottled up in committee for nearly a decade, illustrated both the increasing clout of conservative lawmakers and a growing anxiety among Christian conservatives about the lack of faith in public schools and in society in general. Grassroots pressure forced the U.S. Catholic Conference to support a prayer amendment in 1973, and religious forces succeeded in getting Alabama, Pennsylvania, Connecticut, and New Hampshire to pass public school prayer laws in 1975.⁶⁴ They did not succeed everywhere; New Hampshire’s law, which gave teachers the option of reciting the Lord’s Prayer and having students participate on a voluntary basis, was struck down by a district judge in less than twenty minutes in February 1976.⁶⁵ Nonetheless, by April 1976 at least fifteen states had school prayer laws that allowed for “silent meditation.” Although the American Civil Liberties Union opposed these laws on the grounds that some teachers

62. Marjorie Hunter, “Opposition to School Prayer Amendment Mounting in the House,” *The New York Times*, November 3, 1971, <http://www.proquest.com>.

63. William R. MacKaye, “Catholic Bishops Take Another Look at Public School Prayer,” *The Washington Post*, August 31, 1973, <http://www.proquest.com>.

64. Majorie Hyer, “Catholics Reverse School Prayer Stand,” *The Washington Post*, September 20, 1973, <http://www.proquest.com>; James Robinson, “The School Prayer Rule: Incorrectly Understood,” *The Chicago Tribune*, December 15, 1975, <http://www.proquest.com>.

65. Robinson, “The School Prayer Rule”; “New Hampshire School Prayer Banned by Court,” *The Chicago Tribune*, February 7, 1976, <http://www.proquest.com>; “U.S. Judge in New Hampshire Annuls Law on School Prayer,” *The New York Times*, February 7, 1976. <http://www.proquest.com>.

would try to use the time for formal school prayer and still pressure students to participate, these laws were upheld as constitutional by a federal district judge in Boston in 1976.⁶⁶ Although conservative Christians failed to get a prayer amendment through Congress, they did succeed in getting states to pass school prayer laws and electing politicians that supported their views. As the Department of Education battle approached, Senator Jesse Helms of North Carolina, one of the most conservative members of the body, took up the cause.

Another concern for evangelicals by 1970 was the status of their schools. During the mid-1960s many conservative Christians created private schools. While these were established nationwide, a large number of them were based in the South and liberals labeled these schools “segregation academies.” Christians retorted that the schools were not intended to avoid school integration but sought to provide religious-based education that stood in opposition to the “secular humanism” promoted by the public school system.⁶⁷ However, the suspicions that liberals had about these schools were well founded and Mississippi provides a great example. Whereas in 1964 Mississippi had only seventeen private schools that served 2,362 students, by September 1970 the state had 155 (not including Catholic schools), which served 42,000 students.⁶⁸ Private schools gradually grew from serving as early childhood education centers to serving higher grade levels by the mid-1970s. The state also tried to provide financial assistance for students to attend these schools, some of which was established with the help of the

66. Karl Swanson, “School Prayer Revival is Goal of Many in U.S.,” *The Washington Post*, April 2, 1979, <http://www.proquest.com>; “School Prayer Law May be Challenged,” *The Los Angeles Times*, November 17, 1979, <http://www.proquest.com>.

67. Martin, *With God on Our Side*, 168.

68. Crespiño, *In Search of Another Country*, 240.

state's White Citizens Council, and white teachers fled to teach at these schools rather than work in the newly integrated public schools. One further motivation for establishing these parochial schools was that Mississippi officials believed that the federal government would find it harder to revoke their tax-exempt status due to racial segregation.⁶⁹

However, the perceived immunity of Mississippi's parochial schools to a court challenge was not grounded in reality. In 1972, a U.S. district court in *Green v. Connally* found that Mississippi schools that were racially segregated no longer qualified as charitable institutions and could not receive tax-exempt status.⁷⁰ However, the Nixon administration limited the actions that the Internal Revenue Service (IRS) could take against racially segregated private schools. By 1975 it was clear that the existing IRS regulations in the aftermath of *Green* were not being enforced. After being criticized by the U.S. Commission on Civil Rights, the IRS mandated that private schools make public announcements that they would accept all students. The IRS also decided to eliminate its different evaluation standards for secular and religious schools. When these policies were exposed as ineffective in 1978, in the midst of Carter's push for a Department of Education, the IRS issued a new ruling in August that established new procedures for evaluating the tax-exempt status of private schools. Schools that had their tax-exempt status reviewed were those that were formed at a time when school desegregation was ongoing, and schools were required to prove that they were created with a non-segregation purpose. Schools also needed to enroll significant numbers of minority

69. Crespino, *In Search for Another Country*, 240-252.

70. Martin, *With God on Our Side*, 169.

students, defined as at least 20% of the minority population of the areas in which the schools were located.⁷¹ These rules also demanded that schools show that they were actively recruiting minority students, hiring minority teachers, and establishing scholarships for minority students.⁷² The new regulations would impact most of the 3,500 private schools in the South, as well as private schools in Los Angeles, Denver, and Boston which had experienced court-ordered busing.⁷³

For conservative religious forces, the IRS guidelines constituted unwanted government intrusion into their affairs, and they sent more than 120,000 letters to the IRS and an additional 40,000 to Congress. According to Paul Weyrich, a conservative strategist, the 1978 IRS ruling galvanized religious conservatives and turned them against the Carter administration.⁷⁴ Evangelicals felt betrayed by Carter, who they believed supported at least some of their traditional values of morality, the sanctity of human life, and the heterosexual, two-parent family.⁷⁵ After all, Carter had promised on the campaign trail that he would support aid to private schools, but he had not delivered on this and now, in the eyes of religious conservatives, his IRS was trying, in the eyes of religious conservatives, to destroy their schools.⁷⁶ Evangelicals who had their children in private schools told reporters that the IRS ruling was a “violation of God’s word” and

71. Crespino, *In Search for Another Country*, 252-253.

72. “IRS Plan on Private School Race Mix Hit,” *The Chicago Tribune*, October 14, 1978, <http://www.proquest.com>.

73. William J. Eaton, “IRS Plan to Revoke Private School Tax Exemptions Hit,” *The Los Angeles Times*, October 3, 1978, <http://www.proquest.com>.

74. Hale, *A Nation of Outsiders*, 266.

75. Martin, *With God on Our Side*, 158.

76. Nick Timmesch, “That Old-Time Suspicion Threatens Nonpublic Schools,” *The Chicago Tribune*, November 18, 1978, <http://www.proquest.com>.

that they considered it “inappropriate to use the tax code for social planning.”⁷⁷ Other religious communities were critical of the ruling, and Catholics noted that the IRS ruling was misguided because their school boundaries were drawn along parish lines and not conventional district boundaries. Catholic leaders also pointed out that Lutheran, Episcopal, and Hebrew schools could not meet the IRS mandate because they had very few, if any, racial minorities in their congregations, and they compared the IRS’s ruling to “firing a shotgun and missing the rabbit.”⁷⁸ One effect of the IRS ruling was that it unified religious conservatives with conservatives that attacked affirmative action programs. Coming in the same year as the *Bakke* ruling, the IRS ruling was blasted for imposing racial quotas on private schools, just as they had invaded the workforce and public university system.⁷⁹

The outcry against the IRS ruling was a political nightmare for Carter. In February 1979, when the administration was beginning a second push for the Department of Education bill and after being grilled by the House Ways and Means subcommittee in December 1978, the IRS announced that it was softening its previous ruling and would rework its statistical formulas.⁸⁰ Even this was not enough to quell the firestorm as the Senate approved an amendment to the Treasury Department’s appropriations bill by an 88-2 vote in September 1979 to block the IRS from trying to eliminate the tax-exempt status of private schools, even those suspected of racial segregation. Senator Helms

77. Eaton, “IRS Plan to Revoke Private School Tax Exemptions Hit.”

78. Timmesch, “That Old-Time Suspicion Threatens Nonpublic Schools.”

79. Crespino, *In Search of Another Country*, 254.

80. Art Pine, “IRS Softens Proposal Aimed at ‘Segregation Academies,’” *The Washington Post*, February 10, 1979, <http://www.proquest.com>.

championed the measure as a victory over tyranny and for religious freedom.⁸¹ Evangelical and fundamentalist ministers also met in Lynchburg, Virginia, in May 1979 and formed the Moral Majority, which would become a fixture in conservative politics over the next decade and mobilize evangelicals as a powerful voting bloc.⁸² Thus, as Carter tried to expand the size of the federal bureaucracy he faced religious opposition to a critical IRS policy that eroded his base of support among evangelicals and raised suspicions of his project that some feared would lead to even more federal interference in local schools.

A final issue that rankled religious conservatives was liberal opposition to tuition tax credits. The idea behind them was to provide tax rebates to parents for the tuition costs of sending their children to a secular or religious private school. Championed by conservatives as a way to introduce competition into the public school system, religious conservatives welcomed the idea as a way to offset the double taxation that parents faced when they sent their children to a private school, but paid local property taxes for public schools. Liberals blasted the idea as government support for religion and noted that attempts on the state-level to provide public funds to religious schools had been declared unconstitutional. They also argued that it would weaken the financial security of America's school system, could lead to high-performing students fleeing the public school system, would cost the U.S. Treasury nearly \$5 billion a year thereby fueling

81. "Senate Votes Private School Curb on IRS," *The Chicago Tribune*, September 7, 1979, <http://www.proquest.com>.

82. Hale, *A Nation of Outsiders*, 274.

inflation, and would shift the double taxation burden from parents who sent their children to private school to all citizens.⁸³

Although Carter flirted with the idea of providing assistance to private schools during the 1976 presidential campaign, in April 1978 he announced his firm opposition to tuition tax credits, viewing it as “very detrimental to the future of education.”⁸⁴ Carter showed no appetite for reopening the First Amendment debate that conservative religious forces sought, as the American Enterprise Institute postulated that the Establishment Clause did not prohibit any federal assistance to religious schools so long as it did not discriminate among which religious sects it supported.⁸⁵ The support that Carter enjoyed among the NEA and the United Federation of Teachers, both of which were opposed a tuition tax credit scheme, likely influenced his decision as well. Nevertheless, this decision, which came alongside the IRS ruling on parochial schools, weakened Carter’s standing among evangelicals and religious conservatives.

The evangelical social concerns of the 1970s, which were grounded in anxieties about the American education system and its promotion of “secular humanism,” laid the foundation for the political activism that Ronald Reagan would find so helpful when he ran for president in 1980. The emphasis evangelicals placed on having separate schools and local control of schools also ran counter to Carter’s idea that the federal government needed to establish a Department of Education to organize the nation’s education

83. Patrick J. Buchanan, “Seeking Tuition Tax Credits,” *The Chicago Tribune*, March 30, 1978, <http://www.proquest.com>; “Undermining Public Schools,” *The New York Times*, June 6, 1979; “The Impact of Tuition Tax Credits,” *The Chicago Tribune*, April 17, 1978, <http://www.proquest.com>.

84. Jill K. Conway *et al.*, “Tuition Tax Credits: Reality and Illusion,” *The Washington Post*, April 22, 1978, <http://www.proquest.com>.

85. David E. Anderson, “Tuition Tax Credits Revive Church-State Debate,” *The New York Times*, July 1, 1978, <http://www.proquest.com>.

functions. There was also overlap among evangelical attitudes toward unwarranted federal interference and those who opposed forced busing and affirmative action policies. For these groups, the status quo was intolerable, but an expanded federal role in education policy would be much worse, especially if it championed busing solutions to desegregation, supported more aggressive affirmative action policies in secondary and higher education, supported secularism, and proved hostile to private schools.

The 1970s was a time of significant social and economic change and a decade during which Americans halted some of the progress of the Civil Rights Movement. Busing policies continued in some parts of the country like Charlotte, Boston, and Louisville, but their scope was limited or never attempted in Detroit and Atlanta. Affirmative action increased in private industry and the federal government and received judicial sanction in the *Bakke* and *Weber* cases, but came at a time when deindustrialization was reducing job opportunities for unskilled workers. The federal government attempted to hold segregation academies to a high standard and courts struck down the most overt attempts to put religion back into the classroom, but the mobilization of religious conservatives forced the IRS to retreat from its initial ruling and social conservatives like Jesse Helms vowed to continue the fight for school prayer. These controversies forced the Carter administration to adopt unpopular positions and weakened its political standing among constituencies that helped it win the 1976 presidential election. To get a Department of Education through Congress, Carter would have to find a way to assuage the concerns of conservatives or, failing that, convince enough members of Congress that the new department would not interfere in issues that could threaten their political careers.

Chapter Three: Political Miscalculation and Liberal Opposition to the Department of Education, 1978

When Jimmy Carter entered the White House in January 1977 education experts pontificated about his approach to federal education policy. The National Education Association (NEA) was encouraged that the administration supported a cabinet-level Department of Education during the 1976 presidential campaign and others, such as curriculum specialist William Van Til, argued that the administration would attempt to expand equal education opportunities, enhance federal funding for education, and adopt conservative ideas towards curriculum and instruction that emphasized traditional teaching and learning styles.¹ In his prior involvement with education, as chair of the Sumter County Board of Education, Georgia state senator, and Georgia governor, Carter favored these policies. For example, while chair of the Sumter County Board of Education he tried to integrate the county and city school districts, and as Georgia governor he attempted to reorganize the functions of the Georgia Department of Education and supported a statewide kindergarten program.²

During Carter's first year in office, however, higher priorities, like taming the nation's high inflation rates and its energy crisis, took precedence over significant education reform. In 1977, the administration succeeded in getting Congress to create the Department of Energy to handle the nation's energy policy and its nuclear weapons program. Finally, after significant internal debate, the administration decided that 1978 would be the year that it would push for a Department of Education. In his 1978 State of

1. Deanna L. Michael, *Carter as Education Policymaker: Equal Opportunity and Efficiency* (Albany: State University of New York Press, 2008), 86. During the late 1970s, William Van Til supported interdisciplinary curriculum standards and emphasized the ways that technology could benefit and harm American education.

2. Michael, *Carter as Education Policymaker*, 26-29, 67-73.

the Union Address, Carter announced that a separate Department of Education was a necessary reorganization of the federal bureaucracy. He argued that just as eleven government agencies were brought together into the Department of Energy, a similar reform was needed in the education arena. These reorganizations of the federal bureaucracy, he claimed, would reduce red tape, cut overhead costs and make government less distant from the public.³

Coming during the post-Watergate era when suspicion of the federal government was at an all-time high, Carter's call for more efficient and less intrusive government was appealing to many. Nevertheless, whereas the creation of the Department of Energy in 1977 enjoyed wide support in Congress, the Department of Education would be a different animal.⁴ Elements of Carter's administrative team underestimated the bureaucratic turf wars that the creation of a new cabinet-level department would ignite. They failed to realize that Catholics and the American Federation of Teachers (AFT), the second largest teachers union in the country, were suspicious of the National Education Association's (NEA) lobbying of the idea. And they did not anticipate opposition to the department from African Americans, who feared that it would hinder civil rights enforcement and erode community-based education programs. The failure of the Carter administration to read the political landscape prior to the introduction of the Department of Education Organization Act in 1978 caused the bill to fail and illustrated cracks in the Democratic coalition between government officials, labor leaders, and racial minorities.

3. Jimmy Carter, "State of the Union Address," January 19, 1978, *The American Presidency Project*, accessed on January 2, 2014, <http://www.presidency.ucsb.edu/ws/?pid=30856>.

4. "Bill Summary & Status 95th Congress (1977-1978) S. 826 Major Congressional Actions," *The Library of Congress*, accessed January 2, 2014, <http://thomas.loc.gov/cgi-bin/bdquery/z?d095:SN00826:@@R>. The Department of Energy Organization Act of 1977 was approved 76-14 by the Senate and 353-57 by the House.

It also showed how concerns about race continued to permeate the idea of a cabinet-level department.

Deciding to Push for a Cabinet-Level Department of Education in 1978

Carter's idea of reorganizing the federal bureaucracy and centralizing education functions was not a new idea. The Department of Health, Education, and Welfare (HEW) was a sprawling bureaucracy, responsible for more than 150 programs that constituted nearly half of all federal expenditures by 1968. Four House and three Senate committees oversaw its operations, and supporters of a separate education department alleged that HEW's secretary could not manage the department's special interest groups.⁵ The size of HEW led education officials such as Dr. James Gallagher, who served as the chief of research and planning for HEW's Office of Education, to argue that the lack of a separate cabinet department caused education issues to be subsumed by HEW's other functions or ignored by presidential administrations.⁶ In fact, Carter told the NEA in February 1978 that he rarely got an education question at a cabinet meeting whereas nearly twenty-five percent of the questions he was asked while Governor of Georgia dealt with education.⁷ This lack of attention by presidents was blamed for the high turnover rates of commissioners within the Office of Education (eleven different commissioners had served over a twenty-three-year period).

5. Rufus E. Miles, Jr. "The Case for a Federal Department of Education," *Public Administration Review* 27, no. 1 (1967): 2-5, <http://www.jstor.org>.

6. "Allen Aide Urges Education Agency in Cabinet," *The New York Times*, June 10, 1970. <http://www.proquest.com>.

7. Speech by Jimmy Carter, "Remarks of the President at Reception for the Board of Directors of the NEA," February 10, 1978, Office of Congressional Liaison (OCL) Les Francis's Subject Files, Education – Press 9/9/77-5/28/78, Box 162, Jimmy Carter Presidential Library (JCPL), 3.

Furthermore, the lack of an education advocate within the cabinet alarmed NEA officials and others that favored a stronger federal presence in education because although ninety percent of HEW's budget had to be allocated by law, education programs were discretionary and subject to cuts. Educators pointed out that between 1968 and 1978 HEW's budget quadrupled and became thirty-six percent of the federal budget, but education outlays within HEW barely doubled from \$3.6 billion to \$8.1 billion during that same time period. Providing more funds for education could increase the attractiveness of bureaucratic appointments in education on the federal level since the average commissioner in the Office of Education earned a yearly salary of \$37,800 a year compared with \$63,000 for a cabinet official. In fact, superintendents of large metropolitan areas made more than did federal education officials.⁸ Another sore point for advocates of a cabinet-level department was that 6.3% of HEW's budget was devoted to education activities, but education officials comprised only 2.7% of its personnel, which was a sign that the department had priorities beyond education.⁹ Therefore, a bureaucratic consolidation of education programs would have the benefit of creating an effective advocate for education within the president's cabinet and possibly create a way to divert more federal funds to education.

Prior to Carter assuming office, prominent Senate Democrats had spoken in favor of creating a cabinet-level department. In 1975, Senator Hubert Humphrey supported the idea and called for the federal government to cover at least one-third of the country's

8. John Ryor, "The Case for a Federal Department of Education," *The Phi Delta Kappan* 58, no. 8 (1977): 594-595, <http://www.jstor.org>.

9. Samuel Halperin, "A Cabinet-Level Department of Education This Year?," *The Phi Delta Kappan* 59, no. 6 (1978): 378, <http://www.jstor.org>.

education expenses instead of a mere 6.9%.¹⁰ Senator George McGovern also supported a federal Department of Education during his run for the presidency in 1972.¹¹ These liberal Democratic leaders were joined by six major education organizations that all supported the idea of a separate, cabinet-level department: the NEA, the American Association of School Administrators, the National School Boards Association, the National Association of State Boards of Education, the Chief State School Officers, and the National Congress of Parents and Teachers.¹² Other, non-education leaders also supported the idea including Douglas Fraser, president of the United Auto Workers, and Vernon Jordan, the Executive Director of the National Urban League.¹³ This widespread support explains why the NEA and like-minded groups were willing to back Carter's presidential bid in 1976 because of the positive attitudes that Democratic leaders had espoused regarding more federal funding for education and separating education functions from HEW.

However, in the immediate aftermath of winning the 1976 presidential election, Carter stayed mum about his intentions regarding the country's education bureaucracy. When Carter's reorganization staff convened in March 1977 they concerned themselves with the establishment of a Department of Energy, reorganizing the Executive Office, and consolidating civil rights and environmental enforcement programs. Education was not

10. "Separate U.S. Unit in Schools Urged," *The New York Times*, April 20, 1975, <http://www.proquest.com>.

11. Gene I. Maeroff, "McGovern Tells NEA He Backs Education Unit," *The New York Times*, June 30, 1972, <http://www.proquest.com>.

12. Helen Bain, "An Argument for a Department of Education," *The Clearing House*, April 1972, 481, <http://www.jstor.org>.

13. "Citizens Committee for a Cabinet Department of Education," September 23, 1977, OCL Les Francis's Subject Files, Education-Correspondence, 4/4/77-5/25/78, Box 161, JCPL, 1.

mentioned as a priority.¹⁴ This seemed an affront to the NEA's leadership, who had heard Carter argue on the campaign trail that the only cabinet department that he felt warranted creation was a Department of Education.¹⁵ Senator Abraham Ribicoff of Connecticut, who had served as secretary of HEW from 1961 to 1962 during the Kennedy administration, also grew impatient over the slow pace of the administration's efforts on education reorganization. Ribicoff's experience at HEW made him an authority on the subject in the Senate and he charged that HEW's Office of Education was sluggish and incapable of regulating, monitoring, and evaluating programs.¹⁶ Ribicoff made clear that he would use his recently earned chairmanship of the Senate Committee on Government Operations to push for an education department with or without White House assistance. This was a direct challenge to Carter's domestic authority.

It appears, though, that Carter wanted a complete study done of the federal education bureaucracy before moving forward on his campaign promise to the NEA. In June 1977, therefore, a political task force chaired by Vice-President Walter Mondale and Carter's Presidential Reorganization Program (PRP) recommended a five-week study on the feasibility of creating a separate, cabinet-level department for education. After this study recommended a cabinet-level department, the PRP, working with the Office of Management and Budget (OMB), conducted a further six-month study into what

14. Beryl A. Radin and William D. Hawley, *The Politics of Federal Reorganization: Creating the U.S. Department of Education* (New York: Pergamon Press, 1988), 57.

15. Ryor, "The Case for a Federal Department of Education," 596.

16. Congressional Testimony, "Opening Statement of Abe Ribicoff Department of Education Hearings (in Senate Government Affairs Committee)," October 12, 1977, OCL Les Francis's Subject Files, Education – Correspondence, 4/4/77-5/25/78, Box 161, JCPL.

functions and programs should go into the Department of Education.¹⁷ Its November report to Carter contained three options: seek a “narrow” department that would include the Education Division of HEW and the National Science Foundation (NSF); try to obtain Congressional approval of a “broader” department that would include labor training programs from the Department of Labor, Indian schools from the Bureau of Indian Affairs (BIA), the school lunch program of the Department of Agriculture, and other federal programs that included education functions; or preserve HEW’s structure but ending the overlap of functions among the Assistant Secretary of Education and the U.S. Commissioner of Education via consolidation.¹⁸ Seeking a “narrow” department would have the advantage of inviting fewer political battles because it would require less shuffling within the federal bureaucracy and hence, fewer turf wars, but it would also mean a department that did not control a sizable number of federal education functions. For example, at the time of the study, there were 300 federal education programs and 200 of those existed outside of HEW.¹⁹ Deciding on a broader department, which is what the PRP came to favor and what Ribicoff was advocating on Capitol Hill, would cover more programs but would also invite a bloody political struggle since existing departments would resist having some of their functions usurped by the new entity.²⁰

17. Radin and Hawley, *The Politics of Federal Reorganization*, 59-60.

18. David Stephens, “President Carter, the Congress, and the NEA: Creating the Department of Education,” *Political Science Quarterly* 98, no. 4 (Winter 1983-1984): 646-647, <http://www.jstor.org>.

19. Abraham Ribicoff, “A Separate Department of Education: Why Not the Best?,” *Change*, February 1978, 27, <http://www.jstor.org>.

20. “Separate Department of Education is Sought in Measure by Ribicoff,” *The New York Times*, May 14, 1977, <http://www.proquest.com>.

Divisions within the Carter administration on how to proceed may have contributed to the President's delay in acting on education. Joseph Califano, Jr., Carter's HEW Secretary, opposed the creation of the Department of Education. Califano argued that HEW's massive structure was a benefit, not a detriment, because it limited bureaucratic turf wars and created cooperation among education, health, and welfare officials.²¹ The initial reaction of OMB to Carter's proposal was to recommend against it. This changed when James T. McIntyre replaced T. Bertram (Bert) Lance as head of OMB, as he supported placing all federal education programs under one roof. Vice President Mondale and Chief of Staff Hamilton Jordan reminded Carter that he promised the NEA a separate department and that Carter would be held accountable if he did not push for one during his first term. This took on added urgency when Carter did not push to sizably increase federal funding for education, which was another core NEA demand.²² By the summer of 1977, Mondale was already defending the administration's record in NEA circles by conceding that Carter would not have won the presidency without the organization's support.²³

Having settled on the necessity of pushing for a separate department, Carter next had to decide whether to pursue a narrow or broad department. Carter's Domestic Policy Staff (DPS), more aware of the political risks that a cabinet-level department could invite, urged the President to pursue a narrow department because that would not absorb political capital that Carter needed to secure passage of the Panama Canal Treaty, his

21. Stephens, "President Carter, the Congress, and the NEA," 645.

22. Michael, *Carter as Education Policymaker*, 96.

23. Speech by Walter Mondale, "Vice President Walter F. Mondale – National Education Association, Minneapolis, MN," July 5, 1977, OCL Les Francis's Subject Files, Education – Correspondence, 4/4/77-5/25/78, Box 161, JCPL, 1-3.

energy plan, and a \$25 billion tax cut package to rejuvenate the economy. However, the PRP, which did not consider the political risks of a broader department, pushed its idea for the sake of a radical transformation of existing bureaucratic functions. The PRP's idea also enjoyed the support of Senator Ribicoff, who feared that if a large department was not initially created that it would never encompass all of the federal education activities that it should. The OMB lent its support because it favored a centralized education structure within the federal bureaucracy. In a meeting on April 6, 1978, it appeared that the DPS political argument had won and that the administration would be arguing for a narrow department. But Carter changed course and on April 14, only several hours before he was due to appear before the Senate Committee on Government Operations, McIntyre was informed that he would testify in favor of a broad department.²⁴ The switch appears to have been caused by misinterpretations in the administration, as Carter did not attend the April 6 meeting.

The proposal laid out by McIntyre before the Senate Committee on Government Operations mirrored Ribicoff's legislative agenda for a separate department. It called for taking 164 programs and placing them in a cabinet-level department that would have a starting budget of \$17.5 billion and be administered by 23,325 people. The proposal included moving Head Start out of HEW, Indian schools from the BIA, the school lunch program from the Department of Agriculture, and some student loan programs run by HEW and the Justice Department into the new department. Its proposed budget was bigger than the Departments of State, Justice, Commerce, Interior, Agriculture,

24. Radin & Hawley, *The Politics of Federal Reorganization*, 82-83, 92, 104-109.

Transportation, and Energy, and its staff was larger than all but four cabinet departments.²⁵

In deciding to go for a broad department, the Carter administration was inviting a hard political battle that it did not seem fully prepared for or willing to fight. The PRP was blind to the political risks of going for a broad department and although the DPS and Califano warned Carter about the opposition some liberals and African-American representatives would have to including Head Start in the department and tribal elders would have to taking Indian schools away from the BIA, he proceed anyway.²⁶

Amazingly, on the eve of a significant legislative battle, the Carter administration had a general lack of enthusiasm for the Department of Education project and Les Francis, the Deputy Assistant for Congressional Liaison Coordination, argued that Carter needed to provide more specific direction for how he wanted the administration to proceed.²⁷

Taking on the fight would tax some of the administration's already strained ties with Congress. Carter had positioned himself as an outsider during the 1976 presidential election and during his first term had poorly managed some of his relations with Congressional legislators. By early 1978 Ann Dye of the Legislative Liaison Office reported that Carter had no natural constituency in Congress because he had "managed to offend, at one time or another, almost all organized and unorganized special interest

25. Marjorie Hunter, "President Proposes an Education Department," *The New York Times*, April 15, 1978, <http://www.proquest.com>.

26. Memo, James T. McIntyre and Stuart Eizenstat to Jimmy Carter, OCL Les Francis's Subject Files, Education – General Policy and Background, 2/21/78-4/12/78, Box 162, JCPL, 25-26.

27. Memo, Les Francis to Frank Moore, April 12, 1978, OCL Les Francis's Subject Files, Education – General Policy and Background, 2/21/78-4/12/78, Box 162, JCPL.

groups, all regions of the country, and almost all members of Congress.”²⁸ Additionally, Ronna Freiberg, the Director of Congressional Correspondence, had to write a memo to Frank Moore, Carter’s Assistant for Congressional Liaison, about the need for the administration to give top priority in responding to Congressional mail and how several months should not elapse before replies were sent.²⁹ The Carter administration quickly learned that while it might favor a broad department, its opponents had other ideas.

Immediate Opposition to Carter’s 1978 Proposal

1978 would see Carter’s Department of Education proposal engulfed by nonpartisan bureaucratic turf wars, liberal criticisms that the new department would weaken civil rights enforcement, and a general backlash against the perceived idea that the creation of a new cabinet department was only to satisfy the administration’s campaign pledge to the NEA. This opposition produced unique political alliances, where for a time the rhetoric of the American Federation of Teachers (AFT) and other liberal groups mirrored that of small government conservatives in opposing a Democratic president’s reform plan.

Shortly after the administration’s proposal for a cabinet-level department was released, existing bureaucratic agencies went on the offensive and demanded that they not be transferred into the Department of Education. Native American groups opposed transferring Indian schools from the BIA because they thought the Department of Education would be less receptive to their interests. Tribal elders feared that a new

28. Memo, Ann Dye to Frank Moore, April 6, 1978, OCL Frank Moore Subject Files, House Memoranda 2/24/77-11/10/80, Box 32, JCPL, 2.

29. Memo, Ronna Freiberg to Frank Moore, December 11, 1977, OCL Frank Moore Subject Files, House Memoranda, 2/24/77-11/10/80, Box 32, JCPL.

federal department, controlled by professional educators that had little experience with Native American schools, would demand their incorporation into the public school system, which would not meet the special needs of Native American children.³⁰

Although Native American groups had a fragile relationship with the BIA, they decided that it was better to go with a government agency they had worked with in the past rather than risk a new creation. One Native American representative summed things up when he explained that “They [the BIA] may be bastards, but they’re our bastards.”³¹

Opposition to the BIA transfer crossed party lines as Iowa Democratic Representative Michael T. Blouin informed Mondale that the administration did not understand Indian education, and Republican Senator Ted Stevens of Alaska waged what turned out to be a successful fight in stripping the BIA schools out of the Department.³² Similarly, the Department of Agriculture fought to ensure that the school lunch program remained under its control, justifying its view on the grounds that dividing food programs would be detrimental to service and result in higher prices for schools.³³ Furthermore, the administration had to compromise with the NSF and promise to only include those

30. “Supporters Oppose Shift of Head Start,” *The New York Times*, May 28, 1978, <http://www.proquest.com>.

31. Radin & Hawley, *The Politics of Federal Reorganization*, 66.

32. Letter, Michael T. Blouin to Walter Mondale, May 25, 1978, OCL Les Francis’s Subject Files, Education – Correspondence, 5/25/78, Box 161, JCPL, 3. The Senate voted 47-39 in 1978 in favor of a Stevens amendment to eliminate the transfer of Indian education programs from the Bureau of Indian Affairs within the Department of Interior to the Department of Education.

33. Stephens, “President Carter, the Congress, and the NEA,” 648; Radin & Hawley, *The Politics of Federal Reorganization*, 117. Republican Senator Charles Percy of Illinois successfully led the fight to strip the transfer of school lunch programs out of the 1978 Senate bill.

programs that were directed toward primary and secondary education and it promised not to move veterans education programs out of the Veterans Administration (VA).³⁴

The bureaucratic realignment envisioned by Carter's education plan also alarmed African Americans who feared that the Department of Education would weaken existing civil rights enforcement. While it could be expected that conservatives would be suspicious of a new education department in light of the busing and affirmative action battles of the 1960s and 1970s, the 1978 legislative battle primarily centered on liberal concerns of how the new cabinet department would impact the progress of race relations and equal opportunity. The 1978 bill called for moving the education-related functions of the Office of Civil Rights out of HEW and African Americans worried that it would weaken its independence. Democratic Representative Shirley Chisholm of New York announced that she and other members of the Congressional Black Caucus feared that a separate department would erode the Office's organizational structure and weaken its influence.³⁵ The National Association for the Advancement of Colored People (NAACP) Legal Defense and Education Fund, the Federal Education Project of the Lawyer's Committee, and other groups were part of the Education Coalition, a private advocacy group formed in the 1960s. This coalition demanded that the Office of Civil Rights be strengthened in the new department if they were to support the idea. They also called for an assistant secretary in the Office of Civil Rights who would report directly to the Secretary of Education, have the power to collect and coordinate data, and have a direct

34. Stephens, "President Carter, the Congress, and the NEA," 648; Radin & Hawley, *The Politics of Federal Reorganization*, 120.

35. "Black Group Fights Plan on Education," *The New York Times*, August 2, 1978, <http://www.proquest.com>.

budget appeal to Congress.³⁶ Additionally, Chisholm, the NAACP, and other minority groups warned that a new department would weaken the influence of civil rights activists on Capitol Hill because it was going to destroy the coalition civil rights leaders enjoyed with labor groups within HEW. In Washington D.C., both groups used their collective power to support liberal social legislation that upheld minority and workers rights, and both groups believed that separating the education functions of HEW from its health and welfare components would weaken the force of their lobbying by causing them to direct their energies toward the policies of two departments instead of one. This explains why the AFL-CIO joined the NAACP in its suspicions about the Department of Education project. The worst fear of civil rights advocates was that the Department of Education would be controlled by education professionals who would focus exclusively on education to the detriment of comprehensive programs that would tie education to welfare, healthcare services, and anti-poverty programs.³⁷

The fear of education professionals was political code for the NEA, who both liberals and conservatives believed supported the department project so that it could control its policies and benefit its members at the expense of other groups. Conservatives warned their liberal colleagues and the public that the NEA was going to dominate the new department and that it sought to pull federal education policy away from local school districts, parents, and teachers. Citing NEA President John Ryor and Executive Director Terry Herndon's call for the NEA to be a powerful lobbying force that would "reorder

36. Radin & Hawley, *The Politics of Federal Reorganization*, 125.

37. Spencer Rich, "Labor, Blacks Attack Proposed Department of Education," *The Washington Post*, August 4, 1978, <http://www.proquest.com>.

the priorities of the United States of America,” conservatives warned that the Department of Education was a Trojan horse that would place national education policy under the control of a special interest group.³⁸ Liberals soon chimed in their distaste for the NEA’s push for a cabinet department and the administration faced skeptical opinion-editorials from *The New York Times* and *The Washington Post*, both of which accused the Carter administration of cheapening the cabinet in order to satisfy a campaign promise. They warned of the NEA’s satisfying its own interests at the expense of children and parents, and *The New York Times* argued that creating a new department posed the danger of bureaucratic fragmentation since “the success of one interest group seeking Cabinet status would surely encourage others who seek a Department of Environment, a Department of Women, a Department of Children [and] a Department of Older Americans.”³⁹ The prospect of the NEA controlling the new department caused the AFT to blast its union counterpart. The AFT had been suspicious of the NEA’s political lobbying for a cabinet department since 1972, and echoing the concerns of conservative legislators, with whom it had little in common, the AFT warned that the NEA would seize the department and unnecessarily expand the federal government’s role in education. As an AFL-CIO affiliate, the AFT also voiced its opposition to the department on the grounds that it would divorce education from the health and welfare functions of HEW.⁴⁰

38. Eugene H. Methvin, “The NEA: A Washington Lobby Run Rampant,” *Reader’s Digest*, November 1978, 97-101, quoted in *The Rise of Conservatism in America, 1945-2000: A Brief History with Documents*, eds. Ronald Story and Bruce Laurie (Boston: Bedford/St. Martin’s, 2008), 111-112.

39. “The High Price of Cheapening the Cabinet,” *The New York Times*, January 16, 1978, <http://www.proquest.com>; “A Department of Education?,” *The Washington Post*, April 18, 1978, <http://www.proquest.com>.

American Catholics, a group historically opposed to a cabinet-level department for education, predictably joined the chorus of Democratic voting groups opposing the proposal. Fifty-seven percent of American Catholics supported Carter in the 1976 presidential election, and they warned the administration against creating a department that, in their view, would increase federal interference in local education issues and threaten private education.⁴¹ In August 1978, Reverend Edward Farrell, the United States Catholic Conference representative for Catholic schools, testified before the House Committee on Government Operations and claimed that a new department would not look favorably upon private education, putting an estimated 3.5 million children in the Catholic parochial system at risk.⁴² Coming in the same month as the controversial IRS ruling to revoke the tax-exempt status of racially segregated private schools, Farrell's rhetoric did not seem so far-fetched.

Within months of announcing its support for an education department, therefore, the Carter administration found itself defending itself from liberal groups that were crucial to the Democratic coalition. In pushing for a broad department for the sake of creating a more coherent and streamlined federal education bureaucracy, President Carter caused this opposition to emerge on his political left flank. The NEA, which supported Carter's 1976 election, pushed Carter to live up to his campaign pledge, but other labor

40. Radin & Hawley, *The Politics of Federal Reorganization*, 124-125; editorial from *The American Teacher*, "Shanker Raps Proposed Education Department," February 1978, OCL Les Francis's Subject Files, Education – Press, 9/9/77-5/28/78, Box 162, JCPL; David E. Rosenbaum, "Carter is Reported Ready to Back Separate Department of Education," *The New York Times*, January 2, 1978, <http://www.proquest.com>.

41. "Presidential Vote of Catholics," *Center for Applied Research in the Apostolate*, accessed March 26, 2014, <http://cara.georgetown.edu/presidential%20vote%20only.pdf>.

42. "Education Agency Plan Hit," *The Washington Post*, August 11, 1978, <http://www.proquest.com>.

groups like the AFL-CIO and the AFT, as well groups concerned with the interests of racial minorities like the NAACP, opposed the President's initiative. Nowhere was this intra-Democratic feuding clearer than the opposition of African-American groups and legislators toward moving Head Start to the new department, which would become the primary legislative headache for the Carter administration's education effort in 1978.

The 1978 Head Start Battle

In August 1964, Congress passed the Economic Opportunity Act, which established the framework of President Lyndon B. Johnson's Great Society. Included in the legislation were job training programs, Upward Bound, and the Volunteers in Service to America (VISTA) program. Also included was Head Start, an education program for lower-income children before they began elementary school. It was intended to educate pre-school children, provide nutritional and healthcare services, and assist low-income families in accessing government assistance programs.⁴³ Originally located in the Office of Economic Opportunity (OEO), Head Start was relocated to HEW in 1969 and placed in the Office of Child Development.⁴⁴ Over time it became a very popular program in poor communities and an avenue for community employment.

For some conservatives, however, Head Start was a controversial program and they criticized its effectiveness and cost. Southern legislators like Senator John C. Stennis of Mississippi echoed the concerns of other conservatives in the late 1960s when he argued that local Head Start programs were administered too loosely and

43. Paul S. Boyer, *Promises to Keep: The United States Since World War II*, 3rd ed. (Boston: Houghton Mifflin Company, 2005), 194, 210.

44. Congressional Testimony, "Testimony of Mr. T.M. Jim Parham, Deputy Assistant Secretary of Human Development Services Before the Senate Committee on Governmental Affairs on Creation of a Separate Cabinet Level Department of Education," April 27, 1978, OCL Les Francis's Subject Files, Education – Head Start, 4/27/78-5/1/78, Box 162, JCPL, 2.

appropriations were not going where they should.⁴⁵ However, much of Stennis's opposition to Head Start in his state was racially based due to the high number of African Americans participating in Mississippi's Head Start programs and the program's connections to civil rights activities such as voting, accessing government benefits, and African-American empowerment. White constituents mailed Stennis letters criticizing the lack of integration in the state's Head Start programs and how blacks were employed as Head Start teachers over qualified white candidates.⁴⁶ Another constituent mailed Stennis materials handed out at Head Start and anti-poverty centers in Jackson, Mississippi, that urged readers to be wary of white landowners and become politically active. Clearly, Stennis's constituents were angry about the use of federal dollars to promote civil rights activism within Mississippi under the guise of anti-poverty efforts.⁴⁷ Nevertheless, despite conservative attacks on the program, Head Start survived and by 1977 was seen in minority communities as one of the Great Society programs that they controlled. In 1977-1978, sixty-five percent of children enrolled in Head Start were

45. Letter, John C. Stennis to Alice L. Allen, July 6, 1966, John C. Stennis Collection (JCSC), Headstart Centers (Special cases), Series 11 (HEW Subseries: HEW – General, Headstart Life Office of Education), Box 35, Congressional and Political Research Center (CPRC), Mississippi State University (MSU) Libraries; Letter, John C. Stennis to Chief of Police in Greenville Police Department, August 17, 1966, JCSC, Headstart Centers (Special cases), Series 11 (HEW Subseries: HEW – General, Headstart Life Office of Education), Box 35, CPRC, MSU Libraries.

46. Letter, Dr. S.E. Wilson, Jr. to Senator John C. Stennis, July 15, 1966, JCSC, Headstart Centers (Special cases), Series 11 (HEW Subseries: HEW – General, Headstart Life Office of Education), Box 35, CPRC, MSU Libraries; Letter, Mrs. Raebeth F. Cooper to John C. Stennis, January 4, 1971, JCSC, HEW – Headstart – 1970-1971, Series 11 (HEW Subseries: HEW – General, Headstart Life of Office of Education), Box 35, CPRC, MSU Libraries.

47. Letter, R.P. Turner, Jr. to John C. Stennis, February 20, 1967, JCSC, Headstart Centers (Special cases), Series 11 (HEW Subseries: HEW – General, Headstart Life Office of Education), Box 35, CPRC, MSU Libraries.

minorities, 80,000 people were employed in low income communities due to Head Start, and 350,000 preschool children were part of the program.⁴⁸

However, there was a misunderstanding of Head Start's function among Washington bureaucrats and African-American advocates of the program, which produced a political nightmare for the proposed Department of Education. The Carter administration thought moving Head Start into the new department was important because it would increase Head Start's influence by having it report directly to the Secretary of Education. Within HEW, Head Start's director had to go through four different bureaucratic commissioners and deputy commissioners before its recommendations reached the HEW Secretary.⁴⁹ The inclusion of Head Start within the Department of Education could also broaden the scope of the new cabinet department into health, nutrition, and other social services.⁵⁰ Since the original design of the department encompassed school lunch programs, BIA schools, and the NSF, it was not a stretch that Head Start would be placed within a new department that would centralize all federal programs that were education oriented.

While the Carter administration had good intentions in transferring Head Start, the program's advocates did not see it that way. Marian Wright Edelman, president of the Children's Defense Fund, an organization that argued for civil rights and children's issues, wrote the White House and warned against transferring Head Start, saying that a

48. Radin & Hawley, *The Politics of Federal Reorganization*, 97-98; "Aides Lobby to Keep 3 Programs Out of the Department of Education," *The New York Times*, May 28, 1978, <http://www.proquest.com>.

49. Congressional Testimony, "Statement of James T. McIntyre, Jr., Director, Office of Management and Budget Before the Committee on Governmental Affairs, United States Senate," May 17, 1978, OCL Les Francis's Subject Files, Education – Testimony, 4/14/78-5/17/78, Box 162, JCPL.

50. Memo. James T. McIntyre and Stuart Eizenstat to Jimmy Carter, 22.

transfer would put public school officials in charge and erode the community orientation of the program. A transfer would also erode the flexibility of Head Start programs and make it less cost effective. When it was clear that the White House would support transferring Head Start despite Edelman's objections, Head Start's grassroots network flooded Congress with letters and telegrams resisting the effort. It became a common occurrence to see Head Start mothers visiting Senator Ribicoff's office.⁵¹ Edelman publicly blasted the White House, saying that its inclusion of Head Start in the department was "a betrayal of poor and minority children throughout the country."⁵² Twelve prominent black leaders, among them Vernon Jordan, Coretta Scott King, Jesse Jackson, and Bayard Rustin, telegraphed the White House and said that the administration could not give a satisfactory assurance that Head Start's functions would not be jeopardized by its transfer into the Department of Education.⁵³ Civil rights leaders enjoyed the support of the national media as well, as *The New York Times* editorial board demanded that Congress "include Head Start out" of the new department.⁵⁴

Testimony before the Senate Governmental Affairs Committee in late April 1978 went very poorly for the administration's Head Start push. Jim Parham, the Deputy Assistant Secretary of Human Development Services, provided senators with an overview of Head Start's functions, but did not provide any justification for why it should be moved out of HEW.⁵⁵ In contrast, Head Start advocates arranged very persuasive

51. Radin & Hawley, *The Politics of Federal Reorganization*, 98-99, 118.

52. Hunter, "President Proposes an Education Department."

53. "Aides Lobby to Keep 3 Programs Out of the Department of Education."

54. "Include Head Start Out," *The New York Times*, June 14, 1978, <http://www.proquest.com>.

testimony that put the administration on its heels. Representative Chisholm emphasized that blacks and other minority groups relied on Head Start for comprehensive community services and that it established leadership in areas where poverty, racism, and sexism had been prevalent for generations. Dr. Edward Zigler of Yale University warned the Committee that integrating Head Start into the Department of Education would diminish its experimental nature, pointing out that it was the first education program to integrate handicapped children. Likewise, Nancy Spears, president of the Head Start Directors Association, explained that transferring Head Start would jeopardize the twelve years of gains that the program had made and that volunteer parental involvement in the program might decline because some public schools might not want to work with them.⁵⁶

The clash over Head Start represented different views of the program. The Carter administration saw Head Start's functions as primarily educational, whereas Head Start advocates saw the program as a tool of community empowerment. The defenders of keeping Head Start in HEW shared the concerns of conservatives in that they wanted maintain local control of Head Start programs and to keep them out of the clutches of public school officials who wanted to more closely align the programs with their interests. In addition, Head Start defenders shared the anti-NEA sentiments of conservatives, as they feared the NEA would take over the program and "professionalize" it at the expense of community action.

55. Memo, Les Francis to Frank Moore, April 28, 1978, OCL Les Francis's Subject Files, Education – Head Start, 4/27/78-5/1/78, Box 162, JCPL; Congressional Testimony, "Portions of Transcript Regarding Transfer of Head Start to the Department of Education," April 27, 1978, OCL Les Francis's Subject Files, Education - Head Start, 4/27/1978-5/1/78, Box 162, JCPL, 307.

56. Congressional Testimony, "Administration Testimony on Head Start," April 28, 1978, OCL Les Francis's Subject Files, Education – Head Start, 4/27/78-5/1/78, Box 162, JCPL, 278-279, 330-331, 333-334.

Faced with accusations that it was insensitive to minority needs and the poor, the Carter administration and Senator Ribicoff had to back off of their support for incorporating Head Start into the Department of Education. A preliminary count among the Senate Governmental Affairs Committee found that only one of its sixteen members, Democratic Senator Sam Nunn of Georgia, favored the Head Start transfer.⁵⁷ By a unanimous voice vote, based on Ribicoff's recommendation, the committee therefore voted in July to delete Head Start from legislation authorizing a separate cabinet-level department.⁵⁸

The Head Start debate and retreat was a significant setback for the Carter administration because it had to expend political capital pushing for a legislative agenda that ultimately antagonized elements of its base. Ironically, while conservatives had fought the federal government on racial issues through the 1960s and 1970s regarding busing and affirmative action policies in education, it was liberal opposition to the department on racial issues that thwarted elements of the President's 1978 proposal. Furthermore, African Americans expressed a small-government, conservative philosophy by favoring local control of education in order to preserve community jobs and programs that provided extra-educational benefits to the poor. Also, they shared with conservatives a fear that professional educators would wreck existing education programs and adopt an exclusive focus on education that would work to the detriment of other social services in those programs. Thus, the roots of the big political defeat for Carter regarding the Department of Education in 1978 were more liberal than conservative and revolved

57. Positions Checklist, "Senate Governmental Affairs Committee," June 29, 1978, OCL Les Francis's Subject Files, Education – Legislative Strategy, 3/8/78-7/14/78, Box 162, JCPL.

58. Radin & Hawley, *The Politics of Federal Reorganization*, 118.

around racial and bureaucratic issues that the administration could have avoided with a better reading of the political climate in Washington or better awareness of the fears of the poor.

The Death of the Dream of a Department of Education in 1978

Despite the setback on Head Start and other programs, the Carter administration still had time to get the Department of Education legislation passed before the end of the 95th Congress. Opponents of creating a separate department concentrated their efforts on the House, where there was greater skepticism regarding the idea and where the lobbying efforts of the AFL-CIO and AFT were strongest. It was a different story in the other chamber. The Senate, including even states' rights conservatives like John C. Stennis, supported the idea of a cabinet-level department by a wide margin, viewing education as a federal concern and buying into the argument that education needed a more prominent role in presidential decision making.⁵⁹ On September 18, 1978, the Senate voted 72-11 in favor of the Department of Education Organization Act.⁶⁰

Problems awaited in the House, though, where the AFT, the AFL-CIO, the Catholic Conference, and other likeminded groups took advantage of the lack of organization in the chamber by department supporters. These groups questioned its impact on national education policy and existing federal programs in ways that found traction with members of both parties. Whereas Republicans like John Erlenborn of Illinois and Dan Quayle of Indiana warned of unwarranted federal interference in local

59. Draft of Speech, "Education Speech, Draft, December 11, 1987," JCSC, Education Speech, Series 11 (HEW Subseries: HEW – General, Headstart Life Office of Education), Box 37, CPRC, MSU Libraries, 2-3.

60. Radin & Hawley, *The Politics of Federal Reorganization*, 120.

education policy, Democrats like Ben Rosenthal of New York feared the fracturing of the labor-civil rights coalition.⁶¹ In August, House opponents put the bill through a lengthy markup and introduced thirty amendments into *The Congressional Record*, the most colorful of which was a proposal to rename the Department of Education the Department of Public Education and Youth, or DOPEY.⁶² Opponents of the bill threatened to derail the remainder of Carter's 1978 legislative program if the Department of Education bill was considered and the President's supporters finally abandoned the effort, resulting in the failure of the 95th Congress to pass the Department of Education Organization Act.⁶³

While well-intentioned, Jimmy Carter's decision in 1978 to pursue an expansive and far-reaching Department of Education derailed his project in Congress. Labor groups, Catholics, and racial minorities, all of which were traditional Democratic voting blocs, opposed his measure due to the new department's potential to reduce their influence in the federal government and erode the sensitivity of existing education programs to the needs of racial and religious minorities. As the administration headed into 1979 the prospects for its idea of what the Department of Education should look like were not good. Moving programs like Head Start and BIA schools had proven politically unpopular. African Americans worried about the status of the Office of Civil Rights within the new department, showing that racial concerns played a role in the shape that a new department would take. And the administration had yet to incur the full wrath of

61. Radin & Hawley, *The Politics of Federal Reorganization*, 123-124.

62. "Delays May Doom Carter's Proposed Education Agency," *The Washington Post*, August 11, 1978, <http://www.proquest.com>; Radin & Hawley, *The Politics of Federal Reorganization*, 121-128; Stephens, "President Carter, the Congress, and the NEA," 651-652.

63. Radin & Hawley, *The Politics of Federal Reorganization*, 121-128; Stephens, "President Carter, the Congress, and the NEA," 651-652.

conservatives, who had their own suspicions of the new department. Balancing liberal interests and overcoming Congressional opposition would cause the Carter administration to reduce the scope of the new department, but that would not make its legislative fight any easier in 1979.

Chapter Four: “Poison Pills” and Conservative Opposition to the Department of Education, 1979

Although the 95th Congress did not pass the Department of Education Organization Act, the Carter administration decided not to give up. The National Education Association (NEA) would settle for nothing less than a cabinet department for education, and the increased potential of a liberal challenge to his presidency in 1980 may have caused President Carter to aggressively push the Department of Education idea in the 96th Congress. Carter’s legislative push would build on his legislative successes in the previous Congress, which included passage of a minimum wage increase, an economic stimulus package, food stamp reform, the Panama Canal Treaty, airline deregulation, and extending the deadline for state ratification of the Equal Rights Amendment (ERA).¹ With these items no longer dominating its time, the Carter administration believed it could wage a more coordinated fight for an education department in 1979.²

Learning from its failures in the 1978 effort, the Carter administration opted for a narrow department and refashioned its arguments. The new Department of Education Organization Act excluded the transfer of Head Start, Indian schools, and the school lunch program.³ Instead of the new cabinet department housing 172 education programs

1. Memo, Frank Moore and Stu Eizenstat to Jimmy Carter and Walter Mondale, October 17, 1978, Office of Congressional Liaison (OCL) Frank Moore Subject Files, House Memoranda, 2/25/77-11/10/80, Box 32, Jimmy Carter Presidential Library (JCPL). In 1978, Carter signed legislation that increased the minimum wage to \$3.35 by 1981 and reduced federal regulations of the airline industry to increase competition. The administration also succeeded in getting the U.S. Senate to give its consent to the Panama Canal Treaties, also referred to as the Torrijos-Carter Treaties in March and April 1978, which reverted control of the Panama Canal to Panama after 1999. The ERA’s time limit for state ratification was extended from March 22, 1979 to June 30, 1982.

2. “Carter Unveils Plan for a Department of Education,” *The Los Angeles Times*, February 8, 1979, <http://www.proquest.com>.

and coming with a price tag of over \$17 billion, the new department would include only 150 programs and cost \$13.5 billion.⁴ Although critics alleged that this smaller version of a department would not be effective, Carter's supporters contended that the new department did not need to include all federally related education functions, but only needed to administer federal education programs effectively and economically.⁵ To alleviate the concerns of African Americans, the Carter administration announced that the Office of Civil Rights in the new department would have an assistant secretary, who answered directly to the Secretary of Education, thereby increasing its independent powers and stature compared to its current position in HEW.⁶ The Assistant Secretary of Civil Rights would also be required to submit an annual report of the Office's activities to the Secretary of Education, the President, and Congress, thereby satisfying a demand made by the NAACP and Representative in the last Congress.⁷

These concessions to liberal and bureaucratic constituencies watered down Carter's initial vision of a broad department, but it was still too much to stomach for

3. "President Urges Education Department," *The New York Times*, February 9, 1979, <http://www.proquest.com>.

4. Bill Drummond, "Administration Sends Scaled-Down Plan for Department of Education to Congress," *The Los Angeles Times*, February 9, 1979, <http://www.proquest.com>.

5. "An Illusion of Education Reform," *The New York Times*, January 16, 1979, <http://www.proquest.com>; Rufus E. Miles, Jr., "A Cabinet Department of Education: An Unwise Campaign Promise or a Sound Idea?," *Public Administration Review* 39, no. 2 (March/April 1979): 110, <http://www.jstor.org>.

6. Congressional Testimony. "Statement of James T. McIntyre, Jr., Director, Office of Management and Budget Before the Committee on Governmental Affairs, U.S. Senate, February 8, 1979," OCL Lisa Bourdeaux Subject Files, Education Speech Material, 2/19/78-3/2/79, Box 98, JCPL, 10; Weekly Summary, "Department of Education Task Force," February 23, 1979, OCL Les Francis's Subject Files, Education – Department of Education Task Force, 2/7/79-5/14/79, Box 162, JCPL, 1.

7. Confirmation Briefing Book, "Confirmation Briefing Book Volume I: November 20, 1979," November 20, 1979, Shirley Hufstедler Chron Files (SHCF), Confirmation Briefing Book, Vol. 1, No. 1 (A), Box 19, JCPL, 15.

some of the groups that opposed him in 1978. Conservatives continued to charge that the department was unnecessary and that it sought to seize more control from local school districts. The AFT remained suspicious of the NEA's motives. In April 1979 one of the most unusual political alliances in modern American history formed when the AFT, civil and labor rights groups, Roman Catholic education leaders, Senate Republicans, conservative organizations, and college leaders created the Committee Against a Separate Department of Education.⁸ This created a potent political bloc within the House of Representatives, but it still lacked the votes to kill the Department of Education bill. As a result, congressional conservatives sought to attach "poison pill" amendments to the bill that would advance their agenda concerning school prayer, busing, affirmative action, and abortion, while simultaneously hoping these amendments would erode liberal support for the legislation. This strategy, although it eventually failed, illustrated the rise of a national conservative movement united by states' rights, racial, and religious concerns.

School Prayer, Sex Education, and Limited Government Powers: The Debate in the Senate

As they did in 1978, the opponents of the Department of Education concentrated their attention on the House because Senate passage of the bill was considered foreordained. Nearly half of the Senate sponsored the Department of Education Organization Act of 1979, but there were dissidents who were not willing to go quietly.⁹ Three Senate Republicans – Jesse Helms of North Carolina, Strom Thurmond of South

8. "Committee Against a Separate Department of Education," April 23, 1979, John C. Stennis Collection (JCSC), S. 210 – Department of Education 1979, Series 33 (Labor & Public Welfare), Box 37, Congressional and Political Research Center (CPRC), Mississippi State University (MSU) Libraries; Stephens, "President Carter, the Congress, and the NEA," 656.

9. "President Urges Education Department."

Carolina, and Samuel Ichiye Hayakawa of California – would use the Senate debate over the Department of Education to argue for limiting federal powers in areas of increasing concern to the conservative base. Helms and Thurmond concentrated their efforts on appeasing religious conservatives, a rising wing of the Republican Party. Hayakawa, a former president of San Francisco State University, tried to limit the powers of the new department through a sunset provision, and used his rhetoric to highlight conservative fears that the new department would be a tool of social engineering.

As discussed in chapter two, the push for a constitutional amendment to allow for public school prayer gained political momentum during the 1970s. Although Congress failed to pass such an amendment, religious conservatives found greater success on the state level, which brought them into conflict with the American Civil Liberties Union (ACLU). As the Senate considered the Department of Education Organization Act in April 1979, Helms and Thurmond offered an amendment to prohibit the Supreme Court and lower federal courts from ruling on any case that involved voluntary school prayer.¹⁰ Helms and Thurmond were arguably the most conservative members of the Senate in terms of limiting federal power and in protecting civil rights. In fact, the structure of their amendment mirrored efforts by Southern politicians during the 1950s and 1960s to limit the jurisdiction of federal courts on school desegregation cases.¹¹ In making the case for the amendment, Helms argued that the Supreme Court had distorted the language of the First Amendment and suggested that Christianity should be encouraged by the

10. Letter, The American Civil Liberties Union to John C. Stennis, April 6, 1979, JCSC, S. 210 – Department of Education 1979, Series 33 (Labor & Public Welfare), Box 37, CPRC, MSU Libraries.

11. Joseph Crespino, *Strom Thurmond's America* (New York: Hill and Wang, 2012), 267-268.

state.¹² In a move that surprised political observers, the Senate voted to attach Helms's amendment to the education bill, leading Thurmond to remark that the vote was "one of the most wholesome actions that have been taken in the Senate since I have been in Congress."¹³ However, an alarmed Carter administration, which feared that the amendment might cause liberals to vote against the bill, forced Senate reconsideration of the amendment four days after it passed on April 9 and it was removed over Helms and Thurmond's objections.¹⁴

Undeterred, Helms moved on to a new battle to prohibit sex education in federally funded schools. Sex education battles, like the one that played out when Orange County conservatives successfully eliminated the Anaheim Union School District's sex education program in 1969, became new political tests of strength for religious and social conservatives. This group feared that "secular humanists" were threatening traditional American values, morals, and the family. They also viewed sex education programs as unwarranted government interference into family and church matters and teachings.¹⁵ Helms proposed an amendment to prohibit sex education in schools that received federal

12. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 1 (Washington: U.S. Government Printing Office, 1980), 724-725, <http://www.heinonline.org>.

13. Crespino, *Strom Thurmond's America*, 268. The vote in favor of the Helms-Thurmond prayer amendment was 47-37.

14. Memo, Frank Moore to Griffin B. Bell, April 7, 1979, OCL Les Francis's Subject Files, Education, 5/30/78-7/10/79, Box 161, JCPL, 1-2; Letter, The American Civil Liberties Union to John C. Stennis; "The School Prayer Wart," *The New York Times*, April 12, 1979, <http://www.proquest.com>. The reconsideration vote was 53-40 in favor of removing the bill and attaching it to a bill on the Supreme Court's jurisdiction, which did not pass the Congress.

15. Lisa McGirr, *Suburban Warriors: The Origins of the New American Right* (Princeton: Princeton University Press, 2001), 227-230.

funding unless parents or guardians opted their children into such programs.¹⁶ By forcing parents to opt their children into (rather than out of) the program, Helms attempted to place an impediment before schools that wished to enroll all children in sex education programs. However, this amendment did not receive the same support as his school prayer amendment and was soundly defeated.¹⁷

Whereas Helms and Thurmond's efforts illustrate rising social conservative anxieties regarding school prayer, sex education, and what they termed traditional values, Senator Hayakawa's battle against the department centered on its powers and effectiveness, thereby providing a voice for small government conservatives. Referencing his presidency of San Francisco University, Hayakawa explained that education structures had grown too large and that this growth had occurred in inverse relation to education performance. He warned that a federal department would prevent teachers from teaching the basics and pointed out that schools were being forced to pursue busing, sex education, and bilingual education, thereby ascribing these unpopular policies to the new department.¹⁸ Hayakawa therefore sought to attach a sunset amendment to the Department of Education bill, which would require Congress to look at its effectiveness after six years. If the department was performing poorly or was overreaching its authority, Congress could then have a chance to rein it in. This appealed to small government conservatives, who worried about the potential powers the new

16. Marjorie Hunter, "Education Department is Backed by Senate in a Victory for Carter," *The New York Times*, May 1, 1979, <http://www.proquest.com>.

17. Weekly Summary, "Department of Education Task Force," May 9, 1979, OCL Liaison, Les Francis's Subject Files, Education – Department of Education Task Force, 2/7/79-5/14/79, Box 162, JCPL, 1. The Senate voted 16-73 in May 1979 against Helms's sex education amendment.

18. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 1, 706-707.

department may have over local education and argued that the United States did not need a “ministry of education.”¹⁹ A similar measure had been attached to the Department of Energy’s founding bill, but Carter’s team wanted to avoid one on the education measure because they feared it could undermine the morale of the new department and create unnecessary bureaucratic uncertainty.²⁰ Again, the Carter administration and its allies worked against the Hayakawa amendment, which barely failed by two votes.²¹ The strength of support that Hayakawa received for his amendment, nonetheless, demonstrated the lack of enthusiasm many senators felt for the Department of Education, even among those who ended up voting for it.

With the Helms, Thurmond, and Hayakawa amendments defeated, the Senate voted 72-21 to send the Department of Education Organization Act to the House.²² This was not a surprising development, as the real battle for the department was not going to take place in the Senate, but the political minefields that the Carter administration dodged there illustrated that conservatives would try to attach anything to the legislation they felt warranted attention or that would destroy support for the bill.

Poison Pills: The 1979 House of Representatives Fight over the Department of Education

19. Gerald E. Sroufe, “The Case Against a Federal Department of Education,” *The Phi Delta Kappan* 58, no. 8 (1977): 598-599, <http://www.jstor.org>.

20. Fact Sheet by the Democratic Study Group, “Fact Sheet: Department of Education,” June 4, 1979, OCL Terrance Straub’s Subject Files, Education, Department of – [Creation Proposal] [2], Box 291, JCPL, 19; Letter, Abraham Ribicoff to John C. Stennis, “Possible Floor Amendments to S. 210,” April 25, 1979, JCSC, S. 210 – Department of Education 1979, Series 33 (Labor & Public Welfare), Box 37, CPRC, MSU Libraries, 3.

21. Weekly Summary, “Department of Education Task Force,” May 9, 1979, 1. Hayakawa’s sunset amendment was defeated 46-48.

22. Hunter, “Education Department is Backed by Senate in a Victory for Carter.”

The American Federation of Teachers (AFT) was confident that the vote in the Senate meant very little because they had effectively rallied their supporters in the Mid-Atlantic states to oppose it in the House, but other elements of the anti-department coalition were not so certain.²³ The same amendment strategy pursued by Helms, Thurmond, and Hayakawa in the Senate, which sought to advance conservative causes and reduce support for a cabinet-level department, was advanced by House conservatives who focused their attention on controversial subjects like busing, affirmative action, abortion, and school prayer. For conservative opponents of the Department of Education Organization Act, if they could get the House to agree to their amendments and if those amendments turned off enough legislators who feared that the existing amendments would become permanent fixtures during the conference committee markup, then the House would kill Carter's dream of establishing a Department of Education once and for all.

Conservatives warmed up their assault on the bill by reiterating their accusations against the intrusive government power through the proposed department. Dan Quayle took to the House floor on June 7 and, paraphrasing General Douglas MacArthur, warned that "Departments...always, always grow, they never, never, never die."²⁴ Robert Walker of Pennsylvania, who would soon author many of the poison pill amendments conservatives sought, championed American education for its local character and warned

23. Marjorie Hunter, "Panel Narrowly Backs Agency on Education; House Battle is Likely," *The New York Times*, May 3, 1979, <http://www.proquest.com>. The AFT had sizable political influence over legislators in New York and Pennsylvania.

24. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2 (Washington: U.S. Government Printing Office, 1980), 1213, <http://www.heinonline.org>.

that a department would violate that tradition.²⁵ However, the problem with Quayle and Walker's arguments is that elements of the Department of Education Organization Act of 1979 refuted conservative fears of an overarching federal bureaucratic agency. Section 101 of the legislation stated that parents were primarily responsible for education and that states, localities, and private institutions existed to assist them. The federal government's role was explained as one of improving management and coordination of existing federal programs.²⁶ Likewise, section 103 prohibited the Department of Education from increasing the federal government's control of education and making decisions about school personnel, programs of instruction, and textbooks.²⁷ Therefore, conservatives would need to justify their fears of the federal government's involvement in education by connecting the bill to controversial social issues that had an education dimension.

On June 11, conservatives began fighting for their amendments to the Department of Education Organization Act, all of which would touch on controversial social issues that had politically fractured the nation during the 1970s and would continue to do so in subsequent decades. Walker, mirroring Jesse Helms's efforts in the Senate, proposed a school prayer amendment. Walker's amendment called for the new Department of Education to permit daily opportunities for voluntary prayer and meditation.²⁸ As the previous chapter explained, anti-school prayer forces and the ACLU insisted that there

25. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2, 1255.

26. "Department of Education Organization Act," (PL 96-88, October 17, 1979), accessed December 29, 2013, <http://history.nih.gov/research/downloads/PL96-88.pdf>.

27. Confirmation Briefing Book, 15.

28. Spencer Rich, "Education Bill Amended to Permit School Prayer," *The Washington Post*, June 12, 1979, <http://www.proquest.com>.

was nothing voluntary about voluntary school prayer and that the act of opting out of prayer could make some students a target for ridicule in the public school system.

Walker justified his amendment on the grounds that schoolchildren had a basic right to pray and that the federal government had been anti-prayer long enough.²⁹ Overcoming arguments that the amendment was unconstitutional, Walker's amendment passed, with a majority of Democrats and Republicans voting for it.³⁰

Conservatives moved next to the busing issue, which helped crack liberal support for the Civil Rights Movement and assisted conservative outreach to white working-class voters during the 1970s. Republican Representative John Ashbrook of Ohio, an opponent of the Civil Rights Act of 1964 and conservative challenger to President Richard Nixon in the 1972 Republican presidential primaries, introduced an amendment that prohibited the Secretary of Education from requiring school districts to bus students to achieve racial balance in order to receive federal financial assistance.³¹ Chapter two illustrates that Ashbrook's busing stance was not new, as Congress took up anti-busing measures throughout the 1970s, and opposition to busing crossed party lines. During the House debate, Ashbrook said that his measure would strengthen existing anti-busing legislation, but his opponents, including California Democratic Representative Leon Panetta – who had been an assistant to HEW Secretary Richard Finch during the Nixon administration –

29. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2, 1292.

30. Rich, "Education Bill Amended to Permit School Prayer"; "To Amend H.R. 2444 By Making It a Purpose of the Department to Permit Daily Opportunity for Voluntary Prayer or Meditation in Public Elementary or Secondary Schools," *GovTrack*, accessed January 4, 2014, <https://www.govtrack.us/congress/votes/96-1979/h188>. The Walker prayer amendment passed 255-122. Democrats voted for the amendment 130-108, while Republicans voted for the amendment 125-14.

31. Letter, Office of Legal Counsel to James T. McIntyre, 4.

argued that Ashbrook's amendment would prohibit transporting children anywhere. Texas Democratic Representative Jack Brooks added that Ashbrook's amendment would harm existing civil rights enforcement.³² The Carter administration was bothered by the Ashbrook amendment because it might hinder the use of busing as a remedy for desegregation if a child were unable to attend his or her neighborhood school due to racial discrimination. Additionally, unlike prior anti-busing bills in Congress like the Biden-Eagleton Amendment, Ashbrook's amendment would not have to be renewed on a yearly basis and would become a permanent feature in federal legislation.³³ Again, despite the protests of civil rights advocates and the Carter administration, the Ashbrook busing amendment passed by over one hundred votes, illustrating the bipartisan unpopularity of the practice.³⁴

Abortion, a subject that was becoming highly politicized by the end of the 1970s and allowing conservatives to court evangelical Christians, was the subject of another conservative attack on the department bill. While Catholics were initially the only sizable religious group in America that reacted negatively to *Roe v. Wade* in 1973, evangelical Christians and other religious conservatives found the ruling distasteful by the end of the decade. Religious and social conservatives saw the legalization of abortion as another element of "secular humanism" and reducing the value of human life. They

32. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2, 1313-1315.

33. Letter, Office of Legal Counsel to James T. McIntyre, 4-5.

34. Rich, "Education Bill Amended to Permit School Prayer"; "To Amend H.R. 2444 By Providing that No Provision of Law Shall be Construed to Authorize the Secretary to Require Busing of Student or Teachers to Carry Out Desegregation as a Condition of Eligibility for Federal Assistance," *GovTrack*, accessed January 3, 2014, <https://www.govtrack.us/congress/votes/96-1979/h190>. The Ashbrook anti-busing amendment passed 227-135, with a majority of Republicans voting for it (117-17) and a slim majority of Democrats voting against it (118-110).

also saw abortion as a threat to traditional gender roles within the family.³⁵ Ashbrook introduced an anti-abortion amendment that aimed to prohibit higher education institutions using the Department of Education's facilities, which included educational buildings built with federal funds, from paying for abortions. The amendment included an exception if a woman's life was in danger. Although the Carter administration did not see a constitutional problem with Ashbrook's amendment, it did find it an unwarranted distraction from education and an attempt to place another divisive social issue into the debate.³⁶ Still, the House voted in support of Ashbrook's amendment, thereby adding another toxic issue into the bill.³⁷

The last of the divisive amendments came from Walker, who targeted affirmative action programs. Railing against the federal government on the House floor on June 12, Walker criticized "the application of HEW of quota policies telling local school districts...telling schools all the way across the country, that they have to set certain quotas in order for certain people to qualify for certain programs."³⁸ For Walker and his fellow conservatives, affirmative action quotas violated equal education opportunity and created divisions in society between the racial majority and minorities and even pitted

35. McGirr, *Suburban Warriors*, 232-233.

36. Letter, Office of Legal Counsel to James T. McIntyre, August 28, 1979, OCL Terrance Straub's Subject Files, Education, Department of – [Creation Proposal] [2], Box 291, JCPL, 9.

37. "To Amend H.R. 2444 By Prohibiting the Use of Facilities Under the Control of the Department by any Institution of Higher Education Which Uses Mandatory Student Fees to Pay for the Performance of Abortions Except Where the Life of the Mother Would Be Endangered if the Fetus Were Carried to Term," *GovTrack*, accessed January 3, 2014, <https://www.govtrack.us/congress/votes/96-1979/h288>. Ashbrook's anti-abortion amendment passed 257-149. Democrats voted against the amendment 132-124, while Republicans voted for it 133-17.

38. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2, 1323-1325.

minorities against each other.³⁹ The amendment that Walker introduced prohibited the denial of equal education opportunities through the use of numerical quotas and requirements tied to race, national origin, or gender.⁴⁰ Like the Ashbrook abortion amendment, the Carter administration found Walker's amendment a nuisance because the *Bakke* decision reached a year prior found that quotas were not constitutional.⁴¹ Walker's amendment drew immediate fire from liberals within the House such as Democratic Representative Henry B. Gonzalez from Texas, who argued that affirmative action was necessary to alleviate past discrimination and that the elimination of affirmative action programs would harm minority admissions into medical and law schools.⁴² Nevertheless, Walker's amendment passed, and, like Ashbrook's anti-busing amendment, it carried a majority of Republican and Democratic votes, signifying the shattering consensus surrounding racial issues at the end of the 1970s and how conservative opposition to civil rights proposals was becoming politically appealing.⁴³

There would not be any legislative measures taken to strip these amendments out of the House bill, so that meant that unlike the previous Senate bill, the House would have to vote for the Department of Education Organization Act with pro-school prayer,

39. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law*, Part 2, 1323-1325.

40. Letter, Office of Legal Counsel to James T. McIntyre, 1-2; "House Backs Education Agency, But Takes Stand Against Quotas," *The New York Times*, June 13, 1979, <http://www.proquest.com>.

41. Letter, Office of Legal Counsel to James T. McIntyre, 2-3.

42. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2, 1326-1327.

43. "To Amend H.R. 2444 by Prohibiting Denial of Educational Opportunities by Rules Which Utilize Any Ratio or Other Numerical Requirement Related to Race, Creed, Color, National Origin, or Sex," *GovTrack*, accessed January 3, 2014, <https://www.govtrack.us/congress/votes/96-1979/h195>. The House voted in favor of Walker's anti-affirmative action amendment 277-126. Democrats voted 138-116 and Republicans voted 139-10 in favor of the amendment.

anti-busing, anti-abortion, and anti-affirmative action elements in it. All of those issues would become a conservative call to arms in future election cycles, and the Department of Education fight saw all of them used in an all-out assault on expanding the federal education bureaucracy. The inclusion of the amendments also illustrated the use of civil rights issues against liberals as conservatives forced liberal politicians and the Carter administration to take stands in favor of unpopular policies. Whereas the 1978 legislative fight saw the Carter administration embroiled in a battle with liberals over transferring Head Start, the 1979 fight was setting up as a showdown in which conservatives used racial issues and unpopular court rulings to destroy the Department of Education bill's chances of passage.

The best hope for the Carter administration was to convince House liberals and undecided members of the chamber to hold their noses and vote for the legislation in spite of the onerous amendments, and then have the conference committee shed the bill of the amendments. However, this was an uphill argument because all of the House amendments passed by over 100 votes, so if the amendments were stripped out that might undermine support for the bill when it came out of conference. In addition, the Senate had a history of supporting anti-busing legislation on appropriations bills, and it had passed Helms and Thurmond's prayer amendment.⁴⁴ Conservatives openly exposed their amendment strategy when Shirley Chisholm spoke on the House floor on July 11. Chisholm explained that because of the new amendments added to the bill that she could not support it, and she encouraged others to follow her lead. She announced that she could not support a department that denied equal opportunity in education and betrayed

44. "Making a Bad Bill Worse," *The Washington Post*, June 18, 1979, <http://www.proquest.com>.

the fight for civil rights.⁴⁵ After Chisholm made her announcement against the bill, conservatives applauded.⁴⁶

In spite of their successes in amending the bill, conservatives suffered a political blow when the House voted on the legislation on July 11. By a vote of 210-206, the bill narrowly won passage and was referred to conference committee.⁴⁷ Breaking down the vote days later, the Carter team noted the “unusual nature” of the vote and realized that the fight was not over. The bill gained its strongest support from Southern conservatives, as two-thirds of the eighty most conservative Democrats in the House voted for it. The administration feared that if the bill was stripped of its controversial amendments in committee that it would lose the support of at least seventeen Southern conservatives, but it guessed that it would lose a crucial twenty liberal votes for the bill if it retained the amendments.⁴⁸ The administration’s effort was likely saved by the Congressional Black Caucus as more members voted for the legislation than against it. If the entire Caucus had followed Chisholm and other Caucus leaders’ recommendation, fallen into the conservative trap, and voted against the bill, it would have been defeated 214-202. After the vote, *The New York Times* was not optimistic that Carter would have enough votes

45. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 2, 1528.

46. Spencer Rich, “Education Department Squeaks Past the House,” *The Washington Post*, July 12, 1979, <http://www.proquest.com>.

47. “To Pass H.R. 2444, A Bill to Establish a Department of Education,” *GovTrack*, accessed January 3, 2014, <https://www.govtrack.us/congress/votes/96-1979/h289>. Democrats voted in favor of the bill 175-89, while Republicans voted against it 117-35.

48. Memo, Gary Fontana and Carroll Thornton to James T. McIntyre, Jr and Hubert L. Harris, Jr., July 14, 1979, OCL Lisa Bourdeaux Subject Files, Voter Analysis – Department of Education Bill, 7/14-7/23/79, Box 113, JCPL, 1-3. Another study by the administration found that during the vote, eighty-four House members voted for the bill, but also voted for the anti-civil rights amendments whereas forty-three House members voted against the bill and against the anti-civil rights amendments

after the conference committee to secure passage of the bill, but it said the lack of passage was not a big deal as it was “not a casualty worth mourning.”⁴⁹ Carter, the NEA, the AFT, and conservatives prepared for a final showdown regardless of what the conference committee decided.

The Final Road to Approval

When the conference committee was named in August 1979 it looked very favorable for the administration. Five senators – three Democrats and two Republicans – and nine representatives – six Democrats and three Republicans – composed the committee. All five of the senators had voted for the Department of Education Organization Act and only two of the representatives on the committee – Republicans John Erlenborn and Arlan Strangeland of Minnesota – had voted against the legislation and supported adding the controversial amendments to the bill.⁵⁰ The Carter administration favored taking the amendments out of the bill and the committee did just that by deleting all of the conservative amendments in September.⁵¹

The final bill that emerged from the conference committee secured easy passage in the Senate, and the House narrowly approved the final bill by a 215-201 margin on

49. “The New D.O.E. May be D.O.A.,” *The New York Times*, July 28, 1979, <http://www.proquest.com>.

50. Marjorie Hunter, “Congress Delays Action on Education Department,” *The New York Times*, August 5, 1979, <http://www.proquest.com>.

51. Letter, Office of Legal Counsel to James T. McIntyre, 10; Memo, Pat Gwaltney to Jim McIntyre and Harrison Wellford, September 14, 1979, OCL Terrance Straub’s Subject Files, Education, Department of – [Creation Proposal] [2], Box 291, JCPL, 2; Radin & Hawley, *The Politics of Federal Reorganization*, 143. Walker’s prayer amendment was deleted in a 6-3 vote, Ashbrook’s anti-busing amendment was deleted in a 7-2 vote, Ashbrook’s anti-abortion amendment was deleted in a voice vote, and Walker’s anti-affirmative action amendment was replaced with the statement written by Ribicoff: “There is a continuing need to ensure equal access for all Americans to educational opportunities of a higher quality and that such opportunities should not be denied because of race, creed, color, national origins, or sex,” which garnered the support of civil rights groups.

September 27.⁵² The vote was deemed a domestic policy success for Carter and the close vote illustrated the ideological diversity that was prevalent at the time among future conservative leaders. After the amendments were deleted, fourteen Democrats and two Republicans switched their votes from opposing passage to supporting the bill. Eleven representatives, three Southern Democrats and eight Republicans, all of whom voted for the bill with the amendments switched their votes.⁵³ One of the House Republicans who switched his vote was someone who would later dominate the Republican ranks in the Senate: Representative Trent Lott of Mississippi. Lott represented a rising wave of conservative Republicans from the Sun Belt, having won his election to the House in 1972 and becoming just the second Republican to win election from Mississippi since Reconstruction.⁵⁴ Lott voted for the initial Department of Education bill with the amendments, but told the Carter administration after those amendments were deleted that he was disappointed and indicated that he would not vote for the final bill.⁵⁵ Considering that Lott would become the House Minority Whip a year later and a leading national figures in the Republican Party, his support for the deleted amendments illustrates the political vision of how the modern conservative movement would view federal policy issues regarding religious freedom, race, and abortion.⁵⁶

52. The Senate approved of the revised Department of Education Organization Act of 1979 by a 69-22 vote.

53. Radin & Hawley, *The Politics of Federal Reorganization*, 144.

54. "Trent Lott," *The Center for Responsive Politics*, accessed January 6, 2014, http://www.opensecrets.org/revolving./rev_summary.php?id=70566.

55. Memo, Al McDonald to Bob Thomson, September 26, 1979, OCL Liaison Terrance Straub Subject Files, Education, Department of, Box 291, JCPL, 1.

56. Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton: Princeton University Press, 2007), 234-235.

Another rising conservative star went a different way in the Department of Education debate. Representative Newt Gingrich of Georgia, who was serving his first year in the House, voted for the Department of Education legislation both times that it came to the House floor. Since the legislation cleared the House the first time by a mere two votes, one could argue that Gingrich's vote was one of the deciding factors in the Department of Education's passage. Yet more than a decade later as Speaker of the House, Gingrich would try to distance himself from his vote and ironically supported a 1995 plan to abolish it. In 2012 when he ran as a presidential candidate, former Massachusetts Governor Mitt Romney criticized Gingrich's support for the Department of Education, to which Gingrich responded that he now favored a smaller department that would only collect research and data, which is very familiar to what the initial Department of Education did in 1867.⁵⁷

The divergent paths taken by Lott and Gingrich in the Department's creation demonstrate that the modern conservative movement was still trying to find its identity. The House approval of conservative measures against busing, abortion, and affirmative action, and support for school prayer, at a time when the Republican Party was in the minority in both chambers, shows that these issues were not overtly partisan in 1979. Nevertheless, the Congressional debates over the Department of Education show that a rising chorus of issues were becoming potent weapons for conservative Republicans, and

57. "Mitt Romney Says Newt Gingrich Wanted Education Department, then Didn't," *The Tampa Bay Times*, January 23, 2012, accessed January 4, 2014, <http://www.politifact.com/truth-o-meter/statements/2012/jan/25/mitt-romney/mitt-romney-says-newt-gingrich-voted-education-dep/>; Valerie Strauss, "Romney, Santorum, Paul, Gingrich: Where They Stand Now on Education," *The Washington Post*, March 6, 2012, accessed January 4, 2014, http://www.washingtonpost.com/blogs/answer-sheet/post/romney-santorum-paul-gingrich-where-they-stand-now-on-education/2012/03/05/gIQAHeZ2tR_blog.html.

racial issues in particular provided a sizable degree of their opposition to the Department of Education's creation.

On October 17, 1979, President Carter was able to sign the Department of Education Organization Act into law. Two days later the NEA enthusiastically endorsed Carter's renomination and Mondale announced that the passage of the department showed that Carter was "the most pro-education president in American history."⁵⁸ However, passing the bill came at a high cost. Carter did not get the broad department he wanted and several important education-related programs were not included because of bureaucratic turf wars. The administration had engaged in a bruising two-year battle that absorbed a great deal of political capital where liberal and conservative forces used racial concerns to hold up passage of a cabinet-level department. After it was all over the only people who seemed enthusiastic about the Department was the leadership of the NEA, which was not of sufficient size to protect the President from future political challenges.⁵⁹ While defeated, opponents of the bill could take a small token of consolation from the President's speech at the bill signing, where he repeated that states, localities, and private institutions bore the primary responsibility for education and that the bill would improve the delivery of education and health and human services.⁶⁰ This was a far cry from Carter's original call for a reorganization that would give the Secretary of Education greater visibility and coordination over federal education programs. The racially

58. "NEA Praises the President," *The New York Times*, September 29, 1979, <http://www.proquest.com>.

59. "The Federal Hand in Education," *The New York Times*, October 2, 1979, <http://www.proquest.com>.

60. Statement by the President at Education Bill Signing, "Statement by the President," October 17, 1979, Jimmy Carter White House Central Subject File, FG-26, 1/20/77-5/31/80, Box FG-145, JCPL, 1-2.

charged, small government debates about the department's future were not over either, as they would infuse Carter's choice for the first Secretary of Education and some of the early policies of the new department.

Chapter Five: The U.S. Department of Education Avoids the Fate of Its Predecessor, 1979-1984

The Department of Education began on May 4, 1980, with a budget of \$14.2 billion, more than 17,000 employees (two-thirds of which were teachers in Defense Department schools), and more than 150 programs. Its budget made it larger than the Energy, Justice, Commerce, Interior, and State departments.¹ Furthermore, it was less all-inclusive than it could have been, or perhaps should have been, as the 1978 and 1979 legislative battles meant that it did not include Head Start, many of the activities of the National Science Foundation (NSF), veterans education activities, Indian schools, the National Endowment of the Arts, or the Department of Agriculture's school lunch program.²

Despite its limited powers, the new department would soon become a lightning rod for conservative criticism as the racially-infused issues that had marked the debate over the Department in Congress spilled over into the nomination and confirmation of its first cabinet secretary as well as the department's actions toward racially segregated universities and bilingual education programs. In each instance, conservatives read into the department their worst fears of federal overreach and the feared consolidation of education policy on the national level. By the time Carter left the White House in January 1981, conservatives had made it their mission to eliminate the new department. They were stymied, however, by an alarming report in 1983 about the state of America's existing education institutions. This report, entitled *A Nation at Risk*, criticized the

1. Samuel Halperin, "The Department of Education: Last but Not Least," *Change* 11, no. 8 (1979): 37, <http://www.jstor.org>.

2. "U.S. Agency Set to Begin – With Serious Limitations," *The New York Times*, October 30, 1979, <http://www.proquest.com>.

quality of American education and warned that the nation faced serious economic problems unless local, state, and federal authorities took education reform seriously. Faced with this news, American attitudes about federal involvement with education changed and thwarted conservative attempts to abolish the Department of Education under President Ronald Reagan.

Nominating and Confirming a New Cabinet Secretary

One of the appealing results of having a Department of Education was that it would give education a spokesperson within the presidential cabinet and with the press. Under the old structure of the Department of Health, Education, and Welfare (HEW) four different officials could claim to be the chief education official in Washington: the Commissioner of Education, the HEW Secretary, the Assistant Secretary of Education, and the Director of the National Institute of Education. This had created a great deal of confusion regarding who directed the nation's education policy.³ Now, these powers resided with the Secretary of Education and the first Secretary would be tasked with getting the new department off the ground and forming lasting relationships with Capitol Hill and state education officials. This person would be a symbol of the nation's commitment to education, which meant that Carter had to be very careful with who he nominated. Nominating someone with strong ties to the National Education Association (NEA) was unacceptable since it would antagonize both the American Federation of Teachers (AFT) and elements of the conservative right that had used the NEA as a popular whipping boy during the 1978 and 1979 legislative debates. The Carter team also had to weigh how the appointment would impact the President's standing for the

3. James T. McIntyre, Jr., "For Creation of a Department of Education," *The New York Times*, June 6, 1979, <http://www.proquest.com>.

1980 presidential election; the visibility of the department; the new department's relationship with elementary, secondary, and university officials; and the existing education bureaucracy.⁴

After weighing the political costs of choosing the first Secretary of Education, President Carter decided to nominate someone who had few established ties to American education institutions. On October 30, 1979, the White House announced the nomination of Judge Shirley Hufstедler of the Ninth Circuit Court of Appeals. Hufstедler had been appointed to the Ninth Circuit by President Lyndon B. Johnson in 1968 and was popular in liberal circles.⁵ She was the highest-ranking female jurist in the United States and was rumored to be Carter's top choice for a Supreme Court appointment, which would have made her the first female Supreme Court justice in history. On the bench, Hufstедler supported racial and gender equality, but she was on record opposing the judiciary's role in solving the nation's social problems.⁶ She had a tenuous link to education circles, having served as a trustee of several colleges and universities, but this was deemed an asset because she was not too comfortable with the nation's existing education bureaucracy and would therefore not favor special power brokers. Her legal experience was also considered useful because of her awareness of existing constitutional boundaries

4. Beryl A. Radin and William D. Hawley, *The Politics of Federal Reorganization: Creating the U.S. Department of Education* (New York: Pergamon Press, 1988), 152.

5. Steven R. Weisman, "Carter to Name Judge to Direct Education Department," *The New York Times*, October 30, 1979, <http://www.proquest.com>.

6. Radin & Hawley, *The Politics of Federal Reorganization*, 153; Deanna L. Michael, *Carter as Education Policymaker: Equal Opportunity and Efficiency* (Albany: State University of New York Press), 103; Press Announcement, "Announcement by Deputy Press Secretary Rex Granum," October 30, 1979, Shirley Hufstедler Nomination Files (SHNF), Nomination Hearing, Box 20, Jimmy Carter Presidential Library (JCPL), 2-4.

between states and the federal government.⁷ Nor had she ruled on a busing case and she had voiced concerns about the quality of American education, appearing to emphasize students instead of teachers and teachers' unions.⁸ Hufstedler's nomination also represented the Carter administration reaching out to women and a commitment to diversify the cabinet. Finally, back in the 1920s, advocates of a cabinet-level department had emphasized that a woman should lead it based on the large numbers of women teaching in the nation's schools, and Carter's nomination of Hufstedler thereby reflected not only a political necessity, but a historical continuity. For all these reasons, she was seen as a relatively safe political choice.

Reception to the Hufstedler nomination, however, was mixed and mirrored elements of the 1978 legislative debate, including liberal elements questioning why the Carter administration did not choose a racial minority for the position and someone with more professional education experience. During the 1979 House debate, Representative Shirley Chisholm of New York stated that Carter had hinted to the Congressional Black Caucus that he would nominate a black Secretary of Education, which could have been either California Education Commissioner or HEW Assistant Secretary for Education Mary Frances Berry.⁹ Additionally, Latinos expected a larger role in the department due to their rising share of the American population and their lack of representation in

7. "Department of Education Nominee Opposes Federal Rule," *The New York Times*, November 28, 1979, <http://www.proquest.com>; "The Hufstedler Nomination," *The Washington Post*, October 31, 1979, <http://www.proquest.com>.

8. Photo Opportunity, "Judge Shirley Hufstedler Secretary of Education-designate," October 31, 1979, Shirley Hufstedler Collection Speech Files (SHCSF), Speeches 10/31/79-2/24/80, Box 16, JCPL, 4-5.

9. Spencer Rich, "Education Department Squeaks Past House," *The Washington Post*, July 12, 1979, <http://www.proquest.com>.

Carter's cabinet. Jerry Apodaca, former governor of New Mexico, was seen as the leading Latino candidate for the position.¹⁰ When Hufstedler was nominated, some Latino groups such as the League of United Latin American Citizens (LULAC) voiced their disappointment to the administration, although the Mexican-American Legal Defense Fund publicly approved of the nomination due to what they saw as her supportive record on civil rights and her sensitivity to the problems of Latinos.¹¹

Education leaders such as Gordon Cawelti, executive director of the Association for Supervision and Curriculum Development, a national organization of teachers and principals, criticized Hufstedler's lack of ties to the education community. Cawelti charged that Hufstedler was not "qualified in any sense at all...It's increasingly irritating to people out in the field to have bureaucrats in Washington making policy and spend millions of dollars who don't know what's going on."¹² Liberal questioning of the administration's decision to nominate Hufstedler reflected some of the identity politics inherent in the Democratic coalition and its commitment to the needs of education. However, the nomination of a prominent woman with a strong civil rights record to the presidential cabinet helped the administration effectively respond to these criticisms.

The coaching Hufstedler received for her confirmation hearings reflected the Carter administration's recognition of how racially oriented issues could become ammunition by the conservative right to oppose her nomination, particularly since the

10. "Carter Signs Measure Creating a Department of Education: Political Aspects of Decision," *The New York Times*, October 18, 1979, <http://www.proquest.com>.

11. Letter, Omar Barbarossa to Jack H. Watson, Jr., November 11, 1, 1979, Jimmy Carter White House Central File Subject File (JCWHCF), FG-26, 1/20/77-1/20/81, Box FG-146, JCPL; Radin & Hawley, *The Politics of Federal Reorganization*, 155.

12. "Department of Education Nominee Opposes Federal Rule."

committee that would hold the confirmation hearings, the Senate Committee on Labor and Human Resources, included four Republican members that voted against the Department of Education Organization Act of 1979.¹³ The committee also included Senator Thomas Eagleton of Missouri, who was a fierce opponent of busing policies and who co-authored yearly amendments with Senator Joe Biden of Delaware on HEW appropriations bills to prohibit federal funding for the practice. Hufstedler was therefore urged by her administration handlers to emphasize that fiscal inequities in education warranted federal action and that the new department stood for the elimination of unwarranted bureaucracy in education. On busing, Hufstedler was coached to say that the Department of Education would merely enforce the law and assist school districts in creating necessary remedies to solve segregation, which could range from magnet schools to busing. Hufstedler's views on affirmative action were deemed most troubling. As a judge, Hufstedler had ruled in *U.S. v. El Camino Community College* in 1979 that Title VI of the Civil Rights Act of 1964 authorized the Office of Civil Rights to ask for demographic data from programs and activities that received federal funding. In light of how divisive affirmative action programs were in the public eye, Hufstedler was urged not to take a strong position on the subject.¹⁴

In the end, the administration's fears about Hufstedler suffering a bruising confirmation battle never came to fruition. The Senate Labor and Human Resources Committee unanimously approved of her nomination and on November 30 the Senate

13. The Republicans on the Senate Committee of Labor and Human Resources that opposed the Department of Education Organization Act of 1979 were William L. Armstrong (CO), and Gordon J. Humphrey (NH), Orrin G. Hatch (UT), Richard Schweiker (PA).

14. Confirmation Briefing Book, "Confirmation Briefing Book Volume I: November 20, 1979," November 20, 1979, Shirley Hufstedler Chron Files (SHCF), Confirmation Briefing Book, Vol. 1, No. 1 (A), Box 19, JCPL, 2-15, 39-41.

voted 81-2 to confirm her as the first modern Secretary of Education.¹⁵ Despite the overwhelming confirmation, it should be noted that during the hearings Hufstedler emphasized that the federal government should play a minimal role in education, serving to maximize efficiency and cooperation with state and local officials. This reflected the power of conservative arguments against the Department and issues raised during the 1978 and 1979 legislative debates about its potential for meddling in local affairs. On May 4, 1980, the Department of Education began its operations, and on May 7 the White House sponsored a “Salute to Learning Day” to celebrate the beginning of the Department, where Carter’s twelve-year-old daughter Amy unveiled the department’s flag. At the celebration Hufstedler reiterated that the department would be a place to streamline regulations, reduce paperwork, and not interfere with local control.¹⁶ However, the new department’s actions regarding racially segregated schools and bilingual education programs would soon have conservatives charging that Hufstedler’s words constituted hollow rhetoric.

Desegregation in Higher Education

In conjunction with her support for local control of education, Hufstedler had been vocal about her view that equal education opportunities should be one of the goals

15. Radin & Hawley, *The Politics of Federal Reorganization*, 158. The two votes against Hufstedler’s nomination were Senator Jesse Helms (R-NC) and Senator John Tower (R-TX).

16. “Education Department Marks Cabinet Status;” *The New York Times*, May 8, 1980, <http://www.proquest.com>; Fred M. Hechinger, “Amid Fanfare, New Federal Office Prepares for Work,” *The New York Times*, May 13, 1980, <http://www.proquest.com>; Remarks for the Secretary, “Remarks for the Secretary – Wednesday Afternoon Ceremony at the White House – 5/7/80,” May 7, 1980, SMHSF, Education Department – Creation Ceremony, 5/7/80, Box 1, JCPL, 7; Remarks, “Draft Remarks for the Secretary Wednesday Afternoon Ceremony at the White House,” SHCSF, Education Department – Transition – Education Week, Box 3, JCPL, 2.

of the new department.¹⁷ These positions reflected the views of the Carter administration and most importantly Vice President Walter Mondale, who had led much of the administration's effort to secure Congressional approval of the new department. In talking with Hufstedler after her nomination, Mondale reminded her that civil rights was a classic example of her responsibilities as an administration official.¹⁸

Hufstedler would soon have the opportunity to put her views about equal education opportunities into action regarding the desegregation of state colleges. Many states had separate white and black colleges prior to *Brown v. Board of Education* in 1954, and these separate colleges continued to exist well after that ruling. Education and civil rights officials within HEW and the Department of Education argued after *Brown* that these dual systems, which duplicated education programs and services, created an environment that fostered racial segregation. Federal administrators had been reluctant to go after higher education institutions in light of the backlash toward civil rights-oriented education policies during the 1970s and because they found it much harder to prove intentional discrimination in university systems than in local elementary and secondary schools.¹⁹ Nonetheless, in July 1980, the Department of Education notified Texas that it must submit plans to desegregate its higher education system or face the loss of federal funding. The Department pointed out that Texas's universities were overwhelmingly white or black. Texas A&M University in College Station, for instance, had only sixty-

17. Remarks for the Secretary, "Remarks for the Secretary – Wednesday Afternoon Ceremony at the White House – 5/7/80," 8.

18. Transcription of Conversation, "Transcription of Tape – Mondale/Hufstedler," December 7, 1979, SHCSF, Speeches 10/31/79-2/24/80, Box 16, JCPL, 4-5.

19. David E. Rosenbaum, "U.S. Prodding Four States to Put an End to Segregation in Higher Education," *The New York Times*, January 8, 1981, <http://www.proquest.com>.

six black students, fifty of whom played varsity sports, out of a student population of more than 21,000 in 1976-1977. Texas claimed that it had a fair admissions policy and that the segregation was *de facto*, not *de jure*, but the Department argued that the faculty between white and black colleges was unequal in ability and that identical programs should be merged to foster greater desegregation.²⁰

By the beginning of 1981, other states found themselves investigated and prodded by the Department of Education regarding racial segregation in their university systems. Alabama, Delaware, South Carolina, North Carolina, West Virginia, Kentucky, and Missouri all received notices that their universities were unconstitutionally segregated and threatened with the loss of federal funding if they did not remedy the situation. Alabama, Delaware, and South Carolina were informed that more than twenty-five years after *Brown* their universities were not racially integrated, as too few black students were attending formerly white institutions. For example, South Carolina State College was 98.6% black in 1978, whereas the enrollment at eleven traditionally white institutions in the state was 91.4% white.²¹ Kentucky was likewise criticized because Kentucky State University, originally established for black students, had a student population that was 82% black, and Missouri was criticized for having a lack of black representation on its faculties at the University of Missouri-Columbia, the University of Missouri-Rolla, and Southeast Missouri State University.²²

20. David E. Rosenbaum, "U.S. Will Seek Plan from Texas on Desegregating State Colleges," *The New York Times*, July 29, 1980, <http://www.proquest.com>.

21. Rosenbaum, "U.S. Prodding Four States to Put an End to Segregation in Higher Education."

22. "Missouri and Kentucky Told to Integrate Colleges," *The New York Times*, January 16, 1981, <http://www.proquest.com>.

The Department's actions were viewed positively by many civil rights advocates, who believed that the actions were long overdue. Presidential administrations prior to Carter's had slowed the enforcement of desegregation suits against secondary and post-secondary institutions, with the Nixon administration preferring local, negotiated settlements over federal lawsuits. However, conservatives saw the matter differently. To them, the actions taken by the Department of Education reeked of the affirmative action and racial quota policies they had come to disdain and constituted more social engineering by Carter's liberal administration. According to conservatives, the reason that these institutions were nearly all-white or all-black was because students chose to attend these institutions to be with their peers, and their decisions were simply evidence of their constitutional right to freedom of association. The lawsuits also created political headaches for Carter, who had won the entire South with the exception of Virginia in the 1976 presidential election.²³ Conservatives saw this early action of the Department of Education as an overreach of federal authority, in violation of Title VI of the Civil Rights Act of 1964, and it justified their fears that the Department of Education was a Trojan Horse for more federal control over local education issues.²⁴

Bilingual Education Regulations

Although the desegregation of higher education institutions aroused conservative passions, the Department of Education's regulations regarding bilingual education created a wider firestorm that eventually led to Congressional action. In 1974, the

23. David E. Rosenbaum, "U.S. Will Seek Plan from Texas on Desegregating State Colleges." *The New York Times*, July 29, 1980, <http://www.proquest.com>.

24. Conservatives argued that Title VI of the Civil Rights Act of 1964 prohibited any forms of racial discrimination, which applied to racial majorities and minorities. For conservatives, affirmative action programs and other federal initiatives aimed at achieving racial quotas violated this section of the Civil Rights Act because those policies created a disadvantage for whites in order to help racial minorities.

Supreme Court ruled in *Lau v. Nichols* that San Francisco public schools violated the rights of 2,423 Chinese students with limited English proficiency when it required them to attend English-only classes.²⁵ The Court found that children who were proficient in a non-English language were protected under Title VI of the Civil Rights Act of 1964. It ordered school districts to take “affirmative steps” to identify students who were non-native English speakers and to provide them with assistance in learning English. This could include bilingual education, where students would be taught in their native language while also being taught English until they were proficient enough to be mainstreamed into the regular classroom.²⁶ Although HEW was supposed to draft regulations that would apply to schools that received federal education funds after the *Lau* ruling, these regulations were never issued because of the political controversies surrounding bilingual education programs, centering on concerns that they could become culture programs that would never transfer children into an English-only setting.²⁷ Latino advocacy groups, enraged at the lack of progress in implementing the Court’s decree in *Lau*, pressured the Department of Education to issue the regulations schools needed to follow regarding non-native English students. Latino champions of bilingual education believed that Secretary Hufstедler would be an advocate for them since she was involved with the *Lau* litigation, authoring a dissenting opinion when the case was considered by the Ninth Circuit, which eventually became the Supreme Court’s opinion regarding the

25. “U.S. Strengthens Rules to Govern Bilingual Classes,” *The New York Times*, August 6, 1980, <http://www.proquest.com>.

26. Annual Report, “1980 Annual Report: U.S. Department of Education,” SHCSF, Box 1, JCPL, 71.

27. Memo, Jim McIntyre and Stu Eizenstat to Jimmy Carter, February 24, 1978, Office of Congressional Liaison (OCL) Les Francis’s Subject Files, Education – General Policy and Background 2/21/78-4/12/78, Box 162, JCPL, 10.

case.²⁸ This increased the chances that the Department of Education would take a supporting position on bilingual education. Furthermore, elements of the Carter administration wanted regulations issued prior to the presidential election to strengthen Carter's political position with Latinos.²⁹

On August 5, 1980, the Department of Education issued draft regulations regarding the implementation of *Lau*. With Hufstедler directing the work, the department's guidelines called for non-native English-speaking students to be taught English as soon as possible and that they should not be allowed to fall behind their classmates as they learned the language. The regulations established a procedure for eligibility based on trained school language personnel interviews with parents followed by written and oral tests by students. If a child was found to be more proficient in his or her native language than English, the child would be eligible for bilingual education services in required subjects.³⁰ Children would be allowed to stay in segregated language programs for up to five years.³¹ The regulations applied to any school receiving federal education funds regardless of how many non-native English-speaking students attended their institution. If schools did not comply, they faced a cutoff of federal funds, which constituted an \$18 million federal payout.³² Schools were only required to have trained

28. Hufstедler argued in her dissenting opinion in *Lau* that bilingual education programs were a solution to educate non-English speaking students and that Title VI of the Civil Rights Act of 1964 mandated such programs in order to achieve education equity in American schools.

29. Radin & Hawley, *The Politics of Federal Reorganization*, 204.

30. "U.S. Strengthens Rules to Govern Bilingual Classes."

31. "Ending the Bilingual Double-Talk," *The New York Times*, August 8, 1980, <http://www.proquest.com>.

32. Fred M. Hechinger, "About Education: U.S. Ruling Fuels Controversy Over Bilingual Teaching," *The New York Times*, January 20, 1981, <http://www.proquest.com>.

bilingual educators at the elementary level, and schools could apply for a waiver if they had an alternative program that served the needs of students who would be eligible for bilingual education under the guidelines.³³ The Department's efforts were aimed at providing necessary education services to groups in need, since it was estimated that the nation had 3.5 million students in need of English services and only sixty percent of that number were receiving assistance. The ethnic communities with the largest demand for such services were Latinos, Chinese, Koreans, and Vietnamese, all of whom had seen their share of the American population increase in the late 1960s and 1970s.³⁴ The lack of services to these populations, especially for Latinos, created educational inequities that could explain why ability grouping systems placed nearly one-third of Latino students in lower tracks relative to one-seventh of whites.³⁵

The regulations immediately came under fire from conservatives of both parties, who saw the measure as an interference with local control and a plot to weaken the foundations of America as an English-speaking nation. During the Senate's 1979 debate on the Department of Education Organization Act, Senator Hayakawa railed against bilingual education, which he equated with other programs that sacrificed teaching basic skills for community services.³⁶ Hayakawa was a strong advocate of English-only education and sought a constitutional amendment that would make English the common language of the United States. His efforts reflected conservative anxieties regarding what

33. Radin & Hawley, *The Politics of Federal Reorganization*, 205.

34. "U.S. Strengthens Rules to Govern Bilingual Classes."

35. Annual Report, "1980 Annual Report: U.S. Department of Education," 73.

36. U.S. Senate Committee on Governmental Affairs, *Legislative History of Public Law 96-88: Department of Education Organization Act*, Part 1 (Washington: U.S. Government Printing Office, 1980), 706, <http://www.heinonline.org>.

non-European immigration was doing to the fabric of the nation.³⁷ Conservative columnist George Will also opposed the regulations, charging that they were a blatant violation of Section 103 of the Department of Education Organization Act which prohibited the Department from influencing the curriculum decisions of local school districts.³⁸ The conservative Ethics and Public Policy Center similarly argued that “militant minority leaders” were trying to use the federal government to create special programs that would prevent students of different backgrounds from mixing with each other in schools, thus eroding the democratic foundation of society and making it more difficult to achieve future consensus.³⁹ Conservatives also stressed that the cost of establishing bilingual education programs would be prohibitive for local school districts, estimating that the cost could be as high as \$591 million a year due to the cost of training and hiring bilingual educators.⁴⁰ This flew in the face of the arguments and public pronouncements Hufstedler had made during her nomination and confirmation about how the Department of Education would seek to cut costs and eliminate bureaucracy. Even liberal columnist William Raspberry, who had not supported the creation of the Department of Education in 1979, pointed out that the regulations provided support for the conservative argument that the new department was a “back-door way of creating a

37. “In Plain English,” *The New York Times*, October 10, 1981, <http://www.proquest.com>.

38. George Will, “Fast and Loose with the Truth,” *The Washington Post*, October 9, 1980, <http://www.proquest.com>.

39. Raymond English, “For Tuition Tax Credits and Vouchers,” *The New York Times*, April 19, 1981, <http://www.proquest.com>.

40. “Study Estimates Cost of Bilingual Teaching: A Legal Requirement,” *The New York Times*, August 13, 1980, <http://www.proquest.com>.

national education policy, of breaking with the long tradition of a limited federal involvement in education.”⁴¹

The Department held six hearings in five cities in September 1980 to get public feedback on the regulations. The hearings drew large crowds that voiced opposition to the regulations, and more than 400 people testified.⁴² Organizations that supported the creation of a cabinet-level education department, like the American Association of School Administrators, the National School Boards Association, the National Association of State Boards of Education, the Chief State School Officers, and the National Congress of Parents and Teachers questioned the regulations on the grounds that they interfered with local-level innovations to assist non-English-speaking students. Latinos voiced concerns that the regulations did not go far enough to support children in their native language and that immersion into English forced children to renounce their heritage and turned them against their parents.⁴³ In response to the public outcry and polls that showed Americans supported immersion over bilingual education, Congress intervened in the fall of 1980. Through an appropriations measure for the departments of Labor, Education, and Health and Human Services it prohibited the Department of Education from officially issuing regulations related to bilingual education until June 1981.⁴⁴

41. Bill Raspberry, “Federal Intrusion in the Classroom,” *The Chicago Tribune*, October 28, 1980, <http://www.proquest.com>; Bill Raspberry “Schools in the Cabinet,” *The Washington Post*, October 9, 1979, <http://www.proquest.com>. During the legislative debate over the Department of Education Organization Act, Raspberry warned that a cabinet-level department would mandate a national test for students and intrude upon local curriculum and teaching practices.

42. “Bilingual Plan Opposed,” *The Washington Post*, October 23, 1980, <http://www.proquest.com>.

43. Radin & Hawley, *The Politics of Federal Reorganization*, 206; Hechinger, “About Education.”

The early regulations issued by the Department of Education regarding desegregating higher education institutions and mandating bilingual education programs demonstrated to conservatives that the new department was a threat to local authority over education, especially as it concerned racially charged issues. According to the New Right, higher education institutions were not discriminating against racial minorities and federal efforts to desegregate these institutions constituted reverse racism against whites. The New Right also interpreted bilingual education programs as a threat to the nation's English-speaking heritage. While it would be a stretch to argue that these two actions were responsible for Ronald Reagan's defeat of Carter in the 1980 presidential election, since the status of the economy and the Iranian hostage crisis took a toll on Carter's popularity, they likely did not help the President, as Carter lost every Southern state he had won four years earlier with the exception of his native Georgia. Carter also lost the vote of forty-eight percent of the NEA's members despite pushing the group's primary legislative project.⁴⁵ Under Reagan, conservatives looked towards eliminating the Department of Education. If successful, they would have it suffer the same fate as its short-lived 1867 predecessor.

Reagan's Attempt to Abolish the Department of Education

The 1980 Republican Party Platform crystallized all of the arguments that conservatives had long used against the Department of Education and rolled the 1979 Ashbrook, Walker, Helms, and Thurmond amendments into one document. It

44. Kathryn Tolbert, "Bilingualism on Hold," *The Washington Post*, October 23, 1980, <http://www.proquest.com>; Hechinger, "About Education"; Radin & Hawley, 206.

45. David Stephens, "President Carter, the Congress, and the NEA: Creating the Department of Education," *Political Science Quarterly* 98, no. 4 (Winter 1983-1984): 662-663, <http://www.jstor.org>.

condemned the use of busing to achieve “arbitrary racial quotas,” argued that affirmative action programs violated equal education opportunity, called for a pro-life constitutional amendment, and supported the right of individuals to participate in voluntary, nondenominational prayer in public facilities and schools. It promised to end the “harassment” of colleges and universities by the federal government and called for an end to “the unconstitutional regulatory vendetta” by the Internal Revenue Service (IRS) against racially segregated private schools. It also called for the deregulation of public education and the elimination of the Department of Education. Reagan had regularly incorporated all these ideas in his speeches and remarks topics on the campaign trail.⁴⁶

Congressional conservatives wasted little time planning for Reagan’s administration after he defeated Carter in the 1980 presidential election. Three weeks after his victory, Congress passed legislation prohibiting the Justice Department from using its funds to pursue school busing cases, a measure that Jesse Helms claimed was needed “to protect the rights of...innocent little children who have been used as pawns in a shell game.” Reagan supported this and told the press that he believed many black leaders agreed with him that busing was a failure. Reagan’s anti-busing stance was exemplified by his selection of Marvin Esch, a former Congressman from Michigan who had vigorously fought busing efforts in Congress during the 1970s, as part of his

46. “Republican Party Platform of 1980,” *The American Presidency Project*, accessed January 4, 2014, <http://www.presidency.ucsb.edu/ws/?pid=25844>; Fred Hechinger, “The Editorial Notebook: The Candidates on Education,” *The New York Times*, September 26, 1980, <http://www.proquest.com>; see also Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton: Princeton University Press, 2007).

transition team. Conservative Republicans also announced that they would move to cut off federal funds for education institutions pursuing affirmative action policies.⁴⁷

Reagan favored the elimination of the Department of Education after assuming office and nominated Terrel Bell, who had served as U.S. Commissioner of Education in the Nixon and Ford administrations, to lead the Department and prepare to dismantle it.⁴⁸ Bell reduced positions in the Department, eliminating four of the thirteen assistant secretary positions and thirty-five of forty-seven deputy assistant positions on the grounds that the department had more officials than any other cabinet except Defense and State and that it would save \$50,000 a year per position.⁴⁹ In August 1981, Bell proposed that Reagan create a National Education Foundation to monitor and research service for local education programs. The Foundation would be prohibited from issuing regulations and would not control the distribution of federal education dollars. The scheme was viewed by the national media as a template for replacing the Department of Education with a less powerful entity.⁵⁰ In September 1981, the Department eliminated funds for an Operation PUSH program, a non-profit founded by civil rights leader Jesse Jackson that sought to enhance the academic performance of children in poor high schools. The Department justified the action by saying that Operation PUSH refused to allow access to its records after an audit by the Department of Commerce in July 1980 found its

47. Steven V. Roberts, "Is It Constitutional to Thwart Policies by Stopping Funds?," *The New York Times*, November 23, 1980, <http://www.proquest.com>.

48. "Worse Than a Department of Education," *The New York Times*, January 8, 1981, <http://www.proquest.com>.

49. Lawrence Feinberg, "39 Top Posts Cut in Department of Education," *The Washington Post*, March 6, 1981, <http://www.proquest.com>.

50. "Back to HEW," *The Washington Post*, August 10, 1981, <http://www.proquest.com>.

accounting system lacking.⁵¹ Even if the accounting charges were not politically motivated, as Jackson and the organization alleged, the cut of funds to PUSH illustrated that the Reagan Department of Education was willing to limit aid to the poor and disadvantaged.

However, despite these reductions, only Congress had the authority to abolish the Department of Education, just as it had in 1868. Unlike Reconstruction, however, a large bloc of support existed for keeping the Department of Education where it was.

Unsurprisingly, the NEA sent letters to Congressional allies to refute the charges of conservatives like Jesse Helms and Orrin Hatch that the Department was eroding the quality of American education by encouraging busing, sex education, and bilingual education.⁵² Walter Mondale, who would challenge Reagan for the presidency in 1984, charged that the Reagan administration was turning its back on a bipartisan education consensus that had existed for twenty-five years since the passage of the National Defense Education Act under President Dwight D. Eisenhower.⁵³ What Mondale failed to see, however, was that the 1978 and 1979 legislative battles over the Department of Education, which saw liberals and conservatives fight each other over which agencies should be included in the new department and social issues such as busing, affirmative action, abortion, and school prayer, foreshadowed the downfall of elements of this education consensus as education policy became a battleground of socially conservative

51. Marjorie Hunter, "Education Department is Stopping Funds for a PUSH Program," *The New York Times*, September 21, 1981, <http://www.proquest.com>.

52. "Teachers' Group Fights Effort to Kill Department of Education," *The Los Angeles Times*, October 1, 1981, <http://www.proquest.com>.

53. Walter Mondale, "A Failing Grade: The Reagan Administration is Forgetting that Education is an Investment in America," *The Los Angeles Times*, October 2, 1981, <http://www.proquest.com>.

issues. A bigger problem for Reagan was that more liberal members of the Republican Party opposed his plans to kill the department. Senator William V. Roth, Jr. of Delaware, who became chairman of the Governmental Affairs Committee after the Republican takeover of the Senate in 1980, was not in favor of eliminating the Department of Education, making any bill to do so likely dead on arrival in his committee. Senator Robert T. Stafford of Vermont, who became the chairman of the Education Subcommittee of the Labor and Human Resources Committee, also added that the Department of Education needed more time to prove its worth to the public.⁵⁴

In addition to these legislative blocks on Reagan's design, Secretary Bell tacitly undermined his boss's strategy by convincing Reagan in 1981 to establish the National Commission on Excellence in Education to analyze the health of the American education system. The logic behind the idea was that if the federal government was going to scale down its role in education policy, it needed to know whether the states were capable of taking on more responsibilities and that this bureaucratic realignment would not negatively affect American students. When Reagan opted not to appoint the Commission's members, Bell did it himself, and after two years of work the eighteen-member Commission, which included business leaders, education officials, and government bureaucrats, produced a report in 1983 that reinforced the necessity of a federal role in education policymaking.⁵⁵ This report, *A Nation at Risk*, alarmed the country by charging that the American education system fostered a "rising tide of

54. Edward B. Fiske, "Some Republicans Oppose Efforts to Abolish U.S. Department of Education," *The New York Times*, December 26, 1981, <http://www.proquest.com>.

55. Kenneth A. Dodge, Martha Putallaz, and David Malone, "Coming of Age: The Department of Education," *The Phi Delta Kappan* 83, no. 9 (2002): 675, <http://www.jstor.org>.

mediocrity.” The Commission charged that high school student achievement on standardized tests was lower than it was when *Sputnik* was launched in 1957, that gifted students were underperforming, and that other industrialized nations were overtaking the United States in math and science, thereby putting America’s position as the world’s political and economic power at risk. To improve the situation, the report recommended reforms such as lengthening the school day, providing better teacher training, and encouraging the growth of language and technology education. The Commission concluded by arguing that education reforms would require more time and commitment by politicians, bureaucrats, administrators, teachers, and parents, and this was an implicit call for retaining existing federal education institutions.⁵⁶

A Nation at Risk helped Bell thwart Reagan’s plans to abolish the Department of Education by providing evidence to the department’s supporters for why it was necessary and winning over the general public, who had largely been apathetic about its creation. After the report was released, concerns about busing, affirmative action, and bilingual education took a backseat to issues related to national security and the health of the American economy. In many ways, concerns about the dire economic picture painted by *A Nation at Risk*, whereby Americans would fail to achieve the same standard of living as their predecessors and would be ill-prepared for the jobs of the future, overcame public anxieties about the controversial social issues that formed the ideological cohesion of the New Right. By 1984, the Reagan administration was forced to retreat from its position to abolish the Department of Education, illustrating the power of the report and changing

56. “Excerpts From the Report on Excellence in Education,” *The New York Times*, April 27, 1983, <http://www.proquest.com>.

public attitudes regarding education, and the administration's subsequent budgets did not target the Department of Education for significant cuts.⁵⁷ Therefore, *A Nation at Risk* undermined conservative energies to direct education to the local level by making education an issue of significant national concern and causing voters to think about what the federal government could do to assist education because obviously local control and funding would not be enough to wage a new, global education struggle for America's future.

57. D.T. Stallings, "A Brief History of the U.S. Department of Education, 1979-2002," *The Phi Delta Kappan* 83, no. 9 (2002): 678-679, <http://www.jstor.org>.

Epilogue

Although the Reagan administration entered office intending to eliminate the Department of Education, it was unable to do so due to legislative opposition from liberal elements of the Republican Party and the public outcry following the *Nation at Risk* report which reversed some of the social concerns about the department and led to greater calls for education reform on the state and national level. In a major shift, opposition to the Department of Education was now viewed as opposing education reform and progress. Conservative Republicans who opposed busing, affirmative action, bilingual education, sex education programs, and a prominent role for the federal government in directing education affairs would continue to fight against the department each campaign season, but securing legislative approval for its abolition proved to be unsuccessful. Furthermore, *A Nation at Risk* laid the foundation for more federal funding of education and paved the road to the No Child Left Behind Act, which passed Congress under the socially conservative President George W. Bush in January 2002. It also paved the road for the establishment of Common Core, developed by the National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO) in 2009 and 2010, under which the federal government incentivized state adoption of more rigorous standards. In an era of globalization in which American students face competition from the populations of other nations that have centralized education bureaucracies, the idea that the Department of Education can be abolished and America's fifty states establish their own standards appears unrealistic. The trend line is moving toward more government involvement in education instead of less. This has helped insulate the

current incarnation of the Department of Education from attacks and prevented it from suffering the fate of its 1867 predecessor.

The Department of Education legislative battle also serves as one of the final expansions of government growth in the second half of the twentieth century. Between 1946 and 1980, Congress authorized the creation of six new cabinet departments: Defense (1947), Health, Education, and Welfare (1953), Housing and Urban Development (1965), Transportation (1966), Energy (1977), and Education (1979). The New Deal vision of government serving as a useful tool in social planning and economic growth lived on after the Second World War, but the economic calamities of the 1970s and rising social divisions between racial, ethnic, and religious groups dampened the enthusiasm for large-scale federal projects. After the Department of Education, Congress has only created two new cabinet-level departments: Veterans Affairs (1989) and Homeland Security (2002). Both departments overcame conservative concerns because they either streamlined existing federal programs, which was the case with Veterans Affairs, or dealt with a pressing national security problem. Therefore, the Department of Education fight should be considered within the larger scheme of Americans gradually turning against the growth of federal power and conservatives halting the proliferation of cabinet offices in the late twentieth century.

Lastly, racially-charged issues infused the Congressional battles over the Department of Education in 1867 and 1868 and 1978 and 1979. In each case, supporters of a cabinet-level department argued that national education should become a greater priority, but the perceived powers of the department alarmed conservatives. In the 1860s, Northern Democrats opposed the idea of a federal department becoming a centerpiece of

Southern Reconstruction and Radical Republicans questioned the type of education the department would try to foist upon the newly freedmen and women. In the 1970s, conservatives charged that the department would interfere with private, parochial schools and expand busing and affirmative action programs. Even liberal political forces of the 1970s rejected elements of the department idea as African Americans feared the professionalization of Head Start and what powers the Office of Civil Rights would have within the new department. This racially-infused opposition to the Department of Education shows that elements of federal education policy have been treated as a zero-sum game, with benefits for some groups being seen as a loss for others. It also reflects how in two separate periods of American history, during times when African Americans broke free from second-class status, anxieties about the pace of their advancement weakened general support for expansive federal projects that could interfere with local control. As the United States considers new education policy in the twenty-first century it must evaluate the degree to which local control of education is beneficial for the nation and whether a centralized or decentralized education structure best creates a just society that provides equal education opportunity for all.

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