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Thursday, April 17, 1947

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The President's Committee on

Civil Rights,

Washington, D. C.

The committee met at 10:00 o'clock, a.m., in the East Wing, The White House, Bishop Henry Knox Sherrill, presiding.

Present: Bishop Henry Knox Sherrill, Mrs. M. E. Tilly, Mr. James Carey, Mr. Channing H. Tobias, Bishop Haas, and Mr. Boris Shishkin.

Also Present: Mr. Robert Carr, Mr. John Durham, Mr. Milton Stewart, Mr. Joseph Murtha, Mr. Herbert Kaufman and Miss Frances H. Williams.

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BISHOP SHERRILL: The committee will please come to order.

(The first item on the agenda, Items Presented by Executive Secretary, was not reported.)

BISHOP SHERRILL: This is the date set for the interim reports of the various subcommittees.

Subcommittee 1 - I happen to be the only one present who is on that subcommittee, so I will read this report.

(The Interim Report of Subcommittee No. 1 is as follows:)

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BISHOP SHERRILL: I don't know whether you want to take up these committee reports one by one for discussion. Maybe that would be the best procedure, while the matter is fresh in our minds.

Are there any comments or suggestions?

BISHOP HAAS: That is a very comprehensive report, I think. May I ask, Mr. Chairman, how much of your committee has subscribed to this report? Is it a majority?

BISHOP SHERRILL: Well, the difficulty has been because of lack of attendance. We have spent a great deal of time on consideration of Sections 51 and 52, and I am quite certain that the committee has approved A-1, 2, 3, 4, and B-1. C, in regard to the District of Columbia, as the report says, I am sure from the general discussion they will approve, but it has not been formally approved. And the other matters there have been agreed upon in our meetings, I think without question.by a majority.

I think the important thing, perhaps, to discuss would be whether it is wise or not wise to present definite legislation. Our feeling was that if we did, it is a very complicated matter of a "shall" or a "will", or an "it", and the result of it is that you get lost in a fog of legal debate, and it requires very technical and long consideration by a large group of

people; and the best thing for this committee to do in its report would be to draw general lines and then have this worked out later on.

Would the committee think that was wise?

MR. TOBIAS: I agree with that.

BISHOP HAAS: You mean, Mr. Tobias, that we should not present ~~the~~ full statutes?

MR. TOBIAS: Yes, we can't do that.

BISHOP SHERRILL: We considered all kinds of bills proposed, written by various members of the Justice Department, and you can get lost in a tremendous amount of detail, particularly as regards the constitutionality of these laws.

Are there any other questions?

(No response.)

BISHOP SHERRILL: Who is going to report for Subcommittee No. 2?

BISHOP HAAS: I will.

Just as a matter of information, you have read your report, Bishop Sherrill. Now what does the committee do with it? We have just been informed about it, is that correct?

MR. CAREY: I move that it be received.

BISHOP HAAS: I think we ought to take some action.

MR. CAREY: I move that the report of Subcommittee No. 1 be ~~received~~ accepted by the committee.

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BISHOP HAAS: I second the motion.

BISHOP SHERRILL: Is there any discussion?

Those in favor will say "aye"; those opposed "no". It is so voted.

I think it would be better just to do that, because I am the only member present of that subcommittee, and we have got such a small number from the whole Committee that this was really a deadline in order to force us to make progress.

Bishop Haas.

BISHOP HAAS: Mr. Chairman and Members of the Committee:

I would like to report as Vice Chairman of Subcommittee No. 2.

Miss Williams just handed me this telegram from Mr. Luckman confirming the fact that he is not here. His secretary says: "Due to Mr. Luckman's absence he is unable personally to sign the copies of the Subcommittee Report delivered to you today. Therefore, will you place his signature on each copy before distribution to Committee members."

This telegram raises a question - I don't know how serious it is, but it is a question - inasmuch as Mr. Luckman prepared this glorious, and this is a moving report, this is the document --

BISHOP SHERRILL: Ours has no pictures. I am a little

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ashamed of the fact.

BISHOP HAAS: Pictures, statistics, animated cartoons, and so on. It would be beautiful if our final report could come out looking as good as this. Then we would get some listeners. However, this came to us yesterday. Mr. Carey and I were the only ones able to attend the committee meeting. We met yesterday morning, and we met yesterday afternoon. Mr. Tobias was not present, he had some business with his Board of Directors.

MR. TOBIAS: Semi-annual meeting, that is my job.

BISHOP HAAS: So the report that I am submitting now represents, or is the revision, so to speak, of the letter of transmittal of Mr. Luckman's report, and also a revision of the recommendations that you find at the end of his report. So you see, in view of his telegram authorizing us to put his name to this whole report, we would be a little irregular in doing that.

It is our thought that there is no basic change in what Mr. Luckman, as chairman, had submitted in the letter of transmittal or in the final report. There are some verbal changes, and those I will indicate as I read this very brief statement.

~~Now it is my information that there are 8 of these copies.~~

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MISS WILLIAMS: We unfortunately have lost one. We have 7 here.

~~BISHOP SHERRILL: I brought mine back.~~

~~MISS WILLIAMS: There is still one out, there are 7 here.~~

~~BISHOP~~ HAAS: Mr. Carey, Miss Williams and I thumbed through the text of this whole report, and we found several, I wouldn't say numerous but several, loosenesses in expression, not to call them worse than that, sloppiness of style, and so on. However, we are in complete agreement with what the whole report has to say.

For example, if you turn to page 1, we took it on ourselves to modify that title from "A Program for More Equality" by cutting out the word "more", to make it read, "A Program for Equality". And there are numerous loose expressions throughout. But we need not go into that.

If you will please turn to the letter of transmittal, there are only three verbal changes.

The title in the original reads, "Concerning Discrimination Against Minorities in Employment, Education, Housing, Community Facilities, and the Armed Forces." We have included after the word "Employment", the words "Community Services", so that the whole title would read, "Concerning Discrimination Against Minorities in Employment, Community Services, Education,

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Housing, and the Armed Forces."

The date is inserted at the bottom, "Washington, D. C., 4/17/47".

In "2", the second from the last word is "and", and the last word is "housing"; and before "and" we inserted "health".

Otherwise, the report of the committee as of now is the same as shown on the letter of transmittal.

Do you want me to read this, or do you want to read it yourselves?

BISHOP SHERRILL: You mean the whole report?

BISHOP HAAS: I mean the letter of transmittal, Bishop.

BISHOP SHERRILL: I think we have that here, but what about the final, over-all recommendations?

BISHOP HAAS: That is different.

On page 38 of your copy, as you will find it underneath the copy that is pasted on page 38 or imposed on page 38, in the original, we have Mr. Luckman's recommendations. I don't know if you want to go through them or not.

Mr. Carey and I have, I think, improved the wording, and we have made some of the recommendations broader than they were originally.

BISHOP SHERRILL: Well, is this typewritten Mr. Luckman's original, or is it as revised?

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~~BISHOP HAAS: That is our revision.~~

BISHOP SHERRILL: I think you might read that, as the report of the subcommittee.

BISHOP HAAS: Very well.

"The following overall recommendations are submitted herewith by the Subcommittee for consideration of the Committee of the Whole:

"1. The endorsement of federal and state fair employment practices legislation with judicial enforcement such as that contained in S. 984 and H.R. 2820."

That is a blanket endorsement of the FEPC.

MR. TOBIAS: Those are the current bills?

BISHOP HAAS: That is right.

"2. The restatement of the President's position on fair employment in federal agencies and provision for the implementation of this as follows: (a) Creation within the Civil Service Commission and the Personnel Departments of the various agencies on-the-job training programs; and (b) such machinery as is necessary for hearing and acting on discriminatory practices in hiring, promoting and transferring.

"3. A full investigation of all Federal grants-in-aid to veterans' services and benefits; social welfare, health, and security; housing and community facilities; education and

general research; agriculture and agricultural resources; transportation and communication; and labor in order to ascertain among other things the scope of federal activities, the present administration of federally-financed programs as they affect all minority groups, and the power of the Federal Government to enforce a policy of non-discrimination."

BISHOP SHERRILL: Is that a recommendation to the President that such an investigation be made, not for the whole committee to undertake?

BISHOP HAAS: It is for someone else to do. That is my understanding. Mr. Carey, is it yours?

MR. CAREY: Yes, but this is our recommendation to the full committee. It will be a matter of consideration for a recommendation to be contained in the Committee's report when that is made.

MR. CARR: I think the ambiguity is whether you now want the full Committee, or even your own Subcommittee, to make the investigation.

MR. CAREY: That would be a matter to be decided by the full Committee. The Subcommittee is of the opinion that a full investigation should be made, ~~and of course the full Committee to implement it~~ and decide in what manner that will be carried out.

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BISHOP HAAS: So the answer to your question, Bishop, is either the Committee or someone else to do it, but that it be done.

BISHOP SHERRILL: Thank you.

BISHOP HAAS: "4. Existing legislative bans against discrimination in federal grant-in-aid programs be fully carried out, if necessary, through withholding of money discriminatorily allocated and the administrative interpretation of other legislation require the inclusion in state plans of adequate guarantees of equitable participation of minority groups.

"5. Legislative provisions safeguarding minority rights in all future federally-financed grant-in-aid programs.

"6. The use by the Federal Government of all their own media of education to the end that the public acquire and understand their rights and responsibilities under each and all of the various programs.

"7. The endorsement of the principles of non-discrimination in state legislation designed to assure equal treatment of all persons in semi-public and public fields, such as public and private employment, education, health, housing and recreation and places of public accommodations."

BISHOP SHERRILL: Just asking a question there, is private

employment a public field?

BISHOP HAAS: No, but it could be regarded as semi-public.

MR. CAREY: We have legislation, Federal and state, dealing with private employment, and we ask that in such legislation there be included clauses to prohibit discrimination in the application of such legislation.

BISHOP HAAS: If I may say, I think the Bishop's question was on the wording here, as to whether private employment can be thrown into the category of a public field.

BISHOP SHERRILL: That is right.

BISHOP HAAS: I would say offhand - I happen to have written that section - I would say that that is protected by the characterization "semi-public". If that is not sound, Mr. Carr, would you mind telling us?

MR. CARR: I think it is all right. I think you might, for the final report, give a little more thought to the exact wording, but I think the idea is pretty clear.

BISHOP SHERRILL: Well, it was just the wording "semi-public * * * such as * * * private employment" that bothered me.

MR. CARR: What you are saying is that the public must have a concern in private employment.

MRS. TILLY: How many states have such legislation, four or five?

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BISHOP HAAS: You mean F.E.P.C.?

MRS. TILLY: Yes.

BISHOP HAAS: There are only three states that have any man-sized laws.

BISHOP SHERRILL: New York and Massachusetts. What is the third one?

BISHOP HAAS: New Jersey. There are other states, for example Wisconsin, but it doesn't amount to anything.

MR. CARR: Indiana has a weak one.

BISHOP HAAS: It is mainly the difference between enforcement by the courts and non-enforcement.

MRS. TILLY: This is just an endorsement of those states that have done it?

MR. CARR: No, I don't think it says that.

MRS. TILLY: "The endorsement of the principles of non-discrimination in state legislation".

MR. CARR: It would be existing or future, would it not?

MRS. TILLY: It doesn't help states to get it who haven't it. It will be a long time before we have anything like that south of the Mason-Dixon Line.

BISHOP HAAS: We are not going to get it in Michigan this year, either, and we are north of the Mason-Dixon Lioe.

MR. TOBIAS: What does No. 7 mean, anyhow, a kind of pat

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on the back to those states that are doing it well already?

MR. CAREY: If I may answer, my interpretation of No. 7 goes far beyond the question of F.E.P.C. legislation in the states. I am now using as an example something that is not covered by No. 7, but this recommendation would say that in state legislation dealing with all questions affecting people, such as health and housing and so forth, provisions should be contained requiring that they be applied on a non-discriminatory basis. The example I use is that if you applied this principle to a non-governmental operation like collective bargaining, it would mean that all wage agreements contain provisions that would prohibit discrimination in employment.

MR. TOBIAS: Thank you.

MR. CARR: I think what Mr. Tobias and Mrs. Tilly are getting at is perhaps that if the first few words were "All states are encouraged to accept", that you get away from the thought that perhaps all this does is endorse existing legislation, whereas you would like all states in all of their legislation, present and future, to follow this principle.

MR. CAREY: That is right.

MRS. TILLY: I have been puzzling over that since this was put in my hands, because it is a little foreign to the practices where I come from, but at the same time labor is doing

it. I thought if you were going to endorse anybody, you might endorse the policies of labor.

BISHOP SHERRILL: Do you want to go on, Bishop?

BISHOP HAAS: "8. A non-discriminatory long-term housing program such as that provided in the Taft-Ellender-Wagner Bill.

"9. The banning of racial restrictive covenants by the courts or by legislation as contrary to public policy.

"10. The collection, analyses and dissemination by private and public agencies of information regarding the quantitative and qualitative needs of minority groups for additional health and community services similar to the services now available in the housing field.

"11. The issuance of periodic reports by the several branches of the Armed Forces on the treatment accorded minority groups to the end that discrimination in all policies and programs be terminated.

"12. A long-term program of public education be initiated during the life of this Committee but carried beyond its tenure by a permanent agency, designed to create broader understanding of and respect for the basic American traditions of civil liberties."

BISHOP SHERRILL: Just what does that mean in No. 9, "The

banning of racial restrictive covenants by the courts * * * as contrary to public policy."?

BISHOP HAAS: Well, as we understood it, after we had gone through this previous list of recommendations, we recognized that the courts cannot make laws against these things. The courts can only carry out the statutes. And we are saying there, or we mean to say, that we want the courts to observe the law, and that we would have laws for the courts to carry out.

MR. TOBIAS: I think the latter seems to be the more important in this case, because in New York State that is exactly what they are doing; they are going about the business of shaping up legislation, because they aren't getting anywhere under existing legislation, there are so many loopholes.

MR. CARR: I like No. 9 as it is worded. It means to me, "Let's use both methods". If we can persuade the courts in litigation to rule that restrictive covenants are contrary to established rules of law, either statutory or common law rules, fine and dandy; or if we can persuade legislative bodies to pass statutes that in so many words outlaw restrictive covenants, fine and dandy. And both approaches should be used, I think.

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BISHOP SHERRILL: The courts don't act on the matter of public policy technically, do they?

MR. CARR: Very often they do. If you have got a private suit between two people and the litigation has to be resolved, the courts fall back on what you might call public policy, which means the law of the land as found in any place, a statute or just the common law, which of course, as you know, is a set of general principles that go back through the centuries and aren't always recorded in the form of statutes.

I think it is entirely possible that you might one day get a significant ruling from the Supreme Court of the United States that restrictive covenants are contrary to public policy in the sense of violating the American Constitution, either in its expressed terms or in its implied terms. In that case you wouldn't need a statute.

BISHOP HAAS: Well, if I may give you the history of this wording, it goes back to yesterday afternoon when we were endeavoring to replace the word "outlawing" by the courts with the word "banning". That is all that is involved here, and in a clumsy way we said, "Well, let's put in 'banning' instead of 'outlawing', because the courts are not supposed to make laws."

Now if there is a better wording, very good.

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BISHOP SHERRILL: I was only asking for information.

MR. CARR: I think it is sound technically.

MR. CAREY: I think so.

MRS. TILLY: Subcommittee No. 3 report overlaps this a great deal, and we have some things on there that might answer some of the questions, especially on restrictive covenants.

BISHOP HAAS: May I move, Mr. Chairman, that this Subcommittee report just read be accepted?

MR. CAREY: I second the motion.

BISHOP SHERRILL: Those in favor say "aye"; opposed. It is so voted.

I think the report covers very important recommendations. There is only one other question I have to raise, and that is whether the approach to the Armed Services isn't perhaps a little too gentle. That is a matter which is in the hands of the President for he is Commander-in-Chief. Why shouldn't discrimination be stopped in the Army and Navy? ~~That isn't a matter which is up to~~ Constitutionality ~~or anything else.~~ The President is the Commander-in-Chief, and he can do it, at least theoretically, and all this does is ask for periodic reports.

BISHOP HAAS: There let me say that the wording now used in No. 11 is vastly stronger than the wording used in the

original, which merely says that it is to the end that progress be made. This says "to the end that discrimination * * be terminated."

Now because this is stronger than the other, that is no proof that it is the ideal thing.

BISHOP SHERRILL: I just raised that question.

MR. CARR: Isn't the explanation that this is one area that we are still working on, and not as much progress has been made here as at other points? For example, we have, through the staff, written to the Army and the Navy and the Veterans Administration, asking them for statements of policy and information, and I would assume that at further sessions of the Subcommittee that material will be looked into; and it has even been suggested that we ought to invite Patterson and Forrestal and Bradley to a public hearing or a closed hearing, before the full Committee, and go further into the matter.

MR. TOBIAS: I don't see any need for a lot of working around the central issue there. The issue is very plain. It is a very simple issue. If a man is a citizen of the United States, with all the rights and privileges that go with citizenship, he should have the right of service in the Armed Forces of his country without discrimination on account

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of race, creed, color, or what-not. That is all there is to it.

MR. CAREY: I would think that perhaps we could make a very strong declaration respecting immediate application, certainly in the effort that is now being applied at Fort Knox in the experimental unit, for the training during peacetime of 17, 18 and 19-year old men that are called into the Service for this peacetime military training.

I might say that the CIO is having a commission go down to Fort Knox to look into the experimental unit, at the invitation of Secretary of War Patterson; and that is one of the questions that the committee would be very much interested in, as to whether or not they are, in the early stages and in their experimental activity, recognizing that we must meet this ~~what has been~~ a paradox of massing an army in World War II to fight for the Four Freedoms, and in engaging in that work they segregate people ~~based~~ on the basis of race, not only individually but ~~also as units~~ whole groups have been segregated, and they discriminate in terms of the kind of activity they will be engaged in. Certainly this committee should expect that the War Department will make a start and apply a complete nondiscriminatory policy in all aspects of this peacetime military training that they are now beginning at Fort Knox.

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MR. CARR: I would agree with Mr. Tobias that the final ruling of the committee is probably pretty well indicated, but I think that something will be gained by going through the business of investigating the subject and asking the Army and the Navy to tell you what their policies are.

MR. TOBIAS: You will find in the Gilliam Report that that is the policy, and that is a very rosy painting of it. It is worse than the Gilliam Report gives, and yet that admits segregation, which is undemocratic, un-American. I don't think that it is up to this committee to go into experiments of this, that and the other about it. I think it is up to this committee to declare it undemocratic and un-American, and to call for its abolition.

BISHOP HAAS: Yes, but that, Mr. Tobias, is what this revised No. 11 says, that it be terminated. The original wording was that it be brought into harmony with the principles of civil liberty.

MR. TOBIAS: You can't bring it into harmony. It must be terminated.

BISHOP HAAS: If I may say it, Mr. Tobias, at the meeting yesterday I spoke for you, saying that Mr. Tobias would say "This thing should be stopped forthwith."

MR. TOBIAS: Yes, sir. You are just temporizing with

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something that private organizations have found unwise to temporize with. We fooled around and fooled around with baseball as our national pastime. Finally, through the bringing out of the issues straight to the front, corrective action was taken, that is all.

Now if it can be done in a spot like that, all the more should it be faced in forthright fashion by the Government. That is the sorest point with my people today, the fact that in all respects in which they are debtors to government, they are regarded as the equals of everybody else; there isn't any differential taxation, there isn't any difference in the requirements made of people when it comes to dying. So that there should be no requirements made in the organization of the instrumentality by which you are called upon to give up your life. I think we ought to be very forthright about it, ~~and I think the shorter the better.~~

BISHOP HAAS: Well, as that No. 11 is worded, Mr. Tobias, "The issuance of periodic reports by the several branches of the Armed Forces on the treatment accorded minority groups to the end that discrimination in all policies and programs be terminated", isn't that satisfactory?

MR. TOBIAS: I don't think that making that the method, the issuance of periodic reports ~~and so on~~, is sufficient. I think we ought to call for putting an end to discrimination.

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MR. CAREY: We felt that that is what we were doing in this recommendation, and that we wanted to know about it.

MR. TOBIAS: In other words, I am against gradualism in this. That is a plain statement.

MR. CAREY: We started off with that in mind when we started to dramatically cut off "more equality", because it indicated gradualism.

MR. TOBIAS: Either you are a citizen or you aren't a citizen. If you are a full-fledged citizen of the United States then you have a right to respond to service without lines being drawn against you.

BISHOP MERRILL: This report is a report to the full committee and as such it covers a great deal of ground. I should rather hope that this could be confined as a report to the full committee rather than be given any publicity. For instance, when you get down into the details of individual cases I, for one, wouldn't be willing to guarantee that all of the details of these individual cases, ~~one could stand behind.~~ I don't know what the authority is.

MR. TOBIAS: I would go further than that and say that I would prefer that what we have read here in this summary be the report of the subcommittee to the full committee, and that this be an exhibit rather than the report itself. I think

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it has very distinct suggestive value, but I don't think it can be the report of the subcommittee.

BISHOP SHERRILL: The discussion of the Negro troops abroad, ~~there~~ is pretty questionable, ~~discussion.~~ I know because I went abroad myself, and Mr. White wrote a very interesting book on that subject, and while there is an underlying basis of fact there, when you get into a discussion of the individual soldier it is a pretty loose general statement that I think wouldn't want to be presented as a final report, certainly, in just that form.

Is Subcommittee 3 ready to report?

MRS. TILLY: Mr. Shishkin will report for Subcommittee 3.

MR. SHISHKIN: I am sorry to have come in late. We had a meeting on the other end of the White House and I had to be there and couldn't get out of it, as it was at the President's request.

I have a very brief and not altogether too satisfactory report to make, Bishop Sherrill.

As you know our chairman is Morris Ernst and he went out of action over a month ago. The work of our committee had depended largely on his contribution of ideas toward the way we could deal with the activities of private organizations that influence public opinion, and mainly through the enact-

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ments by the Federal Government, or the use of its existing powers, in the area of disclosure or through the use of taxing and spending powers.

Mr. Ernst pointed out - I would just like to refresh the memory of the committeeas to what our starting point was - that the unfortunate coincidence in our society is the misuse of our traditional guarantee of freedom of press and speech by those groups dedicated to the abolition of these freedoms, has led many people and organizations, sincerely concerned with the preservation of civil liberties, to advocate various kinds of suppression against those groups engaged in the spreading of bigotry and hatred.

The alternative method of combatting the influence of intolerance would be the resort to the kind of devices in which not the powers of the Government but the force of public opinion could be brought to bear moreeffectively, and that is the avenue which the subcommittee has explored.

What the committee has done so far - very much handicapped and disrupted in its work by Mr. Ernst's illness - is to conduct a series of investigations very informally with representatives of several agencies that are concerned with the various aspects of the approach that weare taking.

We have had as consultants, and held hearings, and other-

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wise conferred with the general counsel of the Treasury Department, the Director of the Bureau of the Budget, ~~or~~ by letter with the Attorney General and his representatives, and heard representatives of the Post Office Department with regard to some points that I will mention in a moment.

In connection with our exploration of the means of reaching some of the practices, including the concerted discriminatory activities, we have also had an exploration with the Bureau of the Budget with regard to the existing legal provisions in the grants-in-aid programs, and the Social Security Act, in the Hospital Survey and Construction Act, and similar programs. And although we have found no substantial evidence of such activity as might have been subject to programs of this kind, it is clear that any such practices, to the extent that they exist, would not easily come under them unless there was a specific direction on the part of the Government to the relation of each program toward them.

In connection with the disclosure problem, our subcommittee conducted hearings the day before yesterday ~~for the purpose of hearing, so far,~~ with four consultants. One of them was Jesse MacKnight, formerly Chief of the Organization and Propaganda Analysis Section of the Public War Policies unit of the Department of Justice, and also at one time Chief of the

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Analysis Unit of the Foreign Agents Registration Section. We received very valuable background from him. We also heard Samuel Klaus who was formerly Special Assistant to the Secretary of the Treasury and carried the burden of responsibility for dealing with hate-spreading organizations during the war. We also heard Mr. Plotkin, Assistant General Counsel of the Federal Communications Commission, and Paul Richmond, a representative of the Anti-Defamation League of B'nai B'rith. We have several other witnesses lined up covering this approach and we also expect to hear from people who are not necessarily unreserved supporters of the kind of a tentative approach that we have adopted, but also those who may be critical of it and point out the difficulties and obstacles.

I can't speak for the committee as a whole at this moment, Mr. Chairman, as far as its preview is concerned or as far as any preliminary indications as to what the report may be. Apart from the fact that Mr. Ernst has been sick we also have had difficulty in getting Mr. Roosevelt to attend. Mrs. Tilly and I have, during the past month, carried over the work that was laun ched [redacted] by Morris Ernst, and followed the direction given mainly by his ideas. But in the framing of recommendations in our largest area, that of disclosure, I think it is fair to say that the big problem with which the

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committee will have to come to grips is this, and that ~~was~~ the issue brought out by a number of the consultants who met with us, and it is a very simple issue. It is the issue as to whether or not any measure or any program that we devise would be the kind that would prevent the government from making a decision, an evaluation, as to whether this organization or that group is good or bad, and apply the disclosure program, whatever its kind may be, equally to everyone, without making such an ethical judgment; or whether, if that is not the effective way, we would have to make that prior decision, set up standards and criteria, and then go after those who fall into a particular category.

There has been a great deal of conflict of views presented on that point, and there will be some more heard, and I think that some of it will carry a good deal of weight, ~~that we are about to hear.~~

There is also a set of problems, in which we have to make a decision, with regard to the administrative problem. Now we have explored in great detail this matter with the Post Office Department, and have had so far a very defensive reaction from the Post Office Department against any enactment that would load upon them a great volume of work. ~~Apart from that of course~~ It is fair to say that some proposals that have been

discussed would place an unreasonable burden on them. You can't expect the Post Office Department to look at every letter that goes through the mails.

Therefore, an administrative basis has to be devised that is reasonable and proper. There are two or three areas also, in connection with the utilization of conspiracy or anti-trust laws with respect to restrictive covenants which we have not yet fully explored.

Those are, in the main, the activities of the committee. We have been greatly delayed in our progress by the absence of our chairman, but we feel, however, that we will be able to carry on ~~with it~~ and to present a report by ~~that will be in time for the~~ June 1st, ~~date~~, in terms of general recommendations.

If we are to frame legislative proposals, ~~which I think we will attempt to do, not to formulate legislation but formulate legislative proposals,~~ I think it will take us at least ninety days to reach that point, that is to reduce the general recommendations to the specific, concrete and tangible form which would enable the full committee to transmit to the President and make further use of it.

BISHOP SHERRILL: Three months from now?

MR. SHISHKIN: From now, yes.

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BISHOP SHERRILL: Not from June 1st?

MR. SHISHKIN: No, from now.

MR. TOBIAS: I would like to ask this question off the record.

(Discussion off the record)

BISHOP SHERRILL: Are there any questions of Mr. Shishkin?

MRS. TILLY: There are one or two things that we might tie up. Mr. Shishkin was not here when subcommittee 2's report was given. In No. 9, "The banning of racial restrictive covenants by the courts or by legislation as contrary to public policy" - we considered ~~so much that was in the spending and income, with the areas with which we were working;~~ much the same thing and there is much of this Committee No. 2 report on this ~~same thing. For instance,~~ also No. 3 - "A full investigation of all Federal grants-in-aid to veterans' services and benefits; social welfare, health, and security; housing and community facilities". And No. 4 - "Existing legislative bans against discrimination in federal grant-in-aid programs be fully carried out, if necessary, through withholding of money discriminatorily allocated", ~~and so forth.~~

Those are the very fields which we had been exploring, and I wonder if we could have a little clarification of the work of the two committees, ~~right along there,~~ because that

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is the very thing that we feel we have been into, and this is a field that Committee No. 2's report shows it has been into. Under that No. 9, "The banning of racial restrictive covenants by the courts or by legislation as contrary to public policy" - we sought advice on that from the Attorney General and had a reply from Mr. Wendell Berge. We asked him about the use of the Sherman anti-trust laws, if they would be an effective weapon in an attack upon restrictive covenants, and he replied that he thought we would have to search for some other weapon.

MR. SHISHKIN: If I may interrupt, I think Mr. Berge pointed out that the area in which that might be effective was very narrow, but that there are some situations in which that might be possible, some test situations.

MRS. TILLY: The insurance companies?

MR. SHISHKIN: That is right. He mentioned it in a letter without making it specific, but we felt that a very important area to explore and press the Department on would be -- the question is Constitutionality, and whether the Federal Government can reach local instrumentalities, because a real estate transaction is a local transaction, and what we pressed for is if the instrumentality, the insurance company, bank or large financial institution, is holding property from the market in

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order to raise prices, whether that restraint of trade would not be reachable through the channels of interstate commerce and therefore under Federal jurisdiction. Excuse me for interrupting you, Mrs. Tilly.

MRS. TILLY: I wanted you to bring that in, but you were not here when Subcommittee No. 2 presented its report.

BISHOP SHERRILL: I shouldn't think, unless a great deal of time were going to be put on the same subject by both subcommittees, that it would be very important, because all of this goes into a common hopper, so to speak, to be included in a report by the full committee. I think it would be too bad if both committees spent a great deal of time on the same thing, in having hearings and one thing or another, but I judge that your committee isn't doing that, is it, Bishop Haas?

BISHOP HAAS: No, we are not.

MR. CARR: I think Subcommittee No. 2 is going more deeply into grants-in-aid than Subcommittee No. 3, because you people have done quite a bit on the use of Federal funds in the field of education or housing or health, and community services, and at that point at least Subcommittee 2 has probably got the bigger responsibility than Subcommittee 3.

MRS. TILLY: Well, we were looking into it from the en-

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forcement of legislation. For instance I know when we were discussing an anti-lynching bill we thought we might attack it by the withdrawal of all Federal funds from a county until the matter was cleared up. We had gone to some extent into the grants-in-aid, but that was one weapon. We had no hearings on it.

MR. SHISHKIN: I don't know how Mrs. Tilly would feel but I wonder on the question of jurisdiction whether this problem could not be solved by having our subcommittee arrange, at the time of the next meeting, to have one session jointly in which we could raise these questions and reach an agreement as to how we would continue the exploration. I am sure that there wouldn't be any difficulty about carving out the areas in which we could do the most effective job, and that is our purpose.

BISHOP HAAS: May I say in that connection, Mr. Chairman, that this exhibit, as Mr. Tobias recommends that we call it, emphasizes the educational procedure on these evils, and it was assumed that Subcommittee 3 would actually get out and do the work on these things. But it was our job as Subcommittee No. 2 to see what could be done with regard to radio, press, schools and so on, and to educate, so to speak, the public on these things. I think, Mr. Carr, that you may have to come

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to that general formula.

MR. CARR: As I understood it, the decision that was made somewhat earlier was that ~~your~~ Subcommittee No. 2 would give attention to the substantive problem, whereas Subcommittee No. 3 would concern itself pretty exclusively with legislative devices, without going deeply into the substantive side of the problem; that the pros and cons of discrimination in education or health or any other area would be the concern of your subcommittee, but that Subcommittee 3 would be a sort of service committee that would tell you how you could accomplish certain goals, what legislative devices could be used if you wanted to use them. ~~But that~~ Subcommittee 3 was not expected ~~wouldn't need~~ to undertake a substantive investigation of the extent of discrimination or the nature of the problem - and you peoplehave already gone fairly deeply into that area.

BISHOP MERRILL: Well, can't we leave this to the committees to work out among themselves along those lines?

MR. CAREY: As I understood the action of the meeting of our full committee, the division of the work on that question was decided by the committee as described by the Executive Secretary here.

MRS. TILLY: My only concern was that wehave got such little time that two committees shouldn't be working on the

same thing.

MR. CAREY: We don't expect, as I see it, to go any distance beyond what we have already accomplished in that field.

MR. CARR: Certainly disclosure is the one big thing that the full committee is depending on Subcommittee 3 to settle for it one way or the other. You mentioned anti-lynching bills, Mrs. Tilly. I think Subcommittee 1 has given a good deal of attention to that and that it would be a mistake for you to go very deeply into that area.

MRS. TILLY: We haven't done so and I just mentioned it in passing.

BISHOP MERRILL: A motion is in order to accept the report of Subcommittee No. 3.

MR. SHISHKIN: I so move.

MRS. TILLY: I second the motion.

BISHOP MERRILL: Those in favor will say "aye"; those opposed - it is so voted.

I think we might now spend a little time considering where we are and what the possibilities are for the immediate future. I can't help but be a little troubled in regard to the problem of attendance, simply because all of us who are on this committee have so many other responsibilities, Mr.

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Wilson, Mr. Luckman, and all of us. I have got a new position which is tremendously exacting at the moment. I camehere yesterday and there wasn't anybody on the sub committee here but myself, so that I certainly felt strange to be sitting in Washington all day when I ought really to have been in New York. I am wondering if we can't get a more authoritative answer before setting a meeting as to who is going to be able to attend committee meetings, so that we may be able to make more definite arrangements, and where we are on our whole schedule. The next meeting would be two weeks from now, and then where are we, and what are the next steps, in other words?

MR. CAREY: As I understand it, Mr. Chairman, we should now as a committee act to provide the Executive Secretary and his associates on the staff with copies of the three sub-committee reports in order that they can begin the work of preparing the first draft of this unnamed report of the full committee. I say "unnamed" because it is not an interim report or a progress report or a partial report or a final report. I believe they have a month in order to produce a document that would represent the work of the committee to date. Is that your understanding of the action, Mr. Carr?

MR. CARR: Well, I am not sure that I understand it that

way. I think it is a little confusing. The time schedule I think, as we see it, is that from now until June 1st the subcommittees can continue exploring these areas, but they should on June 1st come up with final recommendations, perhaps very similar to the ones that have been submitted today, ~~but that they have that much longer in which to continue working in some of these areas that haven't~~ been explored so much. ~~They~~ probably at that point there would be needed a two day session of the full committee at which all members would be in attendance and everyone would sit down and go over those reports with a fine-tooth comb, accept or reject, and then authorize the preparation of a report, perhaps turning over at that point to the executive committee ~~or some smaller committee~~ of the full committee, authority to work with the staff in the formulation of a report; and then, after that has been done, the full committee would have to come back together again and go over the proposed report with a fine-tooth comb; and that that would presumably take place during the summer with October ~~1st~~ as an absolute deadline on the submission of a report to the President.

I may say that we did confer with David Niles, one of Mr. Truman's ~~Presidential~~ secretaries, and that time schedule seems to be very acceptable to them. They like the notion

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that October 1st be regarded as the point at which the committee's report would probably be released to thepublic. They think this session of Congress is so close to an end that it is going to be absolutely impossible to release a report before July 1st that would do much good; that from July 1st until about October 1st is a very poor period in which to make public anything that you hope is going to be significant, but that in the Fall months you might release the committee's report with the hope that when Congress meets again in January this would have some effect upon the work of the Second Session of the 80th Congress.

So to go back again, I think if that time schedule is still acceptable to the committee, that we have, between now and June 1st, two or three meetings of the subcommittees in which they try to complete their work; that we write to the members of the full committee and see if we can't find some one date after June first when everybody can, ~~be here for~~ attend a good full, two days' session, to go over these subcommittee reports pretty carefully and place the committee's stamp of approval upon the recommendations, and then authorize the incorporation of these recommendations into a proper sort of report.

(Discussion concerning possible date for meeting of full committee for such a purpose)

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MR. CAREY: Mr. Chairman, I would like to suggest that Dr. Carr give consideration to the question that grows out of what I think is necessary organization and administrative procedure. I would think that at this time the committee or the subcommittees should receive from the Executive Secretary a reassignment of their operations; that perhaps between this meeting and the meeting two weeks from now he will have an opportunity to review the reports of the three subcommittees and then, two weeks from this date, the subcommittees could be advised as to what material is necessary in order to provide a draft of a committee report, not a subcommittee report, and that the full committee give consideration to the recommendations that will grow out of the paper that he will provide to the full committee that will take the recommendations from the three subcommittees, rather than have duplications through overlapping and so forth. Now that is what I would look forward to, a reassignment now of our operations. I think we should have an accounting made of the work of our subcommittees and we might lose the presence of a lot of members of the committee unless we are constantly pushed by the Executive Secretary to a time-table that they can deal with, with a feeling that they are making a contribution. But should we leave the subcommittees to their own devices at this

stage, I am afraid that we will just dissipate our interest.

MR. CARR: I think what you have said is very sound, that it would be very helpful if at this stage the Staff could sort of take a look at everything that has been done, examine these three reports carefully, and then indicate to the three subcommittees the remaining work that ought to be done in terms of the overall plan that the committee has agreed upon, and suggest that this committee do this, and that that committee do that, and then I would also suggest that we look forward and try to find a date when we would begin working, right now, on the notion that as many of the fifteen members of the full committee be present as possibly can to go over the next reports of the three subcommittees, which would come as a result of this suggestion which you make now. I think that is going to be one difficulty, that we will come up to a point with the subcommittees ready to make their reports to a session of the full committee, and if only six or seven people are present the work is going to come to a stop, because you won't even have a quorum present to place its stamp of approval upon what the subcommittees are recommending.

(Off the record discussion)

MR. CARR: In the meantime we will follow Mr. Carey's suggestion and have it clearly understood by each one of the

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three subcommittees what work remains to be done, and try to work out schedules for them, so that they will get that work done and we will come to that two-day session and go over these reports in somewhat the same fashion that wehave today, only in a much more thorough fashion so that you would then have assembled a list of decisions that had been made and the business of writing a report could move forward with very considerable dispatch after that.

MR. SHISHKIN: I think that is a very good suggestion.

(There was an off-the-record discussion as to the dates for the proposed two-day meeting of the full committee, and at the suggestion of Mr. Carr it was voted that he write all fifteen members of the full committee requesting them to advise him what dates between May 21st to June 26th would be the most convenient for them to attend, also giving a secondary choice).

MR. SHISHKIN: Mr. Chairman, in connection with this meeting there is one thing that I wonder whether we couldn't do in order to expedite and point up the work. I wonder if to some extent our difficulty at this stage has not been with the fact that we, all of us, have acquired a great pyramid of material, some of it unread, some of it read early and not related to the later activities, and some of it undigested.

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Also I think the material that we have so far been ploughing through in one way or another has become a little diffused in spots. I think that this exhibit is an indication of that to some extent. I wonder if, with a view to framing a final report which may not even be used in June at all as an interim report to the President, but which would be helpful for the starting-off point for the final report, whether it wouldn't be useful for us to ask the Staff to prepare a basic general statement which would set the framework for our committee, and a pretty forceful one, indicating the relationship of the work of this committee to the background of developments and institutional trends and ideas, a very brief and condensed manuscript of about eight pages, perhaps, which would point up, for example, what was the intent of the 14th Amendment, and the first Civil Rights Act; what have been the developments in a very general way since then, domestically and externally, of the United States; where this committee fits in in the stream of events as we confront them. So that we will not be in a position of shying away from the current realities but will assert them as a starting point of our basic report.

It seems to me that the report, in order to be forceful, will have to set the perspective to our work, and that no

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single subcommittee need to do it, the staff can do it very effectively. It is a matter of rounding up the statements of background for this committee work which I think will focus the attention not only of the people who will eventually receive the report, but will focus the attention of the committee members on the real importance historically of the job to which they have been assigned and which they have not very diligently pursued. If we could have that for the June meeting, or in advance of it, I think it might act as a prod and at the same time serve as a pretty useful document in the formulation of the final report.

MR. CARR: We could do that very readily. In fact we have been turning over in our minds the desirability of a statement of that kind. We have got a good deal of that information right at hand so it wouldn't be very hard to give you that sort of a statement. I take it that you want some of the historical background in terms of tradition of American civil rights, showing the flow of history, so to speak, and finally coming to the point where we are today, and how does this committee fit into the continuous story, ~~that has been taking place up to this point~~.

MR. SHISHKIN: Perhaps one more step, pointing to the future and indicating what are the vacuums that this committee

might fill up by affirmative action, and its recommendations, leaving a space for the recommendations to be fitted in.

MR. CARR: Yes. We will be delighted to do that and I think it would be helpful.

BISHOP SHERRILL: I think that would be very helpful because we have gone enough at the general problem for you to understand the direction in which we are moving. Nothing is going to change this statement that Mr. Shishkin refers to in thelight of what the committee is going to do later on in the way of specific recommendations, and if the staff could start on the composition of a step toward the final report, I think it would probably be very valuable. Do the other committee members agree?

BISHOP HAAS: Yes.

MR. CAREY: Yes.

MR. SHISHKIN: This might also be a phase for the committee to indicate. We have made it pretty clear that we don't want to advise the President on current legislation, but it seems to me that the committee would be derelict unless it pointed out that other basic rights, which we have not dealt with, such as freedom of assembly, for example, are under threat. It seems to me that that would be helpful in any future continuation of the work of the committee, to

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have that asserted. But that is just a footnote.

BISHOP SHERRILL: Are there any other matters to come before us now?

MR. SHISHKIN: There is just one point that I wanted to raise, which is a minor one, but I think it is quite important. At the first of second meeting of the committee I raised the question with the Chairman with regard to the members of the committee being sworn in. That suggestion was brushed aside with the indication that the lawyers advised Mr. Wilson that it wasn't necessary. I feel that this committee, particularly in the present climate of opinion, and because of its position, and also because substantively the committee is dealing with problems of national security, because it does confer with responsible representatives of agencies that deal with those matters, and because it is going into the area of basic foundations on which our whole Government is founded, that it is untenable for a committee of this sort to operate under an Executive Order as a duly constituted agency of the Federal Government and to presume in the eyes of the peopleto have the status without having taken an oath of office as such a constituted agency, and therefore I would like to reiterate my request that the members of this committee be properly sworn in as duly constituted members of the President's Committee.

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BISHOP SHERRILL: Well, I have a feeling that that matter would have to be taken up again with Mr. Wilson and a larger representation than is here now. I should rather hesitate myself, as a matter of courtesy to Mr. Wilson, to take any action here until he is able to be present, in the light of his former decision.

MR. SHISHKIN: I just wanted to make that a matter of record.

MR. CARR: On the strength of your statement yesterday I called Mr. Niles' office and submitted the inquiry, but have had no reply. I am sure that there would be no objection if the members of the committee felt that in terms of their responsibility they ought to be sworn in. I can't see that anyone would object. The one question that might arise is whether you would like to have it done collectively or as the individual members come into the meetings.

MR. SHISHKIN: I don't think that matters.

(Discussion off the record)

MR. CARR: I can't see that any possible harm would be done by having the members sworn in. If you want to err on the safe side I would suggest that you be sworn in. You may run into a technical refusal to administer theoath on the ground that since you don't receive compensation there is a

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Governmental rule that you can't be sworn in, but I doubt if that is the case. Would you be satisfied if we looked into that during the next two weeks and got a formal statement on the matter?

MR. SHISHKIN: Yes; I just didn't want it to get lost.

BISHOP SHERRILL: Is there any further business to come before us now? (No response)

If not, it is understood that we will meet at two o'clock this afternoon in Conference Room 105 of the National Archives Building.

(Whereupon, at 12:00 noon, the Committee adjourned until 2:00 p.m. of the same day).

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AFTERNOON SESSION - 2:00 p. m.

Conference Room 105,
National Archives Building,
Washington, D. C.

BISHOP SHERRILL: The hearing will be in order. Mr. Granger, you know the purposes of this Commission, and we will be glad if you will begin by making any statement you care to make at this time.

STATEMENT OF LESTER B. GRANGER,
Executive Secretary, National Urban League,
1133 Broadway, New York, N. Y.

MR. GRANGER: Mr. Chairman, in preparing my statement I took some liberties with Mr. Carr's letter of instruction because I felt that as a social worker my opinion as to legal strategims and justifications would not be as important as an opinion I would have about the bone structure and the meat of the Committee's main concern.

In order to identify myself for the benefit of those who do not know me, I will say that my name is Lester B. Granger and I represent, as executive secretary, the National Urban League, with headquarters in New York City. We have a southern field division in Atlanta, Georgia.

Mr. Chairman, and members of the Committee: Throughout these 37 years, the National Urban League, working to improve the conditions under which the Negro population lives, has

concentrated on problems of employment, housing, family security, and community relations. The protection of these we consider basic to the continuing development of a dynamic society. Abridgment of opportunities for pursuing these objectives, ~~suffered~~ suffered by any group in our population constitutes, in our judgment, a violation of the civil liberties guaranteed by the Constitution of our country and the Bill of Rights.

I am appearing in behalf of the National Urban League, and in support of a formal statement which we have already presented to the President's Committee on Civil Liberties. That statement points out that the core of the Urban League's responsibility and the center of this Committee's interest coincide at certain vital points - those involving the improvement of race relations and of living conditions among the Negro population.

Both lay and professional leaders in the Urban League movement are agreed upon the inextricability of these two issues: race relations and Negro welfare. No matter whether we work on a local basis with close-at-hand problems or whether we work from our national headquarters on these problems manifested on a grand scale, our experiencesin the Urban League are identical. When we work to improve employment, housing and health conditions among the Negro population,

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we are handicapped and bedeviled by those undercurrents of community fear and hostility which are popularly called "racial tensions". On the other hand, when we work to build up confidence and effective partnership between white and Negro leaders, we find our efforts inhibited by tendencies toward social disorganization, spiritual defeatism and economic instability within the Negro population.

Thus, the Urban League envisions the function of the President's Committee, like our own, to be a dual one - taking steps to build mutual confidence and cooperation between the two racial leadership groups, and also eradicating the legal or extra-legal devices by which Negroes are constantly frustrated in their search for the good things of American society.

It is from this approach that I invite the members of this Committee to consider at slightly greater length some of the points presented to your attention on April 1st in the National Urban League's official memorandum: CIVIL LIBERTIES IMPLICATIONS OF THE EMPLOYMENT, HOUSING, AND SOCIAL ADJUSTMENT PROBLEMS OF MINORITIES. In that memorandum are specified five rights which are basic in the economic life of Americans and which must not and should not be infringed upon for reasons of race, color or creed. These are: THE RIGHT TO WORK and earn a fair wage; THE RIGHT TO A HOME which gives decent protection to its

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members; THE RIGHT TO GOOD HEALTH, as far as the community can possibly protect its members; THE RIGHT TO AN EDUCATION, which refines and improves the citizen's possibilities for service; and THE RIGHT TO PUBLIC SERVICES which are vitally necessary for sound community living in this highly complex social age. I wish to repeat the assertion made in our formal memorandum - that every one of these basic citizenship rights of the Negro especially is violated on a local or national scale with such frequency and intensity as to require the effective interposition of and protection by the Federal Government. The National Urban League does not attempt to define the legal ways by which the government can interpose its services. We seek merely to stress the need for such action, feeling confident that your battery of legal and legislative experts and advisors can find the means once the need is recognized.

Employment

The racial discrimination most generally recognized and widely condemned by the American public is in the field of employment. The close of World War II and the discontinuance of the President's Committee on Fair Employment Practice temporarily threw employment conditions for the Negro back toward the status that existed before the war. In other words, the Negro's right to work - except in the three states which

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have passed anti-job discrimination laws -- New York, New Jersey and Massachusetts -- depends upon a personal judgment frequently colored by whim, prejudice or superstitution of the individual employer to whom the Negro is applying. Or when such a barrier is absent, it depends upon the racial policies, official or unofficial, of the labor union covering the job in question.

It is not necessary for me to discuss the need of federal legislation designed to continue the education and citizenship which the President's FEPC constituted and to eliminate step by step this grave economic injustice practiced against Negroes. Other organizations which have appeared or will appear before your Committee will talk fully on this point. I wish merely to record the National Urban League's support of proposals for federal legislation, as well as State, to reduce and eventually end racial discrimination in employment. It is true that the more enlightened sector of American industry has learned from its wartime experiences in the use of Negro labor. It is true that many job gains which were made during the war have been successfully held by Negro workers -- and in some cases even extended. But it is also true that at least some large-scale employers of labor have informed the National Urban League that their efforts to continue these democratic employment policies will be greatly strengthened if federal legislation on the

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subject is passed. Without such legislation, they state that they feel that another depression -- even a temporary one -- might well wipe out most of the hard-won gains now held.

But aside from the possibility of federal legislation, I wish to point out that there is an important field of employment in which action by the Congress is not required. This is in the field of civil service and other public employment, including employment by contract. The Department of the Navy, for instance, when it lets a contract includes a provision which forbids the contractor to deny work to persons because of race, but there are other departments of the Federal Government which fail to make such provision, and consequently thousands of Negroes applying for work are denied jobs to which they are entitled by training and need. At this moment, the National Urban League's Industrial Relations Department is taking up with the War Department a case of this type in San Francisco. The San Francisco Urban League reports to us that the contracting firm of Morrison Knudsen has refused to hire Negro workers for a contract job on the Island of Guam. Negro veterans, who as servicemen helped to free and hold this island in our Pacific war, now are denied the right to help rebuild the island -- and denied that right by an agent of the Federal Government.

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A year ago there were nearly 100,000 Negroes employed in classified posts with the federal government, but since a large proportion of their jobs were war service appointments only, this number has been considerably reduced. With the end of FEPC, a number of federal bureaus and departments have blatantly admitted their racial discriminatory policies in hiring, if a news-story in the New York Times of January 11th is to be accepted as authoritative:

> "The nine Federal agencies cited were the Bureau of Standards and the Patent Office in the Department of Commerce, Bureau of Internal Revenue in the Treasury Department, Public Health Service in the Federal Security Agency, Public Buildings Administration in the Federal Works Agency, Alien Property Custodian in the Justice Department, Navy Department, Government Printing Office, Office of Army Security in the War Department and State Department."

Allegations against these departments were made by the United Public Workers of America, ~~but~~ and the Union's spokesman declared that the President's Assistant, Mr. David K. Niles, had checked their facts and found them to be true. Other larger and better-known federal agencies stand similarly under indictment. For instance, the widespread discrimination in the

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employment of Negroes practiced in many local post offices in violation of the natinnal policy of the Postmaster General; again, the almost complete absence of Negro counselors and clerical workers in the offices of the Veterans Administration in southern states. The United States Employment Service in its regional operations has been severely criticized, and the Federal Reserve Banks, so far as Negro job applicants are concerned, might be described as the inner bastions of employment discrimination.

I ask of this Committee a question which is constantly propounded by thoughtful Negro leadership: How can the Negro citizen trust the services or good intentions of a public agency which refuses him employment because of his race? How can any citizen trust the good faith of a public agency which shows itself opposed to democratic employment policies? Here is a condition which can be remedied almost overnight, without the necessity of Congressional action, by immediate executive and administrative action from the White House and carried throughout the various departments and agencies of the Federal Government.

Housing

The Negro's right to a home has been similarly infringed upon by both private management and the Federal Government.

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The practice of restricting certain residential neighborhoods against home occupancy by Negroes and other minorities is of long standing in American society and has been defined as legal by the Supreme Court. In its original conception, the restrictive property owners' covenant was regarded as a means of keeping certain neighborhoods occupied by persons mutually congenial by reason of income, cultural habits and the like. It has been developed, however, in the past two decades -- and that development has been vastly accelerated by present housing shortages -- into a device which does not simply exclude incomers from a given area, but also restricts certain racial groups to areas where they now live. The urban redevelopment plans of many large cities have endorsed and strengthened this tendency. "City planners" in not a few instances have actually declared it to be their intention to use urban redevelopment as a means of ghetto-izing the Negro population and "protecting" the community against unregulated expansion of Negro residential areas. New York City met this problem in the much-discussed Stuyvesant Town of the Metropolitan Life Insurance Company. To the credit of New York's political leadership, future housing projects subsidized through the urban redevelopment law from the public treasury will not be able to bar any tenants because of their race or creed. But New York City is a shining

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exception. The rest of the state and cities throughout the United States as a whole have shirked public responsibility on this issue and continue to leave it to investors and property development companies to set racial policy.

Backing this pernicious tendency was formerly the written policy of the Federal Housing Administration, and even now the tacit encouragement of that public agency. The underwriters manual of FHA, at least until recently, explicitly stated that FHA loans would not be used to bring so-called inharmonious elements into neighborhoods. Consequently, Negroes who sought FHA loans in neighborhoods which were not already preponderantly Negro met with refusal on the part of the finance companies to grant them FHA loans. The National Urban League is convinced that the restrictive property owners' covenant based on race, color or creed, as now conceived and developed, is contrary to the public interest. It serves to depress and not improve property values. It acts as a barrier against natural and necessary expansion of growing Negro communities. It deprives the Negro population of access to decent housing at reasonable prices and under attractive neighborhood conditions. The restrictive property owners' covenant is an encouragement to social disorganization within the Negrocommunity and to racial friction and conflict between whites and Negroes. The League

believes that in the public interest such covenants should be outlawed by explicit act of the Congress and the federal courts.

Much could be said on the subject of public housing. For instance, the extent to which low-cost housing facilities have been denied to Negro families either because of unwillingness by local housing authorities to include whites and Negroes in the same projects or because of organized resistance on the part of ignorant and biased whites to the location of a housing project for Negroes in this or that area. Buffalo, New York, is a notorious example in that organized citizenship activity prevented the Negro population from housing relief throughout the whole of the war by preventing the erection of a housing project in which Negroes would be accommodated.

It is ironic that housing discrimination practiced against Negroes has reached its point of greatest refinement in northern communities where Negroes have made their greatest employment progress at the same time. Only recently have southern communities begun to borrow the northern idea possibly because over many decades the South has become adjusted to its knowledge that there is an important proportion of its population which is Negro, that this Negro population must live somwehre, and that Negroes and whites can live side by side in the same cities and frequently in the same neighborhoods.

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Health

The Negro's right to good health is that right which is least often disputed, but is also the one about which there has been least widespread discussion. Possibly this is because when the poor die for lack of assistance they die very quietly. The American public as a whole, therefore, is unaware that Negro mothers die in child-birth more than twice as frequently as white mothers; and that a Negro boy at birth can expect to live only 55 years, as compared with slightly over 63 years in the case of a white baby boy. An equally dark picture can be painted of comparative mortality and morbidity rates from different diseases or comparison of hospital and public health facilities available to Negroes with those provided to whites in urban and rural communities alike throughout the country.

Much of this racial health lag will not be taken up except by intelligent constructive action in local communities. Hospital services must be provided to all of the community on the basis of need rather than race; and Negro as well as white physicians and nurses must be given freer opportunities to sharpen their professional skills and acquire modern hospital and clinic experience. But the National Urban League feels that beside this local action there is need of federal action to improve and expand health services in those parts of the

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country where the Negro population is greatest, health resources are fewest, and denial of health service to Negroes most frequent and severe. We believe that when a public hospital or a hospital subsidized in any way from the public treasury denies to persons because of their race or creed either treatment, service or training in medical professions, the civil rights of American citizens are being violated. We urge that the Committee investigate this subject to determine what disciplinary action can be taken. For we are convinced that in view of the rigid attitudes of leaders of the medical profession on this subject -- in view of the fact that medical practitioners who have sworn to protect the public's health allow their racial prejudices to deny medical service and professional training alike to those in need of one or the other -- in view of this fact, only the disciplinary authority of the government will avail to change a pattern of medical care which annually results in the needless deaths of tens of thousands of our Negro citizens.

There are many other points which could be covered in my statement, which time will not permit. I would refer your attention, for instance, to the question of public services -- the fact that in many cities police departments instead of being the protectors of Negro's civil rights are themselves

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among the grossest violators thereof. I point out that not only health, but also sanitation, building inspection, maternal and child welfare services -- all of these are public services the need for which increases directly as the income of the group affected is diminished. Negro citizens, among the lowest income group in our population, are arbitrarily deprived of many of these public services even though their need is greater than that of other groups in the population. Here is a violation of mass civil rights to which the attention of this Committee is directed and to which serious study needs to be given.

I want to point out also that in this critical period of post-war readjustment it is especially fitting to examine carefully available educational opportunities for Negroes; but again because of the pressure of time, I will not go into this subject.

Without any attempt further to cover a most important subject, I repeat that the National Urban League is privileged to have this opportunity to share its opinions and experiences with the members of this Committee. On behalf of the Executive Board and Officers of the National Urban League, and of each one of our 56 local affiliates throughout the country, I offer our continued assistance and support to the ends of your Committee's inquiry.

BISHOP SHERRILL: Thank you very much, Mr. Granger.

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Is there anything further you would like to add to that statement before the Committee asks any questions?

MR. GRANGER: There are one or two points, Mr. Chairman. In Mr. Carr's letter he indicated you would be interested in knowing our opinion, for instance, as to the wisdom of using criminal sanctions as a means of safeguarding rights and the extent to which criminal sanctions should be supplemented by educational activity designed to promote a healthier climate of civil liberty. I am perfectly certain in view of the widespread difference of opinion on this important subject, that you will have varying opinions appear before your body. That is, you will have various opinions expressed by those who appear before your body.

It is our conviction that many of the violations of civil liberties practiced quietly, sometimes officially and sometimes unofficially, against large numbers of people escape punishment merely because of the enormity of the crime. It is a good deal like the argument being carried on in Europe until recently as to whether the Nazi crimes involving the mass murder of five or six million people were not so enormous that they could not be punished by ordinary processes of law.

We feel that where the interests of the public are concerned, the health and the very lives of people, whether as

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individuals or in large numbers, then perpetrators of crimes against those people, those who endanger the public interest by endangering the health and lives of fellow citizens should be punished by whatever means the law has and whatever means are effective.

We know there is a place for so-called educational activities. Certainly, the Urban League is an organization which has worked for many years in the field of public education; but unless our educational activities are accelerated and supported by the existence of penalties, which can be referred to if education fails -- and we know also that the passage of laws very often in itself constitutes important education for the public. We don't feel that you can dismiss the subject by saying, "We are for education or for the imposition criminal penalties." We feel that in most of the subjects where our interest is directed, the public needs the protection of both.

We feel also that what has been done in certain phases of our national life during the war shows what can be done on a large long-time basis and on a large scale in the beginning peacetime period. Certainly, the comparison between what happened in the Army and what happened in the Navy during the war furnishes us with an excellent example of the results of imaginative and courageous leadership when applied at the

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proper time.

I do not know much about the War Department's experience in the upgrading of its practices in employment of Negro personnel. I know a great deal about the Navy Department's experience, and I know enough to know the Navy Department's experience is much happier and much more successful.

I know that the Navy during the 3 years of war decided that a certain change had to be made in the use and treatment of its Negro personnel in the interest of having a more efficient Navy, and thereby insuring victory in the war. I know that the Navy, starting froma point far lower than the original practices of the Army, within the space of less than two years almost completely reconverted its racial policy, and in many cases reconverted the opinions of the officers who were charged with the responsibility of carrying out the policy.

I know that today rather than being a service in which Negroes were restricted only to the stewards' branch, the Negroes are now in every branch of its service as well as the stewards' mates. It has them in the ranks of commissioned officers, in the ranks of petty officers, and first and second-class seamen. I know that the change has been accomplished harmoniously, quietly and efficiently.

Now, it is now accepted by thousands and thousands of

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commissioned and petty officers in the Navy who three years ago would have declared emphatically that the job could not have been done. I know that the job was done merely because the ranking officers of the Navy, upon the advice of the White House, gave study to the problem and decided that whether or not it could be done, it had to be done; and once they decided the job had to be done, they found ways of doing it.

We find similar arguments addressed against peremptory action by the Federal Government in this field of civil liberties, the claim that the public will not accept -- just as the first World War II Secretary of the Navy declared a change in the racial policy would be injurious to the morale of the Navy. It will be declared that the laws will not be enforced, if passed, because they will fall flat against public resistance, just as Navy officials were told that an enlightened racial policy would not be effective because it would not be administered by the lower echelons of command.

However, I believe that just as the Navy proved these dire predictions false, so the experiences of our country during the war in the field of employment and in other fields of association between the races -- that experience shows that these predictions regarding what we can not do in the peace-time period are equally false.

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I hope your Committee will address itself vigorously to finding out whether the criminal sanctions, as well as educational activities, are necessary and proceed to recommend them undeterred by dire prophecies of failure or worse.

Thank you very much.

BISHOP SHERRILL: Thank you. Are there members of the Commission who have questions to ask of Mr. Granger?

MR. CAREY: Mr. Granger, do you believe it wise for this Committee to recommend the complete withholding of Federal grants ~~and~~ -in- aids to institutions and government agencies in sections of the country that practice discriminatory patterns?

MR. GRANGER: I would say that this Committee should recommend that that be used as an extreme penalty when all other negotiations fail. From observations directed in other fields, it is my conviction that once the penalty is established and once there is effective demonstration that the penalty will be used, if necessary, the penalty will very seldom need to be invoked.

I believe it is contrary to democratic principle for a government to grant funds to any institution, public or private, which denies the services resulting from those funds to any class of the citizen population.

BISHOP HAAS: Mr. Granger, I want to compliment you on the

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very orderly presentation that you made, and I am particularly interested in the order that you followed in the rights that you put down. You have the right to work first and you have the right to housing, the right to good health, the right to education, the right to public service.

My question is this, Mr. Granger: Of these different rights, which would you recommend that most of the energy be concentrated on in securing at once?

MR. GRANGER: The right to work.

BISHOP HAAS: FEPC?

MR. GRANGER: As one of the ways of securing the right to work, yes.

BISHOP HAAS: Just one more question. I noticed on page 3 of your testimony that you said -- this is the first full paragraph --"in other words, the Negro's right to work -- except in the three States which have passed anti-job discrimination laws -- New York, New Jersey, and Massachusetts -- depends upon a personal judgment."

I ask you this question: Would you be satisfied with merely having a State FEPC in each of the States without a Federal FEPC?

MR. GRANGER: That is a tough one. No, I would not be satisfied.

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BISHOP HAAS: You want both?

MR. GRANGER: For this reason, Bishop Haas. If each State today or in the next 20 years were to pass an FEPC law, there would be such variation between them that there would still be no national pattern and we would have a situation where a citizen moving from one State to another would find himself in different economic conditions, as different as if he had moved from one country to another.

The only way we can reconcile these differences would be to not only have action at the local level, which stimulates the greatest interest, but action at the national level, which coordinates and brings harmony to the whole.

Mr. Kerns is also here. He is with the National Urban League.

MRS. ALEXANDER: I want to know if you can tell us any reason why so many proposed FEPC bills do not include government workers. Is there any justification in your opinion for their exclusion from the bill?

MR. GRANGER: There is no justification. I think the reason for exclusion is based upon two things: One, an erroneous assumption that the Government is conducting fair employment practices and doesn't need to be included; and 2, a matter of politics as being the easiest way of getting a bill passed.

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It was felt in at least one State that to propose the inclusion of government employment in the provisions of the FEPC would be to incur an organized hostility at the center of government and next to the state house; and for that reason that was discreetly left out.

MRS. ALEXANDER: I would like to ask one other question. The Social Security Acts do not in any way protect farm laborers, as we know, and domestic servants, which occupations largely are composed of the Negro people.

Is it your opinion that because of the racial identity of the people ~~that~~ they were left out of these Acts, or is it your opinion that it is because it would be difficult to administer the collection of money from farm labor and domestic servants?

MR. GRANGER: I would like to have Mr. Kerns' opinion on that. He is our Assistant Director of Research.

My feeling is that, first of all, their exclusion was caused by the fact that it would be extremely difficult to administer. The small number of persons employed and the extremely large number of employers would set up a very difficult administrative procedure.

Also I feel that there was a lack of public interest in those fields and a lack of effective representation for the

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workers concerned.

Part of the lack of public interest was due to, I think, the racial coloration of a large number of the employees therein, and also the fact that historically the Negro population has been unable to organize effectively as other special groups in the population, and that has made it difficult for them, as for other low-paid workers to present an effective statement in their own behalf. I think there is a tinge of color in the situation, but it is mostly an administrative structural problem.

Would you agree with that, Mr. Kerns?

MR. KERNS: I would agree completely. I think the last statement Mr. Granger made was, perhaps, the most important because of the large number of Negroes in this particular field and because of the lack of any formal organization to help to push the demands for their needs.

I think the other reason he gave was equally as sound, largely because of the difficulty that has been stated in a number of circles of administering a law.

MRS. ALEXANDER: That could be managed with stamps. You could purchase the stamp the same as you do automobile stamps.

BISHOP SHERRILL: What would your advice be to this Commission? Would you feel that this Commission ought to draw up a statement which might be desirable if the Kingdom of God

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had already come on earth or ~~it~~ there should be more practical considerations in the recommendations of the Commission of something that is immediately achievable and might be pushed with great results at the present time?

MR. GRANGER: I feel such a close kinship between this Committee and my own organization that I would suggest that you follow the same policy that we usually do. We set forth the statement coming from the Kingdom of God, and in referring to that we point to specific cases by which the Kingdom can be approached, allowing for lags between the ideal and the actually real and practical.

I would hate to see the perfect ideal of citizenship left out of your statement. I would hate to see you establish so complete a moral commitment that you overlooked the practical difficulties in the way of carrying that commitment out.

MRS. TILLEY: Mr. Granger, you referred to in your opinion the closeness of this Committee to the program of the Urban League and you said -- if you didn't exactly say it, you implied it -- that legislation to be effective would have to be backed up by education.

MR. GRANGER: But also that education is accelerated by legislation.

MRS. TILLEY: Yes, but now my question is this: If you

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MRS. TILLEY: Yes, but now my question is this: If you

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have the FEPC legislation, to be supplemented by educational work to overcome the prejudice of the worker, has the Urban League worked out a technique for that?

MR. GRANGER: I think so.

MRS. TILLEY: Can you give it to us or send it to us?

MR. GRANGER: In the most simple form it is to be seen in the operations of our industrial relations department, which seeks out employers and tries to find out the thing they are interested in, which is the securing of trained and capable workers who can turn out a profit for them, and to seek out the workers who can produce, and introduce the two groups to each other.

We answer the employer's argument against the use of Negroes, one by one, and knocking them down and pointing out to the Negro worker at each step where he falls down, and build him up step by step, and do exactly the same job with labor unions where the labor union is an important obstacle in the Negro's path to the job.

It is just a matter of getting acquainted, establishing confidence, and relieving fears and disabusing the minds of superficialities.

We find that the biased employer is usually a person who has been sheltered from the need of seeking labor, and because

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he hasn't had to seek labor he has built up in his mind curious ideas, distorted notions, about what workers are like. Employers are no more intelligent, I am afraid, no more stupid than the norm in our population.

I have used the same tactics you have used, Mrs. Tilley, in your work with the southern commission.

BISHOP SHERRILL: Are there other questions?

MR. CAREY: If I may, I would like to ask Mr. Granger a question a little more specific than the question asked by Bishop Sherrill along the same line.

If we find it impossible to secure a Fair Employment Practices Commission of an effective type with judicial compulsory enforcement provisions, would it be possible to find relief in a bill that would contain all the important features of the kind of fair employment practices bill that your organization and my own organization supports with the enforcement provision to become operative after a period of time, say a year, in the Federal and State governments?

MR. GRANGER: You are asking what I think of that approach?

MR. CAREY: That is correct.

MR. GRANGER: In my opinion, you should take the best you can get. I think the best bill would be a bill which sets forth

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penalty and education as alternative or concurrent operations. If you can't get that, then I believe that the next step would be to make whatever adjustment is necessary to bring penalties into the picture as soon as possible. I would say that we might be a little more successful with education if violators of the law knew that a year or 18 months after the educational approach is made, the big stick will be brought.

It might be the cleverer method of approach. Of course, the danger is that if you don't get penalties as well as education written into the same bill, that you are committed to education alone, and the penalty will be mysteriously absent when you look for it.

Of course, I feel that the FEPC bill as written is not, of course, the only answer. There are other ways of skinning a cat. I can see a half dozen different bills, possibly, and if we fail to get a whole bill this year, we can get a piece of a bill covering a certain area of employment.

Of course, we have something of the omnibus approach in the committee to it, and we go all out to get it, but if by bad fortune we should be defeated, I don't think we should be stopped and start over again. We grab what we can get.

6- Is that as direct an answer as you want?

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MR. CAREY: Yes. It seems to me that the bill would be worthless if it relied on education. I subscribe to the educational approach, but I believe in compulsory education, as our country believes in compulsory education.

I also believe that we answer a question as to what will this lead to if we write into the bill compulsory features, even though they do not operate for a period of time and provide the opportunity for some compulsory education with full knowledge of the penalties that will be applied if they do not take advantage of the period of adjustment.

MR. GRANGER: The Urban League has probably had longer experience and more intensive experience in developing job opportunities for the negroes than all the rest of the agencies of the country put together.

I would be the last one to deride the educational approach because that is all we have used. We have had no club. I would be the last one to claim that education is the answer. With the educational approach we have changed the attitude and changed conditions in numerous industrial situations around the country.

However, we have fallen flat on our faces more often than we have succeeded; and in the last five years when there has been talk as well as the actuality of effective governmental intervention in the situation, we have been able

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to greatly increase the work in our area even of educational activity. To my mind there is no question about the need for governmental intervention in the situation where hundreds of organizations have for years worked educationally and where the situation today is not enough different from what it was at the close of the Civil War. It is different, but not enough different.

MR. KEANS: I think another point which may be mentioned here is that the pattern in a number of local industries is set by your state and your national pattern, and where you find in some of the areas where we have been recently such organizations as your Post Office and your Federal Employment Offices, where they themselves do not employ Negroes, it justifies to a greater extent your local pattern.

We have had that time and again, and I think some penalties to encourage such organizations as our Post Offices and other Federal agencies in the states to do their job would certainly help to accelerate the job we are attempting to do on the volunteer level.

BISHOP SHERRILL: Are there other questions?

MRS. TILLEY: I would like to ask one other question. Mr. Granger, you have got some paragraphs on housing. What suggestions have you to attack the problem of restrictive

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covenants? You have it in housing on page six.

MR. GRANGER: That is a legal problem, and the Urban League is not armed with legal staff advice. We are fortunate in having distinguished legalists among our board members, but we have not worked out a legal proposal; and I would prefer that Mr. White's organization or some other group experienced in the legal field should give you that information.

We do feel, however, that since the judgment of the Supreme Court has been that the racial restrictive property owner covenant is legal, then Act of Congress or a reconsideration by the Supreme Court itself on a different kind of case to be presented would be necessary.

My intention was to point out the seriousness of the situation and to beg the addressing of your attention to the problem.

MRS. TILLEY: May I ask one other? Under the question of health you have:

"We believe that when a public hospital or a hospital subsidized in any wayfrom the public treasurydenies to persons because of their race or creed either treatment, service or training in medical professions, the civil rights of American citizens are being violated."

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Would you add to that the hospitals that prevent Negro doctors from practicing in them or do you include that under training for the medical profession?

MR. GRANGER: That is what we meant, that hospitals which deny any training or staff service to Negro practitioneers, which deny any nurse's training to Negro nurse applicants, and deny services of any kind to Negro patients, they are all equally guilty.

We think it is a tragedy that a profession which historically has been devoted to the protection of high ethical standards in general on this basis of race has fallen flat on its face, because generally speaking, they are the most respected members of the medical profession who are most rigid on this question of training for the Negro practitioneer; and they are, therefore, accessories in the crime which is really deliberate mass murder, and can not be described in any other way.

MRS. ALEXANDER: You would apply that to municipal, state, and Federal institutions?

MR. GRANGER: Any hospital which receives public funds. I suppose you can't prevent a private hospital from doing a little murdering, if it desires, but at least we ought to proceed in the other field.

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MRS. ALEXANDER: After the Negro doctor finishes his internship, ~~which is required to be admitted to practice,~~ he then has no opportunity for further training at all, and the Negro community is dependent upon him for their health; and yet, the medical profession knows he isn't prepared to keep abreast because he can't get in the hospital. It is a national problem.

MR. GRANGER: A national problem and a problem which is repeated over and over again in every large city in the country from New York to San Francisco and from Houston to Boston.

In my home city of Newark just recently in the last five or six years have Negro physicians been able to get clinical and interne experience at the County Sanitarium, and yet the problem of tuberculosis among the Negro population has always been recognized as serious; they are dependent on the Negro doctor; and yet the medical leaders have prevented the Negro practitioneer from getting training in the approved and modern methods of tuberculosis prevention and cure. It is a vicious situation.

BISHOP SHERRILL: Thank you very much.

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STATEMENT OF WALTER WHITE

BISHOP SHERRILL: Mr.White, you are so well known that you need no introduction to the members of this commission. I think you know our purposes, so the floor is now yours.

MR. WHITE: For the sake of the record my name is Walter White and I am Secretary of the National Association for the Advancement of Colored People, with our national headquarters located at 20 West 48th Street, New York City.

I would explain at the outset, Bishop Sherrill and members of the committee, that I would like to share my time with Mr. Thurgood Marshall, our Special Counsel, who will be able to answer all of the intricate legal questions which Mr. Lester Granger and I will very wisely dodge because we are not competent to answer them.

I want to talk very briefly and very simply about the background from which this committee has come. Hitler is presumably dead, but his spirit lives in America today, at times, I believe, as viciously as during the heyday of the Nazi Party in Germany

We have seen the rise of bigotry since the close of the war, the denial of the right to protection of the laws and the denial of the right to earn a living to various segments of our population, which in my opinion is one of the surest

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w ays of bringing in Communism into the United States; namely, the denial of human rights and civic rights here in our own country.

We have seen vicious anti-Semitism, as in the recent Lilienthal hearings and debate ~~before~~ in the United States Senate. We have seen it in the smearing of Jewish and other displaced persons in Germany. We have seen it in recent lynchings and in the cold-blooded blinding of a Negro veteran recently discharged from the Army, by police officers in Batesburg, S. C.

It seems that already--and this may seem to be cynical--that the cooperation and understanding we knew during the war has been replaced ~~already~~ by greed, fear, and hate--hatred of minorities.

I heard Homer Rainey, former President of the University of Texas, tell a story at a dinner party in New York recently. He told of being awakened at three o'clock in the morning by a man who was very inebriated. The man demanded, in a voice showing his inebriation, that President Rainey let him come over to his house immediately to discuss the question of academic freedom. When Mr. Rainey said to the drunken man, "I suggest you go to sleep and sober up and then I will be glad to discuss it"; the man replied in inebriated language,

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"The only time I am interested in such a subject is when I am drunk. When I am sober I don't give a damn."

I think that is precisely our attitude about civil rights here in the United States. We render lip service to it during a period of national emergency, during the recent war, but as soon as the war is over, we go back into the old ways of hatred, of divisive tactics, more vicious even than those exhibited before the war.

Therefore, it seems to me that this committee's task is of the utmost importance--perhaps the most important single job facing America today. If this committee has the courage to face the facts and to recommend specific down-to-earth solutions for these problems, and then the Congress and the people of the United States have the courage and the wisdom to follow these recommendations, then there is some hope for the preservation of the democratic process here in the United States.

If not, I see no hope for the preservation of democracy. I think one of the things I would like to do first is to explode some of the fallacies, one or two of which have been mentioned here already this afternoon.

The first is the fallacy that the states and private enterprise can and should do the job of insuring civil

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liberties in the United States. That is a manifest fallacy, and it is manifest because it is clearly evident that in the administering and enforcement of laws the states have not done their job, as we have seen in the recent Georgia lynching, in Mrs. Tilley's and my state.

We have seen it in the acquittal of men who lynched a Negro veteran down in Minden, Louisiana, and in the prompt acquittal of the Chief of Police of Batesburg, S.C., who in a sadistic fashion blinded a Negro veteran who had been discharged just three hours before from the Army.

In an atomic age we can not expect segments of our population or small units of our National Government to meet a national crisis such as the denial of civil liberties has created in this country.

And then there is a second fallacy I should like to explode; namely, that we should not go too fast, that we should follow the slow process of education.

Also there is the further fallacy that we can do the job by legislation. I very thoroughly disagree with any such theory as this. For example, the discussion on the floor of the Congress and in state legislatures in efforts to enact legislation is the best education that you can possibly find anywhere in the world.

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When the campaign was started something over a quarter of a century ago against lynching in this country the annual toll of known lynchings was in excess of 250. We have never yet secured the passage of Federal legislation by the National Congress because of filibusters in the United States Senate, but nevertheless, the utilization of the floor of the United States Senate as a broadcasting station to tell the world the hard cold cruel facts about lynching has done more to awaken the American people to the necessity of stopping lynching than anything else that has been done.

So is it true in the campaign for the passage of a Federal Fair Employment Practice Commission legislation. That, too, as you know, has been defeated by filibuster, but yet the discussion of discrimination against Negroes, against Jews, against Mexicans, against Chinese, against Nisei, against other minority groups in this country has done a great deal to bring about that enlightenment by trade unions and by employers and by the general public, to which reference has been made here this afternoon by Mr. Granger.

I sometimes wonder whether the apostles of free enterprise are half as wise as they think they are. For example, not only the manpower shortage, but the creation by the late President Roosevelt by Executive Order of a Fair Employment

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Practice Commission has greatly increased the size of the Negro consumer market. Because of this increased economic status of the Negro, of his getting better jobs and being paid decent wages, it has increased this Negro consumer market to a position where it is today between ten and twelve billion dollars a year, which is about a fifth of our total national income in 1935.

It is because of the FEPC and the educational work which that committee did through its acts that a great deal of increased financial and economic prosperity has come not only to Negroes and other minorities but to the country as a whole.

How, I should like to recommend certain steps, which this committee can take, and I believe should take, chiefly dealing with legislation.

The first is that I believe that this committee, without equivocation, should urge upon the United States Senate the amendment of its rules to provide for the ending of filibusters by majority instead of a two-thirds vote as at present. Unless that is done, there is in my opinion not the ghost of a chance of the enactment of any remedial legislation which this committee or anybody else can recommend.

For example, we are attacking Russia because of her use

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of the veto in the United Nations; but yet a small handful of wilful and bigoted men in the United States Senate have for years been in effect exercising a veto over the manifest will of the majority of the members of the United States Sen. and of the people of the United States.

Second, we should by all means have a recommendation from this committee for the passage of strong Federal anti-lynching legislation. We have seen in Georgia, in Louisiana, and other southern states that the states either can not or will not stop lynching or punish lynchers, despite the very admirable efforts made by Governor Ellis Arnall and by the Georgia Bureau of Investigation and by the Federal Bureau of Investigation in the infamous quadruple lynching down in Georgia last summer.

I would like to suggest that this committee in the course of its hearings visit a few of these places like Minden, Louisiana; Columbia, Tennessee; Batesburg, South Carolina, and see for itself not only the physical harm that was done to the victims of these attacks, but see the spiritual harm that is done to the people who do these outrageous and sadistic things.

I believe it would open the eyes of this committee if it visited some of these spots where these crimes have taken place.

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Third, I should like to recommend that this committee strongly urge the enactment by the Congress of legislation to outlaw the poll tax and that it give consideration to steps which need to be taken against certain southern states like Mississippi, South Carolina, Alabama, and Georgia in their efforts to evade the clearcut mandates of the United States Supreme Court in the case of Smith versus ~~Allwright~~ Allwright, the so-called Texas white primary case.

Fourth, I believe that this committee should strongly urge that the Fair Employment Practices bill introduced by Senator Ives and others, S-984, should be enacted by the United States Congress.

If I may digress for a moment to supplement the answer given by Mr. Granger to Mr. Carey's question, I do strongly feel that this committee should not accept, nor should it recommend, a temporary or a temporizing piece of legislation. Members of this commission do not have to be reelected, so they do not have to go before their constituencies to ask that they be voted back into the Congress. You don't have to worry about that.

Let the Congress worry about it, because they will do plenty of shaving down of any recommendation you make, and you may be assured they will shave to the absolute limit.

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Fifth, I believe that this committee might well consider endorsement of a proposal which the National Association for the Advancement of Colored People has made to President Truman, that he create by Executive Order an interim agency to look into the question of discrimination which is rife right here in Washington in the Federal Government in the matter of employment, discharges, and promotions, so far as minorities are concerned.

I believe such an agency is necessary, though it be a temporary one, pending not only the report of your committee, but also the implementation of that report by the United States Congress.

Sixth, I should like to urge that this committee strongly recommend that an even stronger measure than the Wagner-Taft-Ellender Housing Bill be enacted into law. That is a beginning, but a beginning only. It has in it no provision for the prohibition of discrimination on account of race, color, or creed, or place of birth; particularly in the matter of race, in the parcelling out of the benefits that would be made possible by the enactment of the Wagner-Taft-Ellender Housing Bill into law.

Mr. Granger has already more ably than I could discussed the question of restrictive covenants and the attitude of the

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Federal Housing Administration, which is one of the most notorious cases of discrimination that I have ever seen in nearly 30 years of experience here in Washington.

I strongly endorse everything that Mr. Granger has said, and I am sure that my associate, Mr. Marshall, who has now entered the room, will have something to say about the purely legal phases of restrictive covenants.

Seventh, I should like to recommend that this committee strongly recommend to the Congress Federal aid to health. There is pending before the Congress the Taft-Ball-Smith Bill, but we believe that that is a very weak and defective piece of legislation because it is based primarily on charity and it makes all of the usual obeysances to the outmoded doctrine of states rights.

Eighth, that the committee should strongly recommend enactment by the Congress of Federal aid to education legislation. In the South a higher percentage of state income is devoted to education than in most other states, but the South is poor, and we will never have a really lasting solution of the problem of bigotry, which seems to be more indigenous to the South than to the rest of the country, and it will remain so as long as the South is as poor as it is. We need education not only for Negroes, but we need it

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for whites as well because of the gross differential between the per capita expenditure and the educational facilities between the South and the North.

Ninth, I would strongly recommend that this committee recommend to the Congress the passage of very strong ~~equal~~ civil rights legislation. There are a nurber of phases of violation of such rights which would not be covered by the abolition of lynching or by the abolition of disfranchisement; but that will also be discussed by Mr. Marshall.

Tenth, I would urge this committee to look into the question of segregation and discrimination in the armed services. It was my experience to go overseas during the late war twice as a war correspondent. I had the opportunity of seeing in the European, North African, Italian, and Middle East and Pacific Theaters of war the infinite harm that was done not only to the morale of Negro soldiers, but to that of American white soldiers as well, and the harm that was done to our national reputation by our presumably going out to fight a war against the racial theories of Adolph Hitler when we carried overseas two armies, one white and one black, with hatred and bitterness between them even as we were fighting a war presumably for the preservation of the democratic process.

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I would strongly urge that this committee recommend legislation and other means of correcting the discrimination in travel in the South. One way would be to abolish Jim Crow in every phase of American life, including railroad accommodations in the South.

Finally, I would like to recommend that this committee look into discrimination right here in the nation's capital where it is in many respects as bad as it is in Bilbo's Mississippi. I think it was a worldwide disgrace that the United Nations did not even consider locating its headquarters in the vicinity of Washington because representatives of other nations and of other peoples whose skins were not white could not ~~even~~ go to the National Theater here in Washington or go into a restaurant or stay in a decent hotel. We are being held up throughout the world as a nation of hypocrites; and there is much justification for such charges until we do something about the discrimination against persons on account of race, creed, or color right here in our nation's capital.

In saying this I do not wish to overemphasize the purely legislative approach; yet this is one of the tools for implementation of this democracy to which we so often render lip service but do little else about.

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I suggest that the committee also look into some of the reasons why there are some of the fantastic and erroneous notions about minorities in this country; namely, the stereotyped impressions and sometimes the caricatures of minorities, which are perpetrated and spread not only all over America but all over the world through the movies, through the press, and through the radio.

As I said at the beginning--and I am almost certain this is true--democracy now has in America its last chance to prove its validity and its right to exist. I believe that this job can be done if only the leaders of America have the courage and the faith to tackle this problem, and I believe that a golden opportunity, perhaps unparalleled in recent American history, has been granted to this committee to make the kind of recommendations without any pussyfooting whatever, which will clearly tackle these problems at their roots and help America to become the democracy which we want it to be.

BISHOP SPELLMAN: Thank you very much, Mr. White. I am going to suggest we now hear from Mr. Marshall and have the question period jointly between you two gentlemen.

Is that satisfactory to you?

MR. WHITE: Yes, sir.

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STATEMENT OF THURGOOD MARSHALL.

MR. MARSHALL: First of all, to the Committee I want to apologize for being late and also want to apologize for the fact that the statement I am about to make has not been finally polished up. The reason is that since last Saturday I have been having the unpleasant experience of being grounded by airplanes in practically every section of this country; so that this morning when I came into our office in New York at 7 o'clock, I had a chance to go over the rough draft, and this is the nearest I could get.

I also would like to point out at the beginning that on the pure legal draftsmanship of any legislation concerning civil rights running up against the Constitution, as it is now set up, and the present Federal civil rights laws, as interpreted by the United States Supreme Court, you run up into a difficult task, to say the least. We have been working on this with the other lawyers, including lawyers in the Department of Justice and other agencies and other organizations, private, and I want to say that at some future date we wish to present to the Committee a full brief on the exact legal steps and legal boundaries on which we believe you can operate on the criminal and civil statutes, such as the sections from 30 to 43 of Title 8, and the criminal provisions in section 19 and

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section 20 of the criminal code.

However, I do view this as more or less of an opening statement. I have a short statement prepared, after which I will be ready for any questions.

The phrase "civil rights" has been defined as:

"Civil rights in their full sense cover a wide field of ordinary individual rights assured to every member of a well-regulated community. The term embraces the rights due from one citizen to another, deprivation of which is a civil injury for which redress may be sought in a civil action. It has been said to comprehend all rights which civilized communities undertake, by the enactment of positive laws, to prescribe, abridge, protect, and enforce. Civil rights have been defined also as those rights which the municipal law will enforce, at the instance of private individuals, for the purpose of securing to them the enjoyment of their means of happiness. They are distinguishable from political rights which are directly concerned with the institution and administration of government. Civil rights have no relation to the establishment, support, or management of the government. Civil rights are also distinguishable from natural rights, which would exist if there were no municipal law, some of which are abrogated by the municipal law, while others lie outside its

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scope, and still others are enforceable under it as civil rights." (10 Amer. Jur., p. 894.)

That is a statement from a treatise on American jurisprudence, and I think it gives an idea of how confused the subject of civil rights stands at the present time. We have one of the latest treatises put out by law book companies in an effort to define civil rights, and I think a reading of that will demonstrate the fact that there is no clear definition of civil rights.

There are, of course, many interpretations of this phrase which have, over a period of years, been used to cover practically everything which true believers of democracy have wanted. At the same time the question of the actual protection of the civil rights of Americans has been thwarted by people who have never intended that all citizens of this country should have complete and equal citizenship rights. There is the group who, while believing in complete equality of citizenship, at the same time find themselves unable to grant complete and full citizenship because of belief in outmoded precedents and legal technicalities. Then there is the third group believing that our government is based on the fundamental principle of equality of man and that this great democratic principle cannot be bound up in legal technicalities or precedents.

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In my work with the N.A.A.C.P. more than two-thirds of my time is spent in the South and I have tried cases in the lower and appeal courts and Federal courts in, I believe, every southern State, with the exception of Mississippi -- and we expect to try a case in Mississippi within the next six months. The responsibility of this Committee can best be emphasized by the fact that approximately four-fifths of the Negro population is in the South, and that practically every Negro in the South looks to the Federal Government for protection of basic civil rights. They have learned the bitter truth over a long period of years. There are States in this country which have not the slightest idea of recognizing the principles upon which our government was founded in so far as Negroes are concerned. Negroes in the South, and most of the Negroes in the North, therefore are forced to look to the Federal Government for the protection of their basic civil rights. I hope, however, that it may be clear when I speak of the South, I speak of m[redacted] the State officials, not of the individual citizens in the South, and even among the State officials there are a few glaring examples of individuals who actually believe in our Constitution as a protection of minority rights. However, a great majority of State officials in the South have no regard for the rights of minority groups whether they be Ne

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labor unions or other minority groups.

As conceived our government is dedicated to the thesis that all men are created equal and that each individual has certain inalienable rights, chief of which is the right to life, liberty and the pursuit of happiness. Our Constitution specifically guarantees broad freedom from governmental interference and tyranny.

Our federal system was envisaged as a group of independent political units bounded together by the over-all but limited authority of a national government. That these political units -- the States -- were independent but not autonomous was settled in 1865. As our country has expanded, it has become increasingly evident that the national government would have to use its authority if the economic and social benefits essential to the nation's well-being were to be realized. With this expansion, it became clear that forty-eight separat political units could not adequately protect the welfare of the nation by handling the same problems in 48 different ways in 48 different legislatures. This was true from our inception as a nation, and our national government recognizing th fact, slowly began to assert itself as a government of all t people of the United States. Whatever reservations one may

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have concerning a strong central government, our complex social and economic structure makes such a government not only necessary but inevitable.

Every child born in the United States is taught that he is entitled to certain inalienable rights, all of which are designed to insure him with health and happiness. The right to freedom of speech, the right to fair trial, the right to be judged on the basis of his own merits without regard to his race or color, the right to worship his own God in his own manner, the right to vote for the political candidate of his own choice in the political party whose tenets he finds most attractive, the right to run for and hold political office, the right to equal opportunity, are all considered rights which our Federal Constitution and our way of life guarantees to each of us.

That this guarantee is purely academic and unreal is undoubtedly the greatest indictment of our American democratic form of government. There has grown up among all groups in the United States a great cynicism about our so-called American democracy. To the Negro this cynicism is all the more bitter because possibly more than any other group in American life, the Negro fervently believes in the rightness and the correct-

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ness of these principles.

Yet all of these rights are in some form or another being denied Negro citizens. Negroes are being lynched and brutalized all over the United States. They are being denied employment or released from employment because of their color. They are being crowded into ghettos and forced to live in an atmosphere not only conducive to but necessarily productive of vice, crime, high mortality, subnormal health and degradation. They are handicapped from birth and before by the lack of adequate health facilities, hospitals, doctors and nurses. They are denied, in many sections of the country, educational facilities which are on a par with the facilities available to other citizens in the community. They are often mistreated by the courts and by public officials, and are shut off from the cultural life of the community in which they live by laws or regulations which prohibit the use of public facilities ordinarily available to every one in the community. And even where these facilities are available, except in those States having civil rights statutes, their use is conditioned upon the acceptance of the onus of segregation which is degrading to all self-respecting persons. They are denied the right to vote in many sections of the country by various subtle and open devices, designed to maintain the control of the local

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government in the hands of the white majority. In the last war, the morale of the Negro was shattered by the barriers of segregation raised by our own government in the face of his efforts to serve his country in the armed forces or on the home front.

And now after the war our "prejudice as usual" policy continues to weaken our standing as a true world power. On May 8, 1946, Acting Secretary of State Dean Acheson, in a letter to the President's Committee on Fair Employment Practice stated:

> "the existence of discrimination against minority groups in this country has an adverse effect upon our relations with other countries. We are reminded over and over by some foreign newspapers and spokesmen, that our treatment of various minorities leaves much to be desired. While sometimes these pronouncements are exaggerated and unjustified, they all too frequently point with accuracy to some form of discrimination because of race, creed, color, or national origin. Frequently we find it next to impossible to formulate a satisfactory answer to our critics in other countries; the gap between the things we stand for in principle and the facts of a particular situation may be too wide to be bridged. An atmosphere

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of suspicion and resentment in a country over the way a minority is being treated in the United States is a formidable obstacle to the development of mutual understanding and trust between the two countries. We will have better international relations when these reasons for suspicion and resentment have been removed.

"I think that it is quite obvious * * * that the existence of discriminations against minority groups in the United States is a handicap in our relations with other countries. The Department of State, therefore, has good reason to hope for the continued and increased effectiveness of public and private efforts to do away with these discriminations."

The 13th, 14th and 15th Amendments were designed to irrevocably erase all traces of slavery and the slave tradition in the United States. They were intended to raise the Negro from the status of a slave to that of a free and equal citizen. It was recognized with the passage of these amendments that the ultimate responsibility of accomplishing this task could only be handled by a national government which was free from the prejudices and provincial notions of racial superiority held by the former slave-holding States. This task was not accomplished as the framers of these amendments intended,

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primarily and principally because the United States Supreme Court in its early interpretation of the meaning of these amendments so emasculated them that the Federal Government was left without sufficient constitutional authority under these amendments to effectively achieve the desired ends.

The problem of granting full civil rights and civil liberties to the Negro minority had to be undertaken on a local level. California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Washington and Wisconsin passed civil rights statutes making it illegal to discriminate because of race or color. Maine and New Hampshire also have statutory provisions affecti this question. In contrast twenty States and the District of Columbia permit segregation and, a fortiori, discrimination in various forms. These States are Alabama, Arizona, Delaware Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia. Such laws are designed to permanently keep the Negr on a lower and inferior caste status. The remaining States have not spoken on the question. There is no reason to believ that the ranks of the 18 States having civil rights laws

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will be enlarged in the near future.

It is evident from even a cursory glance at our history that protecting Negroes and other minorities from discrimination and violence cannot be handled on the local level. Only the Federal Government can act effectively to protect minoritie in the enjoyment of their civil rights. It is the prime duty of the Federal Government to eradicate racism from the behavior pattern of this nation. The Federal Government must use its authority to protect all of its citizens from violence, violation of their constitutional and statutory rights and to assure to all the equality to which our system is dedicated. The United States by its adoption and ratification of the United Nations Charter has obligated itself under Article 55c thereof to promote "universal respect for, and the observance of, human rights and fundamental freedoms for all without distinctions as to race--" Discrimination against minorities weakens our nation's strength and is injurious to its welfare. The Federal Government therefore certainly has a responsibilit to wipe out color discrimination.

In consideration of the present status of the protection of civil rights of minority groups in this country, we are con stantly faced with the lack of a clear statement from Congress opposing discrimination, and this lack of a clear statement of

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policy has thwarted efforts to protect many basic civil rights
It therefore seems necessary that the Committee must recommend
legislation which will clearly set forth the public policy of
the United States as being opposed to discrimination because
of race, creed or national origin. The proposed legislation
should contain language such as the following:

"It is the public policy of the United States that no
distinction because of race, creed, color or national origin
shall be made or sanctioned by any governmental agency subject
to the legislative jurisdiction of the United States. This
policy shall be applicable to administration of laws, adminis
tration of program and projects, the granting of privileges
and benefits, and the employment of persons; this proposed
legislation should include a penalty clause in the form of a
civil penalty with a stated minimum to be recovered against
the guilty party or parties."

For many reasons, it is necessary that we have an adequa
civil rights bill for the District of Columbia which will
prohibit segregation in all governmental agencies, including
the public school system, and in places of public accommoda-
tions. There are several drafts of civil rights bills for
the District of Columbia which are available to the Committe

The need for this type of legislation is apparent becau

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most visitors to the District of Columbia from other sections of this country and from foreign countries are amazed at the segregation and discrimination practiced in the Capital of the United States, which is the seat of our democracy. The government itself must set the example for the rest of the country.

One of the questions with which this Committee is faced is the question of the right of the Federal Government to legislate on matters of civil rights. There has never been any question of the right of the Federal Government to enact legislation governing the District of Columbia.

The right to vote is clearly an incident of citizenship. This right is protected against State action by the 15th Amendment. Where the election of Federal officers is involved, this right runs against individual as well as State action under Article I, Section 4, of the United States Constitution. There is at present adequate authority in the Federal Government to protect this right, although this authority has not been used with as much zeal as is necessary.

Although Congress under Article I, Section 8, ha s the clear legal right to regulate commerce among the several States, Congress has failed to exercise this authority in so far as it affects the seating of passengers in interstate commerce.

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As a result of this failure of Congress to act and of the unwillingness of certain States to prohibit segregation, these States have by statute required segregation in interstate travel and as a result of the decision of the United States Supreme Court in the case of Irene Morgan v. the State of Virginia by decision struck down the applicability of segregation statutes as applied to interstate passengers; nevertheless, the common carriers, both railroad and bus, have by motor carrier and train regulation carried on after that case the same vicious type of segregation and discrimination against Negroes.

As a result, Negroes throughout the South are segregated while traveling from State to State. It is necessary that Congress in keeping with the proposed statement of public policy set out above should take affirmative action to eliminate segregation in interstate commerce.

An adequate Federal anti-lynching bill is clearly within the power of Congress and is a necessary piece of legislation protecting the fundamental right not to be deprived of life by a non-judicial process. This matter has already been covered by Mr. White.

It is recognized that the right to a job is basic to any other right which an individual may have. Essential to the

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nation's welfare is that all of the people be permitted to develop and utilize skills needed in our industrial life without being restricted because of race or color. The war and the experience of the President's Committee on Fair Employment Practices taught us how dangerous racial barriers were to the full utilization of our manpower resources. We cannot be a prosperous, happy and healthy people, with Negroes and other minorities relegated to unskilled and semi-skilled occupations. The Federal Government can use its plenary power over commerce to prohibit the transportation in interstate commerce of goods manufactured in any plant having a discriminatory employment policy. It can eliminate such practices in industries operating in or affecting interstate commerce in the same manner as it has enacted Fair Labor Standards legislation and the National Labor Relations Act. With regard to governmental employment, no one can question the authority of the Federal Government to eliminate discrimination in this field. It should set up an independent agency to eliminate such practices from all governmental agencies.

Health and recreation are now recognized as appropriate areas for the active intervention of the Federal Government to insure the proper health and recreational facilities for its citizenry.

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In view of the proposed public policy of the United States as set out above, it is clear that whatever facilities are afforded and whatever opportunities and privileges are thereby given by the Federal Government in this area should be protected against efforts to discriminate and make distinction on the basis of race and color.

Presently the Federal Government has little authority to protect the civil rights of our citizens. Too often, however, this weakness has been used as an excuse for inaction when there was adequate power to meet the situation under existing legislation. The United States Supreme Court has held in a series of cases that the Federal Government can act only to prevent a deprivation of rights or a denial of equal justice by one acting under color of State law. Hence the Department of Justice has been able to invoke our present civil rights laws, Sections 51 and 52 of Title 18 U.S.C. only when the arm of the State in some manner could be shown. The effectiveness of these provisions was further weakened by a recent Supreme Court decision in Screws v. United States which requires that the deprivation of rights be with the intent to deprive the individual of a constitutional right. This creates greater difficulties for the Department of Justice certainly. On the other hand, as stated previously, the right to vote for the

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election of a Federal officer is protected under Article I, Section 4, of the U. S. Constitution, and this right runs against individual as well as State action. This right, according to the Supreme Court in Classic v. United States and Smith v. Allwright (Texas Primary Case) includes not only the right to cast a ballot in the general election but right to participate in every stage of the electoral process which is an indispensable part of the procedure of choice. South Carolina repealed all of its primary laws after the Texas white primary deicison, with the patent objective of depriving Negroes of the right to vote, in both State and Federal elections. The States of Alabama and Louisiana have a procedure, which has grown up, which deprives Negroes of the right to vote by having certain requirements for registration which can not possibly be complied with. It is the clause which repeatedly crops up of being able to read and interpret the Constitution of the United States.

The battery of questions asked usually by the uneducated registrar in the State of Alabama, for example, runs the gamut of asking a person when he comes into the place to register, "Do you know the United States Constitution?" The answer is "Yes." Then the question, "Quote Article No. 18 to me;" or "Quote Article 1 to me."

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~~The question of interpreting the Constitution,~~ I think all of the members of the Committee are aware of the fact that our United States Supreme Court has great difficulty in reaching any agreement as to the interpretation of the Constitution.

On the other hand, some of the typical questions that are asked -- and I hate to say that I doubt you will believe it, but it is true -- one of the typical questions asked supposedly to interpret the Constitution is, "How many windows are there in the White House?" That is the type of question that is asked the Negroes, and upon failing to answer, they are declared to be educationally unqualified to vote. That is the type of State action carried on by State officers, which I understand this Committee is set up to meet.

I believe that there is the need for additional legislation by the Federal Government to protect the civil rights of minorities but may I emphasize that however many statutes are placed on the statute books unless they are effectively and zealously administered, they will be meaningless. The history of the President's Committee on Fair Employment Practices certainly demonstrates that it was a weak agency with insufficient staff, funds, and authority to really accomplish the task for which it was created. That it was so successful is a

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tribute to the men and women who made up the agency. They believed in the objective which they were designed to accomplish and worked with fervor and intensity to achieve that end even in their weak status. Federal Civil Rights legislation is mandatory but an administrative agency fervently devoted to giving full protection to civil rights of all is as necessary as is now legislation.

It is clear that racism is a scourge -- a disease which must be fought. Its spread is viewed with alarm by almost universal respectable opinion. As long as a denial of basic rights to any portion of our people continues, the nation's well-being and security are threatened. This disease must be rooted out of our life; it must be contained and not permitted to spread further. Only the Fderal Government can adequately do this job. It must, therefore, finish the job begun in 1865 to forever wipe out slavery from the United States.

As a minimum start towards the accomplishment of this task, we propose a Federal anti-lynching statute, Federal FEPC law, anti-poll tax legislation, a Federal statute barring segregation in interstate travel, and amendments to Sections 51 and 52 to specifically spell out the constitutional rights, privileges and immunities those statutes are designed to protect. Further, we need a Civil Rights Law for the District ofColumbia and machinery in the Federal Government to eliminate racial

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discrimination in Federal employment. Finally, the penalties under Sections ~~19~~ 51 and ~~20~~ 52 should be considerably increased in view of the evil which those provisions were designed to remedy.

Mr. Chairman, I purposely made that as brief as possible because I prefer to answer questions rather than to write up something.

BISHOP SHERRILL: You didn't refer at all in that to Sections 51 and 52, did you?

MR. MARSHALL: That is #19 and #20. It is #19 and #20 of the Criminal Code, which is the same as Sections 51 and 52 of Title 18.

BISHOP SHERRILL: Would you think it was better to try to amend those or to try to supplement those?

MR. MARSHALL: Well, to be perfectly frank, when the Screws decision came down--or rather, when the Screws case was first argued--all of the lawyers that were interested in civil rights that I knew of began to scurry around, and we have been scurrying around ever since.

Several suggestions have been made. I don't think there is too much agreement. There is one group of lawyers who recommend that the Government has an inherent right to protect its citizens from interference, and that that right is not

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gro unde d in the 14th Amendment. It comes about as a right to protect a citizen in the exercise of a Federal right, so that we wouldn't need to be up against the 14th Amendment. The limitations on the civil rights statutes have always been placed by the 14th Amendment, and that is the biggest problem.

The other suggestion has been made that we spell out in Sections 51 and 52 the different rights that are protected but I hasten to add that that does not give any new civil right, and we must always be careful in suggesting legislation that spells out anything because you run up against the theory of the interpretation of eusdem generis, which in so many words means that in a piece of legislation if we undertake to name specifically the matters which are to be covered, by inference we exclude all matters not covered.

For that reason I, for one, am not completely sold on that. I am not sold on the other, and as I said before, I am sold on the proposition that we must have a new civil rights law. I don't think we can amend this one unless we go completely through it and redraft it.

One suggestion has been made that we take out the word "Wilfully" in it as to the individuals. Well, if you take out the word "Wilfully", then we don't even have the benefit of the good features of the decision in the Screws case. Under the decision in the Screws case if you take out the

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word "Willfully", the statute is unsound constitutionally.

~~as such.~~

So it is the most difficult problem that ~~I knew of that~~ lawyers have been faced with; and there might be people who are willing to make a positive statement as to exactly what they want on it, but I am at the stage now where I just have to have some more time.

MRS. ALEXANDER: I understood, however, in your manuscript that you recommended that we do spell out. I wrote down the words.

MR. MARSHALL: Yes. That is the first step.

MRS. ALEXANDER: That is giving us a great deal of concern. We don't really know what you stand for.

MR. MARSHALL: As the first step of consideration it is to spell out those rights.

MRS. ALEXANDER: Isn't there danger in doing that?

MR. MARSHALL: The danger in doing that is that you leave out a right. My plan is that we spell out the rights, and as you spell out the rights, we will then run into the proposition that the only way to effectively meet this is by a brand new bill. That is the reason I am not willing to go on at all in regard to the brand new bill because I don't have the specific ideas on it.

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As to the spelling out, I am willing to go on that merely for the purpose of developing the statute up to the point where we can recommend legislation on it.

MRS. ALEXANDER: Then you think we had better keep 51 and 52 until we do have a new bill?

MR. MARSHALL: That is correct.

MRS. ALEXANDER: Mr. Marshall, may I ask if you feel that a division in the Department of Justice would be more effective in enforcing civil rights than merely a section?

MR. MARSHALL: I can speak for that, Mrs. Alexander, because I have worked closely with the Civil Rights Section since it was set up by Mr. Justice Murphy, and I do know, as best I can from the point of view of an outsider, that it is a section of the Criminal Division and that the actual authority over that section is the First Assistant Attorney General, who is always in charge of criminal prosecutions, and that all action under that Civil Rights Section is under that.

I most strongly urge that in the Department of Justice we have a Civil Rights Section. However, "Section" is the wrong word to use.

MRS. ALEXANDER: Division?

MR. MARSHALL: Yes, division. Also that the governmental-- I can't use the word "red tape", but it is something very

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~~close to that--certainly it does hamper.~~ I think civil rights are just as important as anti-trust, as far as I am concerned.

MRS. ALEXANDER: Would you say that it would be helpful or necessary to have separate investigators for ~~the~~ civil rights?

MR. MARSHALL: My plan would be that the Civil Rights Division would have to be a division in itself with investigators--of course, properly trained through FBI, etc.--but whose responsibility is not to the Bureau of Investigation but ~~is~~ to the Civil Rights Division.

I can give many reasons for that in the cases that we have actually had pending in the Department of Justice.

MRS. ALEXANDER: I think it would help if you would give us one or two.

MR. MARSHALL: I know of one instance in Brownsville, Tennessee, a few years ago where an FBI agent was investigating a sheriff, one Tip Hunter, who had killed at least one Negro and was firmly believed to have killed several others. The FBI agent ~~investigating the case and~~ in talking to the Negroes involved carried with him Tip Hunter; and as he would go in to speak to the Negroes to interrogate them, he would say, "Do you know Sheriff Hunter?" They would say, "Yes." "What kind of a man do you think Sheriff Hunter is?" And, of

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course, the Negro would say, "Sheriff Hunter is a fine man."

They had to live there. I don't consider that the type of investigation which should be made. I say that is one case. I believe that the type of investigation we need and the type of action we need on civil rights is a specialized type of action.

You don't investigate a lynching in the same way you investigate a hot automobile that is carried from one state to another. You have more local feeling to overcome. You have more unwillingness of people to talk. You have all types of different approaches, so that the investigators in that division, if you are going to have a separate division, ~~you would have to have the investigators~~ would have to be responsible to the division and specially trained to investigate civil rights. Last, but not least, investigators who themselves believe in the enforcement of civil rights.

MR. SHISHKIN: I was wondering whether I could ask Mr. White this question. There has been some suggestion made with regard to the operation of the Government in this general area over a period of time. There has been the proposal for the creation of a permanent Civil Rights Commission. Some of these suggestions have raised the question as to how the individual parts of the Government operation would be related

to the whole, no matter what is the device for the administering of the particular phases of the legal problem or investigatory functions; so that where in the Government someone is responsible for an area of discretion in policy, the kind of standards that are used as guides by the enforcement and operating agencies.

I was wondering--you have made some suggestions in that respect--but I was wondering whether you could give us an idea a little more specifically and definitely as to how you see the continuing operation of what obviously a temporary operation can not accomplish.

MR. WHITE: The temporary measure, Mr. Shishkin, which we have recommended to the President, is merely an ad interim one to operate in stopping the disproportionate number of discharges of Negroes in Government service here in Washington and throughout the Government, pending the completion of the report of this committee and implementation of its report by the Congress or by Executive Order. That would be merely a stop-gap arrangement.

It is my very strong conviction that it will take us many years to eradicate or even approximately eradicate discrimination against minorities in Government. It ought to be a permanent part of the Federal machinery, an investigatory

agency with power to enforce its findings.

MR. SHISHKIN: You are not prepared at this time to make any further suggestions beyond those you have already made; is that right?

MR. WHITE: No, I think that would be sufficient.

MRS. TILLEY: Mr. Marshall, what would your answer be to making all murder come under the jurisdiction of the Federal Courts rather than state courts? That would bring in your lynching.

MR. MARSHALL: I am very much afraid that under our system of laws that it would be impossible to do it because murder, as well as all crimes of that type, rests in the states; and that has never been relegated to the Federal Government.

The only way the Federal Government can move in on that is specific Federal authorization. You see, our consititution is set up on the basis of rights which have been given up by the states, and they will never give that up.

We can only reach it where the killing or maiming or other state crime has at the same time been for the purpose of or has actually denied a person a Federal right. That is the only way the Federal Government can take jurisdiction.

MRS. TILLEY: Couldn't you consider the right to live as being--

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MR. MARSHALL: ~~That is that~~ There is a group that takes the position ~~they go this far:~~ that where the specific murder--to use that since we are talking about it--is for the purpose of not killing the one person but of intimidating others in the group from exercising their Federal rights that the Federal Government has a right to move in.

The reason I am not sold on that is from a strictly procedural standpoint there is no way you could prove it. As soon as the statute is published, they would know what the law is and in a lynching, if they catch the lynchers and ask them why they killed John Jones, they will say, "Just for the fun of it", and won't admit it. I don't believe we can even get jurisdiction that way.

MRS. TILLEY: You facedthe frustration of getting indictments or convictions in the Walton County case in Georgia. How do you think we can overcome the difficulty of securing indictments and convictions when the trial has to take place in almost the vicinity where the crime was committed, as it was there?

MR. MARSHALL: Speaking of Walton, I think the best example of that is that to my mind it is unbelievable that the FBI couldn't find a member of that mob. The reason I say it is unbelievable--and I have said it repeatedly--I think the record

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of the FBI is what it is, which is the best investigatory authority in the world. I believe that, and I just can't believe that with them on the spot the next day and having been down there with that many men, that they can't find one member of that mob.

To me it is unbelievable. It is the same thing which is true in Columbia, Tennessee. They can't find one person who destroyed one piece of that property down there. They can't find one. I know one way, for example; you could send competent Negro investigators down there and they would, at least, find the Negro side of it. At least that much could be done.

That is the reason I believe this whole Civil Rights Division should be separate. I ~~was~~ am very glad to answer that question. I think that is the trouble; and, of course, to be perfectly fair we have to face the fact that we have to have education in the community. That is true; but I have tried cases and I have seen other lawyers try cases in the deep South, many times in the deepest of the deep South, and get justice before southern juries. I have seen them do it.

MR. WHITE: Mr. Chairman, I would like to make a further statement with respect to Mrs. Tilley's questions. We consider that lynching is murder, but it is a good deal more

than murder. If John Jones goes out and gets into a quarrel with Bill Smith and shoots or otherwise kills him, that is a certain type of crime, but we consider lynching to be much more than that because that is where three or more persons jointly conspire together to set themselves up as judge, jury, and executioner, which is a violation of not only man-made but every other kind of law; so that it doesn't come in the same category as just plain murder.

MRS. TILLEY: I understand that; but I was really trying to find some way in which to get your criminal in it, the man who committed the crime. Now, when you made some statement just then tied up with something Mr. White said at the beginning--Mr. White said someone in the committee ought to go to these places. I as a member of the committee have been to every one of them in every trouble we have had in the South for the past few years; and it is something that you have to educate the communities on. You usually find it in an underprivileged community, underprivileged in every way--economic and educational.

MR. MARSHALL: The job of educating the communities will have to be done by the Government.

While I am talking about the law enforcement agencies of the Government, I think, for example, when a local United

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States Attorney either refuses to do his duty or in doing his duty infringes upon the rights of individuals, he ought to be removed forthwith; and that has not been done.

Going back to our Columbia, Tennessee, case; the day after that case happened the United States Attorney--I forget his name, but he is the one in Nashville--he was born and raised and lived in Columbia; and he promptly issued a statement that no civil rights had been violated.

A man like that, it seems to me, a man who was right there and saw what happened and then issues a statement before the investigation, that ~~I am~~ he is going to investigate what ~~I have~~ he has already determined not to be a crime--that man should have been removed then and there.

United States Attorney La ~~Fe~~ Farque in Louisiana prosecuted two Negro soldiers for rape, and he knew when he prosecuted them he didn't have jurisdiction. Everybody knew he didn't have it. He prosecuted that case all the way up and convicted those men. He was shown in clear law that he was wrong and without jurisdiction. He insisted on carrying that case all the way up to the United States Supreme Court. The United States Solicitor General had to stand up in the United States Supreme Court, in open court, and confess error and say our Department of Justice is wrong.

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Even if you can see some reason for not removing him forthwith, at least they shouldn't have reappointed him the next year for four years.

MR. SHISHKIN: I wonder if I could ask Mr. White or Mr. Marshall this question. The committee has concerned itself with one phase of the problem and approach, which hasn't been touched upon in this discussion; ~~and~~ that there are groups and organizations in our society which contribute to the spread of intolerance and other activities that are inimical to a democracy.

Now, one possible way, which we are exploring as a committee, of reaching these activities, these group activities, is through disclosure--the disclosure of sources of funds, the disclosure of sources of their backing, which to a very large extent now is concealed, ~~and~~ the problems that this approach presents are many. However, one stands out, and that is whether or not any such ~~approval~~ approach through the use of the mailing privileges in case of mass mailing , of disclosure of the source of that mailing, or its backing, ~~or the tax powers or spending powers of the Federal Government--various alternatives and possibilities--whether that kind of an approach~~ is valid, ~~is appropriate--whether~~ if it is appropriate, it should be applied generally to any organization that may

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influence public opinion, or ~~whether~~ it would be applied specifically to any groups that affect the public opinion in a specific way? I was just wondering if you could comment on that.

MR. WHITE: I think it would be a very good thing for us to know who is financing Gerald L. K. Smith, the remnants of the National Workers' League, and the Ku Klux Klan, and a great many other agencies that are spreading hatred in this country to the grave endangering of America.

I would like to know about some of the northern corporations which are financing some of these movements in the South, so they can keep whites and Negroes, organized and unorganized groups, at each other's throats.

I think some hitherto unsullied reputations might be quite soiled, ~~and quite sullied.~~ I don't think any reputable organization should have any reluctance whatsoever to reveal the sources of its income. As Secretary of the NAACP, with 1507 branches and approximately 535,000 members, we would be glad to let the world know who the membership of the association is and we make such regular report.

Also I am concerned about the current hysteria, much of which I think is being artificially whipped up right here in Washington. They are much concerned about the so-called

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subversion of the left--and so am I--but I would like to ask John Rankin and J. Parnell Thomas and some other people about the even greater danger of subversion on the right. They don't seem to be concerned about that.

I think it would be well for this committee to point that out and make specific recommendations that every form of disloyalty and every form of subversion in this country should be exposed.

MR. SHISHKIN: You think the approach should be general and not based on any criteria as to the type of influence upon public opinion, but should apply to all organizations; is that it?

MR. WHITE: Otherwise, you would have to set up criteria as to what organization is hurtful to America and American ideals. If you are going to pick out those which ought to be investigated, you would have to do that.

MR. SHISHKIN: You would not favor that latter?

MR. WHITE: No.

MRS. ALEXANDER: Mr. White, you probably know better than we do that in Oklahoma a larger per capita expenditure is made for education on Negro children than in any other southern state. Can you give us an explanation of that?

~~Mr. White: I can't.~~

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MR. MARSHALL: I practically live there. There are several reasons, I think. One is--let me be perfectly fair and say that I don't agree with the figures. I know that those are the figures, but I don't agree because I have seen schools there. The possible reason for these figures is based upon the most peculiar law I have ever run across. It is a majority-minority group law as to schools.

For example, in some cities the Negroes, being in the majority, have the school board, and the so-called white school system is the minority board. On paper the Negro board has the right to do everything and the minority board does not have that right; but the state always steps in in that situation and takes care of the minority side; whereas, when the reverse is true, in most sections of the state the state doesn't move in, so that we are convinced that somebody has fixed up those figures. For that reason our people in Oklahoma are working on that now.

MRS. ALEXANDER: Will you have a report on it soon?

MR. MARSHALL: I doubt it. I think the figures have gone "underground"; but I hope to get them. Oklahoma is, however, not among the bad states so far--that is, if there is a degree of badness in segregation and discrimination. Mississippi, Arkansas, and South Carolina are fighting for

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last place, and Oklahoma is moving up.

The biggest evil in Oklahoma now is the Negro university, which they call a university, but it is just nothing. For example, to show you what happens in these states, all appropriations now in Oklahoma are paid for higher education in a lump sum to a Board of Higher Education, which has absolute authority on how it shall be distributed.

For example, I might be on that committee in Oklahoma, and I happen to be from one of the schools of higher education. You could understand why that school would come out with most of the money. And there is no redress for it.

~~Since~~ the per capita or percentage was something like two or four percent when this committee went in, it is now half of that. It was practically nothing, and if it is possible to get half of nothing, they are now getting half of nothing.

MRS. ALEXANDER: Going back to Section 51 and 52--if we don't spell out the rights, which you and I agree would be dangerous, have you worked out any new legislation which you think the Supreme Court would accept as constitutional?

MR. MARSHALL: The one I am working on right now is the draft we got out. That is, the committee we had meeting in Washington composed of the Guild, the Bar Association, and

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NAACP. I am not satisfied with that yet.

MRS. ALEXANDER: Then you haven't anything to offer to us now?

MR. MARSHALL: Not yet. I hope to be able to present something in the not too distant future and to document it as to constitutionality.

MRS. ALEXANDER: Your public policy statement--what do you think about the constitutionality of that?

MR. MARSHALL: I think there is no question as to the right of the Federal Government to state as a matter of public policy that this Government is opposed to segregation and discrimination. The basis for that is: one, we leave the Constitution and go behind the Constitution and find all we want there, but we can't use it, unfortunately. We can't use the Declaration of Independence for the constitutionality of a bill.

However, there is no word in our Constitution that requires segregation--not one word any place. The meaning of the whole Constitution is that there shall be complete and absolute equality. You can not have equality with segregation.

MRS. ALEXANDER: But the Supreme Court hasn't said so.

MR. MARSHALL: The Supreme Court hasn't spoken as to the

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Federal Government. And the decisions of the Supreme Court to my mind are heading now--in these cases now pending--for a reclarification of their statement.

I think you are talking about the school case. Unfortunately, Plessy v. Ferguson was a transportation case in which the Supreme Court pulled in by its heels these school cases, decided before the 14th Amendment, and made that broad statement of policy.

I think that even though the Supreme Court's statement, which I hope to see overruled within a couple of years, as to the right to segregate, that a statement might have--I don't think that has ever been before the Supreme Court, but the courts of California, one other midwestern state, and Illinois--which decisions I could give you, and there are no cases to the contrary--in speaking of segregation in the schools these cases say that in the absence of statutory authority, a school board can not segregate.

So I think if we applied those principles here, in the absence of statutory authority the Federal Government has no power to segregate. So all we are asking is that we believe it is the policy of this Government not to segregate, so that we believe it is clear that Congress has no prohibition against such a statute that anybody I know of has produced yet.

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MRS. ALEXANDER: That is an affirmative statement?

MR. MARSHALL: Yes, and everybody has assumed it. I know governmental agencies have actually assumed it. The Post Office is one. Segregation is prohibited in Post Offices in the South.

MRS. ALEXANDER: But not down in Panama.

MR. MARSHALL: That is right. There you are. But this statement of public policy would cover it.

MR. WHITE: I am a little surprised that my colleague here didn't mention a couple of other circumstances in Oklahoma. Negroes have voted in Oklahoma much more freely than in any other southern state ever since the case of the grandfather clause was decided by the Supreme Court.

The second is somewhat immodest, but it is because of suits which have been brought to equalize teachers' salaries and per capita expenditure by Mr. Marshall and other lawyers, which have profoundly affected and materially reduced the margin or differential between white and Negro education.

Mr. Carey: Mr. White, I have a question that runs to procedure of the committee with regard to its report. Perhaps Mr. Granger would care to comment on this question. We are meeting now in the Archives Building, but the committee is anxious that its report not just be relegated to this

building and find its way into the dungeons.

Many of the recommendations that you, Mr. Granger, and others have made are matters under consideration by the committee through its subcommittees.

I was wondering if you would not agree that it would be good procedure for this committee to invite representatives of NAACP and Urban League and other organizations to review in public hearing the first draft ~~or a draft~~ of the committees report; and if you do believe that would be good, would you also suggest that organizations that are not in agreement with the purposes of this committee be invited in with the objective in mind of having non-government organizations stand up and be counted on the question before this committee that will be contained in the report.

MR. WHITE: Well, may I separate your question, Mr. Carey? Of course, I would assume that we would not be permitted to approve of your committee's report. We would be free to criticize it if we disagree, and I am sure the Urban League and the Association will do that.

Second, I don't know just what type of organization you have in mind when you say those who would not agree. Would you ask the Columbians?

MR. CAREY: Some organizations, perhaps, have not indicated

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a firm position on this subject, organizations that might be in the questionable category like the National Association of Manufacturers.

MR. WHITE: By all means.

MR. CAREY: Or organizations that have exercised some views on questions that are before this committee such as the Real Estate Board.

MR. WHITE: You might even go further and take in those who are violently opposed to civil liberties; then you will be sure it is not buried in the Archives.

MR. CAREY: If we follow that procedure, would we give th a forum to express their views or would it be wise to have the nation know where these organizations stand?

MR. WHITE: I wouldn't object to giving them a forum and let them expose themselves in all their perfidy and un-Americanism--not the un-Americanism of Mr. Rankin. You will have plenty of forums when your recommendations reach the Senate if Mr. Bilbo has recovered his power of speach by then, and you will have Mr. Rankin and some of the Republicans who will say it in the cloakrooms, as they have been saying things about Lilienthal, which they didn't dare say on the floor of the Senate. You will have a most adequate and vociferous forum there.

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MR. MARSHALL: I am not making a suggestion necessarily, but just as a matter of information--on the New York State FEPC bill you will remember when we had the hearing in Albany they arranged to have everybody record themselves as for or against the bill, and they put them on in that order--one on each--and gave them, I think, thirty minutes on each side. It alternated, and as a result, after about two hours, an hour on each side, the opposition folded up ~~and closed~~ its tents and went home.

I am not saying that will happen, but at least it did happen in New York.

MR. GRANGER: I think I would oppose the idea of having spokesmen at the hearing of organizations which are admittedly opposed to the democratic method of government. After all, this is a proposition in democracy, and there would be plenty of chance for undemocratic elements to oppose the bill by other methods; but in trying to get a critical analysis and an honest analysis, it seems to me that the committee would be wise to call for official expression from only those organizations that professedly or actually are in support of democratic government.

I would certainly put in that category the National Association of Manufacturers and the National Association of

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Real Estate Boards, ~~and the Chamber of Commerce~~, even though there is plenty of reason to suspect the actuality of their democratic interest at times.

But organizations which are undemocratic confessedly and publicly I would certainly exclude.

MR. SHISHKIN: I am not very clear on this particular line of questioning, Mr. Chairman. It seems to me that it begs a couple of questions. One is that if there is a proposal for a public hearing on any set of proposals, opportunity would be given to anyone to be heard without regard to classification.

However, if there is nothing further on that, I want to ask Mr. Granger a question.

MR. GRANGER: I would like to say that I understand the Chairman's question to be directed to an advisory roll, that the committee before submitting its recommendations to the court of public opinion would want to know what certain organizations would think of the proposal. If it is a public hearing, I think any citizen group ought to be given an opportunity.

MR. SHISHKIN: I think you said public hearing when you made the point, did you not?

MR. CAREY: Yes, public.

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MR. GRANGER: I withdraw my point.

MR. WHITE: The committee would do the selecting of the organizations?

MR. CAREY: In the early stages of the committee activities communications were sent to organizations asking for their participation in the work of this committee. In keeping with that and in order to secure their active participation, I was wondering whether it would not be well to have organizations like your own, with some knowledge of what the committee is thinking about, express their views on the recommendations before they are made in final form to the President.

MR. SHISHKIN: Unless there is something further on this particular point, which I don't think the committee itself has explored [redacted] so far, I want to ask Mr. Granger the question I have asked of Mr. White before on one point. You were out of the room for a moment, Mr. Granger.

The committee has concerned itself with the problem of the possible approach to this whole area of activities on the part of individuals, groups, and particular organizations designed to influence public opinion and spread intolerance, hate, and perpetrate subversion through the democratic process, by making provisions for disclosure as to the sources of funds of those organizations, their make-up, and their constituency

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and methods of operation. Many of these organizations today are concealed to the public eye. No one knows who makes up the organization, what is the source of their funds, etc. The committee has been exploring the possibility of finding devices through the use of the available Federal facilities--mailing privileges in the Post Office, taxing and spending powers of the Federal Government, and so on--and the first question that I asked was whether or not that approach would seem to be a valid one; and the second question is: if that approach is used, whether an approach of that kind should be directed at all organizations and groups influencing public opinion or whether the Government should create some standard whereby only particular types of groups would be subject to the requirement of disclosure.

MR. GRANGER: I will answer the second question first. I would hate to see a distinction made because with the wrong administration in office, that distinction could be used against the forces for law and order and progress.

My answer to the first question would be an unequivocal yes. I believe a great deal of good has been done on various occasions by exposing these individuals and groups supporting certain movements. I remember some ten or twelve years ago when ~~Herman~~ Talmadge's organization in Georgia--the Association

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for Protection of Constitutional Liberties, or something like that, some fantastic name--was discovered to be receiving funds from one well known industrialist who was supporting Negro education in a northern state and supporting Talmadge in the State of Georgia, ~~because~~ this industrialist had important industrial holdings in Georgia and Talmadge was useful to him, and he needed Negro support in the North so he was supporting Negro education there. That exposure curtailed the support of Talmadge.

I can see a great deal of good ~~from~~ that kind of publicity.

MR. MARSHALL: I am practically in agreement, but when you use the word "standards", I am reminded of the fact that there might be a question as to a bill that did not in itself set up standards. I think we will have to look that up.

MR. SHISHKIN: The committee would welcome on this question of disclosure, any recommendations ~~and as specific recommendations as possible~~ on such points as might be troublesome or raise special problems for our consideration at the earliest possible opportunity.

MR. MARSHALL: I think Morris Ernst's office has most of it. He has been working on it.

MR. SHISHKIN: That is why, possibly, the committee would

like to have expression from other sources.

MRS. ALEXANDER: Mr. Marshall, we would like to know your opinion on the use criminal sanctions, ~~and how great they should be.~~ Do you feel that we don't get convictions because ~~sentences~~ penalties are too severe ~~high~~?

MR. MARSHALL: Unfortunately, I am afraid that I subscribe to the theory that the ~~sanctions~~ penalties should be low. It is an awful thing to have to say in a democratic form of government.

For example, you would have to check with the Justice Department on this, but as I recall, in recent years there has been several guilty pleas on peonage and other matters because of the fine element and not on the question of going to jail.

I get back to Mrs. Tilley's point that at times it is hard to get a group of people to put a man in jail for doing what they wanted him to do. At times it is hard. Yet, when a life is taken, for example, under our present civil rights law, it is just shocking to realize that the only thing we can expect is possibly a year.

On the other hand, you are just faced with that very real proposition. You are tied up with the prosecutor, who is unwilling to prosecute if there is a stiff jail sentence possible. There are two sides to it, and I am afraid I lean

to the softer side. Goodness knows I don't want to lean that way.

Mr. Carr: On that very question--in the South Carolina primary case, do you believe that should be a criminal or a civil procedure?

MR. MARSHALL: Here is the problem. This is the proposition since the Screws case. As I remember, the important language in the Screws case was that 51 and 52 could only apply to a clear constitutional right that had been violated. You are up against that word "clear".

Now, for example, in Texas we brought a civil suit and ended up--that is, the result of the civil suit was a judgment for five dollars, which we didn't even collect.

However, that precedent was of such value as to enable the Attorney General to go down into Texas, which happened to be his own state, and warn the boys that that Section 43 of Title 8 is the same as 51, and the next prosecution will be criminal.

As a result, with very few exceptions, Negroes voted throughout the state.

In regard to South Carolina, I for one, have no objection at all to carrying the civil suit through with the understanding, I hope, that with the right clearly established [redacted] the Federal Government will move in criminally.

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I might also say here the same thing we told the former Attorney General of the United States, Francis Biddle, that in that type of case the Department of Justice should feel obliged to come in and file a brief amicus curiae on it where there is a question of fundamental civil rights of American citizens; which he refused to do.

But on the South Carolina case we have no objection to proceeding civilly; and as a matter of fact, the affidavits we proceeded on were first turned over to the Department of Justice. They have been taken up, considered, and they are still there; but we are perfectly willing to proceed civilly to establish the clear right, which we are up against the same way as to whether an election official operating under what he considers to be a legal proceeding, should be penalize for it. So, we have no objection to proceeding civilly on that case.

However, in every single instance such as registration where the law is clear and primary statutes in any manner similar to the Texas statute, we believe the Department of Justice has not only a clear duty, but a positive duty to proceed.

MRS. ALEXANDER: Do you feel that it is effective, although we do not get convictions, to merely try the cases?

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MR. MARSHALL: I will always argue that because I take the position--I have checked with other people on it, and as one man told me down south, if he was charged with a crime and his father was the judge and all of his brothers and cousins were on the jury, he would just as leave not be forced to take the chance that suddenly they might dislike him and convict him. Nobody ever likes to get tried, and that goes for anybody in the South.

I must say, though, that for years the Department of Justice was afriad of that because all prosecutors, as you know, like to keep their batting average high. I must say for the present Department of Justice that they have not let that interfere and they have had several losers in the past year or so.

MRS. ALEXANDER: I think it was you, Mr. Marshall, who talked about segregation in travel in the southern states.

MR. MARSHALL: Yes.

MRS. ALEXANDER: It has been my observation when I leave New York very frequently in the evening that [redacted] the trains going south [redacted] are already segregated when they leave Pennsylvania Station.

MR. MARSHALL: The Passenger Agent of the Pennsylvania Railroad--the former Passenger Agent, now deceased--took

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a positive position and instructed ticket sellers that they were not to segregate. The Pennsylvania Railroad would not do the dirty work for the southern railroads.

Since he died, the new Passenger Agent has taken a lukewarm stand on it, and if he keeps on doing it, we will sue him under the New York Civil Rights Law, and we think we will have a pretty good decision on it.

For example, they segregate out of Washington, and of course, the law doesn't apply until you get to Alexandria. I, for one, believe that the need for a statute on segregation is most important, and there is no rhyme or reason for it. You sit in the front of the train and in the back of the bus. Nobody has ever figured it out. There is just no sense to it, and it is one area of segregation that is unbelievable.

For example, segregation in schools does not destroy morale as much as segregation on transportation because you meet it every day. I mean no matter how happy you might be or how content you might be with your country, twice a day you have to get discontented. It is there every day and it constantly breeds friction.

There is no question of the right of Congress to legislate on that. We don't even have to worry about it.

MR. CAREY: May I on behalf of the committee thank

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Mr. Kerns, Mr. Granger, Mr. Marshall, and Mr. White for the splendid contribution they have made to the work of the committee.

(Whereupon, at 4:30 p.m. the hearing was adjourned.)