

ATTORNEY AT LAW

TELEPHONE  
[617] 268-7916

362 SILVER STREET  
SOUTH BOSTON, MASS. 02127

January 16, 1975

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President Gerald Ford  
The White House  
Washington, D.C.

The Hon. Edward M. Kennedy  
United States Senate  
Washington, D. C.

Governor Michael S. Dukakis  
The State House  
Boston, Massachusetts 02133

The Hon. Edward W. Brooke  
United States Senate  
Washington, D. C.

Mayor Kevin H. White  
City Hall  
Boston, Massachusetts 02108

The Hon. John J. Moakley  
House of Representatives  
Washington, D. C.

Dear Sirs:

I have sometimes described my home town of South Boston as a natural peninsula - surrounded on three sides by water, and on one side by hostility. I used to say this in jest, as a sort of lighthearted explanation of our rather traditional and insular attitudes. However, there is little humor left in the phrase now, as there is little left in Southie.

Why is this? Have we suddenly become the villains of the universe? Brutes? Racists? I do not believe so. It is important that you, as my elected representatives, as well as all observers of these present troubles, do not believe it either. It is important that you understand what is going on here.

There is something deeply troubling the citizens of Boston, but, despite all of the rhetoric and publicity to the contrary, the basic cause of anger and frustration, the prime motivating issue here is not "race". It is, in fact, a much more historically dangerous issue, a much more socially charged word. It is "class". More specifically, the schism which exists between the white affluent, patrician community and the urban rank and file, the so-called working class, both black and white. Let me explain this as clearly as I can because it is essential that this point of view be carefully considered, and that at least some attempt be made to understand it.

We have all recently witnessed the sorry spectacle of Watergate. We have watched the first erosion of supreme executive power in almost four decades. At last, we have observed the legislative branch of government - given up for dead by many of us - recognize that it still had a viable function to perform in our constitutional system, and a responsibility to resurrect the very real power given to it by the Founding Fathers.



I submit that the executive erosion of the legislative function in our society represents only half of the constitutional crisis which plagues our Republic.

Just as real, and perhaps even more ominous, is the steady unrelenting expansion of the Federal Judiciary into the most critical social and political questions of our generation. We have witnessed the birth of a new kind of institution, the super legislature, elected by no one, responsible to no one, invulnerable to political remedy, and insensitive to an electorate, whose only residual power is apparently to send representatives to ornate halls in order to argue procedural abstractions, while the real social and political questions of our day are settled in our Federal Courts by jurists who are totally insulated from the very people whose lives their decisions regulate on a day-to-day basis. It does not help the situation that these jurists are primarily members of the ultra patrician centers of our society, and that those who bear the direct assault of their commands belong for the most part to the non-patrician class.

When I graduated from law school in the 1960's, the doctrine of judicial restraint was still seriously discussed in class rooms, and it seemed to me then to be still a living principle of our jurisprudence. In the last decade, it has suffered badly at the hands of an activist Federal Judiciary which apparently sees little to fear in blurring the political and legal functions of our constitutional system.

This is not to say that a citizen be denied the bill of rights and all the protection guaranteed him through the "due process" clause and the "equal protection of the laws" clause of the 14th amendment. These are fundamental and inalienable. But, the constitutional power to protect a citizen's private right in contract or tort, or his right to liberty, assembly, free speech, etc., is not a constitutional license to go further and regulate the life of an entire community, state or nation. It is my belief that the Federal Court may not make or change law without even the recognition that there is another branch of government constitutionally established for expressly that purpose. Such action is not a furtherance of the constitutional process, it is the very corruption of it.

If it is true, and I believe it is, that no man is above the law, then it must follow that no lawmaker is without accountability to those whose lives he seeks to regulate. Anger, frustration and an irate citizenry will be the only legacy where either of these cardinal principles are ignored.

Let me emphasize that all of my life I have been steeped in the liberal tradition. My first vote in a national election was for John F. Kennedy in 1960. John and Robert Kennedy, and Martin Luther King are among the men I have most admired in my lifetime. My voting pattern has always favored liberal causes and candidates. In 1972 I vigorously supported Senator McGovern, with both time and money.



However, if the liberal experiment now means that elected officials are to be judicially relieved of their law making powers, that certain selected jurists who are invulnerable to any practical remedy, are to in fact have unfettered powers of social and political regulation, and that the very act of voting for a politician (and I use the word in its best sense) to represent one's social and political views has become an act of utter futility, then the liberal experiment has, for me at least, gone too far. The pendulum must swing back. There must be an adjustment, a balancing of our values and of our sense of the Constitution - no less than in Watergate.

I still find much in the liberal philosophy to value. The best of it has much to offer. The worst of it promises an extremism, and a distortion of traditional values, which no less than terrifies me, as does any form of extremism - on the right or the left.

These thoughts trouble the people of South Boston, of Hyde Park, of Charlestown, of East Boston. They deeply trouble all of Boston in a way no citizen of suburbia could ever imagine, because their daily lives have not yet been tangibly affected by the issues of which I speak. And yet, a suburban understanding of these fears, these urban view points is essential, and a cooperation between the patrician suburbanite and his troubled, less affluent fellow citizen is indispensable to restoring stability, and producing a hope for a better education for both poor whites and poor blacks in our society.

The people of South Boston want to cooperate in giving every child, black and white, the chance for a better education, but they also want a very precious right for themselves - one that should be equally inalienable - the right to participate in social progress without being bludgeoned by a judicial club. The right to have something to say about their own destiny and that of their children, without being painted as racist brutes as the price for saying it.

If it is necessary, one can live with coercion, with force and with personal dissatisfaction, as long as it is demonstrated that the situation is the result of the popular will, the general consensus; and that it is effected through one's duly elected representatives - representatives who are responsible and accountable to those who elect them. This is the essence of popular sovereignty, and popular sovereignty is the essence of our political tradition.

Respectfully yours, 



cc: Justices of the U.S. Supreme Court  
Boston School Committee  
Hon. W. Arthur Garrity, Jr.  
Hon. Bailey Aldrich  
Sen. William M. Bulger  
Rep. Michael F. Flaherty  
Louise Day Hicks, City Council  
James J. Sullivan, Jr., Esq.  
Editor, Boston Globe  
Mr. Ovie Nelson, c/o WHDH



Mr. Justice Frankfurter:

"The uncontrollable power wielded by this Court brings it very close to the most sensitive areas of public affairs. As appeal from legislation to adjudication becomes more frequent, and its consequences more far reaching, judicial self-restraint becomes more and not less important, lest we unwarrantably enter social and political domains wholly outside our concern."  
(West Virginia State Board of Education v. Barnette)

Mr. Justice Reed:

"...This Court cannot be too cautious in upsetting practices embedded in our society by many years of experience. A state is entitled to have great leeway in its legislation when dealing with the important social problems of its population....The Constitution should not be stretched to forbid national customs in the way courts act to reach arrangements to avoid federal taxation..." (Illinois ex rel. McCallum v. Board of Education)





CITY OF BOSTON  
OFFICE OF THE MAYOR  
CITY HALL, BOSTON

KEVIN H. WHITE  
MAYOR

January 24, 1975

[REDACTED]  
Attorney at Law  
362 Silver Street  
South Boston, MA 02127

Dear [REDACTED]:

Thank you very much for your recent letter on the school situation here in Boston. Your arguments were extremely well articulated, and have considerable merit.

It would be impossible for me to respond to all of your thesis in a brief letter. . . thus, I have enclosed a position paper that was originally prepared in April, 1973. Although events in the last year and a half have made the position paper somewhat out of date, I still firmly believe in the principles articulated in the article. As I hope you will see, we are very much in agreement on the root problems facing South Boston and the entire City, and in a more conducive situation, I hope we can begin to work together to effect remedies to the present situation.

Again, thank you for writing and for sharing your thoughts with me. After reading the position paper, I would welcome any thoughts or additional comments you might have.

Sincerely,

Kevin H. White  
Mayor

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