

What is Your Position on Busing?



ROBERT P. GRIFFIN

AN OPEN LETTER FROM U.S. SENATOR ROBERT P. GRIFFIN TO ATTORNEY GENERAL FRANK KELLEY



FRANK KELLEY

July 26, 1972

Dear Mr. Kelley:

Your call for a moratorium on discussion of busing is an affront to the intelligence of Michigan voters. What they want, and have a right to expect, is a moratorium that would stop busing — not discussion.

Furthermore, since you are a candidate for U.S. Senator, the people of Michigan expect you to answer, not only for your past record but also as to how you would vote on the important legislative proposals related to busing which are pending in the Senate.

Your suggestion for a moratorium on discussion came in a hastily called press conference after I responded Monday morning to a reporter's question about your handling of the appeal in the Roth case.

As I indicated, I was appalled and disappointed to learn that the Court of Appeals in Cincinnati found it necessary to be "highly critical" of delays by your office in perfecting the appeal.

As the Detroit Free Press reported on July 18:

"The three-judge appeals court panel was highly critical of the failure of Michigan Attorney General Frank Kelley and his staff to pursue an early appeal of Roth's controversial ruling."

After you dramatically rushed back from the Democratic National Convention at Miami to take "personal charge" of the Roth case, it was noticed by many that you did not personally appear in court but left the job of arguing the case to a subordinate, Robert Derengoski.

Reporting on the hearing July 17 in Cincinnati, the same Free Press article said:

"Only the purchase of the buses — the lone facet of Roth's decision which is final — was at issue Monday. When State Solicitor General Robert Derengoski tried to broaden his arguments to discuss Roth's entire decision, Judge Edwards said:

"If you are so eager to have us hear those issues, why have you not asked Judge Roth for certification (to pursue an early appeal)? Why are you avoiding asking for certification? And why have you avoided it all along?"

On July 23, The Detroit News found it necessary to comment on your handling of the appeal as follows:

"Coupled with other indications of either incompetence or apathy on the part of Kelley's office, it might be quite in order for the state to engage a law firm dedicated to the anti-busing position and thoroughly prepared to defend it. Kelley's record of supporting busing is not the stuff of which vigorous pleadings are made."

I do not know whether such blunders were due to "apathy or incompetence," as The Detroit News has suggested, or whether your delay in perfecting the appeal was deliberately timed for political reasons related to the November election.

I do know that in your press conference Monday you did not answer obvious questions raised by the criticism directed at you by the Court of Appeals in Cincinnati.

You have repeatedly talked about your "personal" efforts to obtain a stay of Judge Roth's order. However, I am told that you have made no personal appearances in court; and that on Thursday, July 20, when the Court of Appeals heard arguments and issued a stay order, you were actually in New York, not Cincinnati, attempting to hire a speechwriter for your campaign.

Whatever the reasons for your actions and inaction in the Roth case that look like foot-dragging, your views and various positions on busing are a central issue in this campaign. Instead of a moratorium on discussion, how about some clarification from you?

Last October, you and the other leaders of the Michigan Democratic Party signed a policy statement endorsing busing. You said then:

"We accept busing as an instrument for immediate implementation of the courts' rulings. We accept busing as an imperfect and temporary mechanism to help erase the imbalances in our educational system."

Following the Democratic convention in Miami, you registered some disapproval of the national platform plank on busing, which reads:

"Transportation of students is another tool to accomplish desegregation. It must continue to be available according to Supreme Court decisions to eliminate legally imposed segregation and improve the quality of education for all children."

After studying the two statements, I am at a loss to understand how you could support one and reject the other.

Because of the confusion and misunderstanding which has arisen from your inconsistent statements on busing, I call upon you to answer, directly and forthrightly, some questions which Michigan voters have on their minds. First of all, Mr. Kelley,

1. Do you now support or repudiate the policy statement supporting busing which you signed last October?

From time to time since your announcement as a candidate for Senator, you have said you oppose cross-district busing. But in January of this year, you told a conference of school administrators in Grand Rapids that you favor one-way cross-district busing. You said:

"We know that we should get inner city children out of the ghetto schools but we are not accomplishing anything by sending suburban children into the city."

2. Do you still favor one-way cross-district busing?

You have been critical because, along with President Nixon, I have tried to secure enactment by Congress of legislative proposals to stop — not just postpone — forced busing. The failure of Congress to act so far is due in part to the fact that few other states have experienced the busing threat posed by Judge Roth's order. In addition, it should not be overlooked that your political party controls both houses of Congress by wide margins.

In February of this year, when the Higher Education bill was before the Senate, I offered an amendment designed to withdraw by statute the jurisdiction of federal courts to issue busing orders. The approach is similar to the Norris-LaGuardia Act which withdrew jurisdiction from the federal courts to issue injunctions in certain labor dispute cases.

As you may recall, my amendment was adopted at first by a three vote margin. But later, after several Democratic Presidential candidates — including George McGovern — flew back from the Florida primary campaign, the amendment was reconsidered and defeated by a single vote. I think the people of Michigan are entitled to your answer to this question:

3. If you were a member of the Senate, would you — like Senator McGovern — vote against such a proposal to withdraw jurisdiction from the Federal courts to issue busing orders?

I have strongly supported President Nixon's legislative proposal for a moratorium on busing. He has been unsuccessful, thus far, because of opposition in Congress. I believe the people of Michigan are entitled to know —

4. If you were in the Senate, would you — like Senator McGovern — oppose President Nixon's proposed moratorium on busing?

I have introduced a proposed amendment to the U.S. Constitution which reads as follows:

"This Constitution shall not be construed to require that pupils be assigned or transported to public schools on the basis of their race, color, religion, or national origin."

At one point you astounded Michigan's legal community with your comment that my proposed Constitutional amendment on busing would be held "unconstitutional" by the Supreme Court. From press reports, I learned that your Deputy, Leon Cohan, tried to straighten you out when he said something that most lawyers already know:

"A constitutional amendment is in itself correct (legal) and cannot be declared unconstitutional by the Supreme Court."

Michigan voters would like to know now, Mr. Kelley,

5. Do you still believe that a Constitutional amendment to prohibit forced busing would be unconstitutional?

6. If you were in the Senate, would you — like Senator McGovern — oppose my proposal for a Constitutional amendment to prohibit forced busing?

I agree with you that there are other important issues besides busing to be discussed in our campaign. You may be certain that there will be discussion about differences between us on foreign policy and other domestic issues. However, at the outset of this campaign, in light of the intense interest of the people in the busing problem, I believe they are entitled to straight answers from you to the questions set forth in this letter.

On October 7, 1971, I said that I believe it is . . .

... fundamentally wrong for any instrumentality of government — including a court — to discriminate in the treatment of children on the basis of race.

"To assign and transport a child to a school far from his home, solely because he happens to be black or white, runs counter to the basic guarantees that our forefathers thought they wrote into our Constitution."

That is how I stand on busing, Mr. Kelley.

Now, what is your position?

Sincerely,

Robert P. Griffin
U.S. Senator