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Message:

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# HARVARD UNIVERSITY

## LAW SCHOOL

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### MEMORANDUM

TO: Mayor Alfred Velluci, Members of the City Counsel of  
Cambridge, and City Clerk

FROM: Laurence H. Tribe *L. Tribe*

DATE: December 22, 1989

RE: Report of the Cambridge Human Rights Commission Inquiry  
into the Commonwealth Day School Episode

I was distressed to read in The Boston Herald of Friday, December 22, on page 10, the statements attributed to commission chairman Edward McNulty saying that my testimony before the commission indicated that I "had been pressured by neighbors Ralph Sorenson and Arthur Brooks" into signing the petition opposing the school. That was not my testimony at all.

I made it clear when I appeared before the commission voluntarily on October 19, 1989, that I fully accepted personal responsibility for my error in signing the petition. As I explained, I was led to believe that there were safety problems at 113 Brattle Street, and I was not told that there were minorities at the school; in this sense, I did feel, in retrospect, that I had been

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misinformed and had been given inadequate information. I did not, however, accuse anyone of deliberately misleading me, and I carefully resisted repeated suggestions from members of the commission that others were perhaps trying to deceive me or pressure me for improper reasons of their own. Although I continue to regret the circulation of the petition, my own decision to sign it, and any harm that may have come to the school, I believe it would be unfair to use my testimony to supply independent evidence of wrongdoing or improper motive by Mr. Sorenson, Mr. Brooks, or anyone else.

I was especially distressed by The Boston Herald's statement that Mr. McNulty was "quoting" from my testimony when he said that I felt I "had been used and psychologically coerced into signing" the petition. I did not so testify. Indeed, I am informed by Laura Tennyson that Mr. McNulty's separate statement, appended to Janice Platner's official report to the Mayor, does not in fact "quote" me to this effect at all. That separate statement does apparently say that I had been pressured by neighbors into signing, but, as I have already explained, that was not the gist of my testimony.

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I want to stress that, although my neighbors should have known that I would not have signed the petition if I had been aware of the racial composition of the school -- and although my neighbors may well have realized as much and may well, for that very reason, have chosen to say nothing about the race of the children -- I have never accused anyone of consciously seeking to entrap, deceive, or pressure me into doing anything about this matter. I have always accepted, and I continue to accept, full personal responsibility for my failure to investigate more fully the circumstances of the school before signing the petition.

I emphasize that the problem was not with anything the petition said; this was not a situation of signing something without reading it! The point, rather, is simply that many of the children belong to racial minorities -- and that, if I had known of this, I would have been quite eager to have the school as a neighbor. Of course, I would have worried about safety issues if there were genuine reasons for concern about safety. But I would have wanted to know much more about what those reasons were before ever signing a petition that could have contributed to the exclusion of a minority school from the Brattle Street neighborhood.

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I cannot explain even now why more of those who signed the petition have not expressed views similar to these. I am quite sure that many of those who signed were, like me, completely unaware of the racial composition of the school and would, like me, have been far more reluctant to sign the petition if they had known that minority children were involved. I therefore suspect that, like me, others who signed were, in this sense, "misled" into signing something they would not have signed had they known all of the facts. But to say this is not to accuse anyone of deliberately misleading anyone else. It is entirely plausible that those who were obtaining petition signatures said nothing about race either because they had limited information about the racial composition of the school's student body, or because they honestly thought that the race of the children was completely irrelevant and believed that they were not being influenced, consciously or unconsciously, by racial considerations. Because it seems quite easy for people to misinterpret my position as an accusation of racial or otherwise improper motives on the part of those who circulated the petition, I suppose it is understandable why others who signed in what may have been similar circumstances have chosen to say nothing rather than to risk similar misinterpretations.

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The Boston Herald story of December 22 may not have been deliberately misleading; perhaps Kathryn Marchocki honestly understood Mr. McNulty to be quoting me. But the fact is that the official report of the commission is that submitted by its Executive Director, Janice Platner. My understanding is that I am not mentioned in that report, and that only one of the separate statements by a commission member (the statement of Mr. McNulty) makes reference to my testimony. Whatever evidence there might be to support a call for investigation by the Attorney General of alleged civil rights violations, my own testimony cannot properly be construed as such evidence. For this reason, I am sending a copy of this memorandum to Attorney General James Shannon to make sure that the report, the text of which I have not yet been permitted to see, is placed in proper context.

This entire episode should be distressing to all concerned. I have no way of knowing exactly how representatives of the school conducted themselves in their dealings with neighbors, and I have only hearsay knowledge about the way in which the neighbors supposedly conducted themselves in their dealings with the school, its students, its teachers, and its administrators.

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If some of the things I have heard really happened, then some of the neighbors ought to be ashamed of themselves, but I do not have first-hand knowledge that would lead me to make any accusations whatever. I have, however, visited the school since its move to Newbury Street, have met its director and its founders and a numbers of its teachers, and have spent some time watching the children learn. I was very impressed during my visit to the school on October 24, 1989. The children seemed eager and well behaved, and I can hardly imagine a more positive learning environment. Right after my visit, I offered the school my help in raising money for a scholarship fund, and pledged to make a contribution myself once the school pulled together a small packet of information. I continue to hope that the school will do so, and continue to regret its exclusion from the Brattle Street neighborhood. But two wrongs don't make a right, and inaccurate accusations of deception or "psychological coercion" do not help matters in the least.

cc: James Shannon, Attorney General of Massachusetts  
Robert Mayette, Commonwealth Day School  
Kathryn Marchock, The Boston Herald

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S-862

Comm. from Laurence H. Tribe, relative  
to the report of the Cambridge Human  
Rights Commission inquiry into the  
Commonwealth Day School episode.

In City Council,

Dec. 26, 1989

*Placed on file*