

Swann Song *PNR 5/7/71*

"Watch what we do," the Attorney General suggested some while ago in relation to the administration's enforcement of civil rights law. Like others who accepted Mr. Mitchell's invitation, we found ourselves wishing by this week that we had remembered to bring along the dramamine. For the second time now, in an important school desegregation case (Austin, Texas), the administration, having raised hopes on one side and hackles on the other, and having wasted money, time, and political capital, has summarily disavowed its own earlier position and come into court, as it were, against itself. And, should the Legal Defense Fund decide to pursue the matter, for the second time the administration may also find itself in court defending against pressures to implement desegregation schemes it dreamed up and sought to enforce in the first place.

The only consistency in these affairs has been their pattern. In the beginning there was the confusion over "guidelines" and HEW's willingness to cut off funds from Southern school districts that declined to comply with the law. For our part, rather naively, we at first went along with the administration's ardent professions of earnest intent—until the whole HEW civil rights enforcement program seemed to come crashing down. Never mind: we were subsequently invited to observe the tough desegregation plans being quietly devised by HEW and promoted in the federal courts by Justice. So we did. And that was encouraging too—until Justice switched sides and came into court seeking to stall the plans HEW had devised for a number of Mississippi school districts. That was the momentous episode which led to the spectacle of the Assistant Attorney General for Civil Rights arguing on the "anti" side of a civil rights case before the Supreme Court, ending in the court's unanimous rejection of his plea—the do-it-now school desegregation order of October, 1969. The pattern was repeated after the Supreme Court's recent busing decision in the Swann case, when the administration *went out of its way* to implement that decision with the comprehensive and unequivocal plans it sought to impose on Austin and Nash-

ville. Those of us who perceived and hailed another profound change of heart within the administration are back in our familiar posture, having once again played Charlie Brown to the administration's Lucy at kickoff time.

The administration as Lucy holding the ball—that is the operative image and the only one that will do for the continuing saga of civil rights enforcement in the schools since early 1969. The Austin plan, which Mr. Nixon has now publicly repudiated, was drawn up at HEW and approved by the Attorney General. Similarly, the Senate-passed desegregation legislation to which Mr. Nixon would now add a disabling anti-busing rider, was worked out with the help and concurrence of officials in his administration who seemed to be acting in his name. Whatever anyone may think of busing schemes in general or the Austin plan in particular, it should not be hard to agree that this style and pattern of performance is a wholly reckless way of dealing with school systems, school children and local officials who are trying in good faith to figure out what the administration wants and/or requires of them—trying to make their plans and raise their funds and prepare the public for acceptance of whatever rearrangements must be made. Nor can this dizzying show of inconstancy and indecision be expected to do much for the credibility of those members of the administration who have cooked up and negotiated and supported those plans and moves that are so lightly discarded. If you were a legislator in the capital or a school board official in an affected district or a federal judge trying to resolve a dispute, with whom in the administration would you be able to deal confidently on these matters? How seriously would you take any given profession of intent or statement of position at any given time? Of all the oddity and mystery surrounding the present affair, the most striking is that which concerns Mr. Nixon's tough and able Secretary of HEW, Elliot Richardson. We persist in believing that this is not the role he envisaged for himself or for his department or for his staff which has been so suddenly and needlessly humiliated.