Minutes of meeting of the President's committee on Civil Rights-1/15/47 to 4/17/47 ~~Nash~~ les

President's Committee
on
Civil Rights

NEXT MEETING OF COMMITTEE, WEDNESDAY AND THURSDAY, APRIL 2 AND 3, 1947.

TO: MEMBERS OF PRESIDENT'S COMMITTEE ON CIVIL RIGHTS

FROM: ROBERT K. CARR

SUBJECT: MINUTES OF FULL COMMITTEE MEETING, MARCH 19 AND 20, 1947.

The President's Committee on Civil Rights met at the offices of the Committee, 1712 G Street, at 10 o'clock, Wednesday morning, March 19. The following members were present for the two day session: Bishop Sherrill (who acted as chairman in the absence of Chairman Wilson and Vice-Chairmen Dickey and Roosevelt), Dr. Tobias, Mrs. Alexander, Mrs. Tilly, Dr. Graham, Bishop Haas, Rabbi Gittelsohn, Mr. Carey and Mr. Matthews. Mr. Shishkin was present for the Thursday afternoon meeting.

1. Mr. Carr introduced to the Committee Mr. Milton Stewart, a new member of the research staff and two internes loaned to the Committee, Mr. Herbert Kaufman by the National Institute of Public Affairs and Mr. Joseph Murtha by the United States Government.

2. Mr. Carr then explained the materials that had been distributed to the Committee members:

Action for Unity, by Goodwin Watson

Roots of Prejudice, by Gordon Allport and Bernard M. Kramer

A Declaration of Human Rights, Nat'l Catholic Welfare Conference

The Police and Minority Groups, J. E. Weckler and Theo E. Hall

Indiana State Fair Employment Act

Memo on George P. McNear case

3. The Staff memorandum to the Committee (see attached copy of this memorandum) was read by Mr. Carr and discussed by the Committee members at considerable length. Mr. Carey was disturbed at the possibility that the action of the Committee on March 6th fixing April 17 for reports from the subcommittees to the full Committee and May 15th for a report by the full Committee would be set aside. Bishop Sherrill pointed out that the recommended timing in the new memorandum merely extended the time for subcommittee reports to either May 1 or June 1, and requested a decision as to the date for the final report.

There was also considerable discussion of the recommendation in the memorandum concerning hearings.

The memorandum was finally accepted as a formal basis for the future work of the Committee and its staff, subject to the following motions voted by the Committee:

(a) It was moved by Dr. Graham and seconded by Rabbi Gittelsohn that October 1 rather than June 30 be set as the date of the final report. Voted.

(b) It was moved by Rabbi Gittelsohn and seconded by Mrs. Tilly that the Committee set June 1 as the final date for all subcommittee activity and August 1 for the completion of the full Committee's consideration of subcommittee recommendations and the approval of a preliminary report. Voted. By this action the Committee in effect agrees to divide its work in four phases:

1. Subcommittee activity, February 1 - June 1
2. Consideration of subcommittee reports by full Committee and the making of all policy decisions, June 1 - August 1.
3. The preparation of the final report, August 1 - October 1.

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4. Publicizing the final report and the work of the Committee, October 1 ----------.

(c) It was moved by Mr. Carey and seconded by Dr. Graham that the hearings proposed in II, A, be public hearings rather than private consultations. Voted. (In the discussion of this motion the Committee agreed that it might be desirable that certain of these hearings should be private rather than public because of the nature of the witness or of the matter being discussed. It was also agreed that because of this motion the distinction between "private consultations" recommended in II, A, and "public hearings" recommended in II, B, would largely disappear, and that the Staff should take steps to set up a schedule of hearings with this in mind. It was further agreed that the hearings arranged for the next meeting or two might well be private and the subsequent hearings public.)

(d) There was considerable discussion as to additional names of consultants beyond those suggested in the memorandum. It was voted to add the following: Arthur Garfield Hays, New York attorney; Lester Granger, National Urban League; Alex Miller, Southern Regional Office, Anti-Defamation League; John Slawson, American Jewish Committee; Guy B. Johnson, Southern Regional Council; Charles S. Johnson, President, Fisk University; John Collier, Indian authority; Gordon Allport, Professor of Psychology at Harvard; Will Alexander, Southern Conference on Human Welfare; and Carlos Casteneda, Professor of History, University of Texas. It was agreed that the Staff would need a measure of discretion in inviting consultants to appear and in

arranging a schedule.

There was considerable discussion concerning the schedule of bi-weekly Committee sessions and the problem of absenteeism. It was the sense of the Committee that the Staff should go ahead with the schedule agreed upon at the March 6th meeting, that these dates should not be changed, that the Staff should make no specific attempt to poll the members as to their plans to attend meetings, but that if it appeared less than half the members of the Committee would be present at an impending two-day session, the session might be cancelled. It was agreed that members of the Committee should, at their own initiative, inform the executive secretary as to whether they plan to attend each session. Mr. Carr pointed out that there is considerable embarrassment about arranging for the presence of eminent people to serve as consultants when there is doubt as to the number of Committee members who will attend a meeting. It was agreed that Committee members should make every effort to be present at all the regularly scheduled meetings.

It was further agreed that Wednesday of each two-day session should always be reserved for subcommittee meetings, and the Thursday for sessions of the full Committee.

The Committee adjourned at 12:10 P.M. The subcommittees met the afternoon of March 19th and the morning of March 20th.

There was a session of the full Committee at 1 P.M. March 20th. Mr. J. Edgar Hoover appeared at 2 P.M. and talked to the Committee. The meeting adjourned at 3:30 P.M. A full transcript of the Thursday afternoon meeting accompanies these minutes. Mr. Carr wishes to call to the attention of the members of the Committee the fact that Mr. Hoover

kindly agreed to let a transcript of his remarks be made, on the understanding that it would be for the exclusive use of the Committee, and would be regarded as highly confidential.

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Testimony of J. Edgar Hoover, Director,
Federal Bureau of Investigation,
before full meeting of the President's Committee on Civil Rights, Thursday, March 20, 1947.

Recommendations by Mr. Hoover or suggested points for discussion:

(1) Mr. Hoover emphasized repeatedly the need for a favorable community climate in which to try civil rights cases. If criminal sanctions are to be successfully used, juries must be willing to convict where the evidence warrants such an outcome of a trial. Mr. Hoover believes that a great deal of educational work must be done throughout the country to persuade people of the importance of enforcing civil rights laws.

(2) Revision of Section 51: Mr. Hoover believes that this statute is unnecessarily vague and he suggests its revision to spell out the specific rights protected.

(3) Revision of Section 52: Same suggestion as for Section 51. Mr. Hoover also believes that the maximum penalties carried by this law are inadequate and that they should be substantially increased.

(4) Proposed anti-lynching bills: Mr. Hoover believes that these should be so worded as to reach all members of a lynching mob, private persons as well as public officers.

(5) Mr. Hoover's testimony seems to suggest that the F.B.I. is at times hampered in undertaking investigations in civil rights cases because of the necessity of securing clearance from the Department of Justice before going ahead. He apparently would like to see this requirement modified. (Such a step would be controversial and testimony on this point should be obtained from other witnesses.)

(6) Mr. Hoover agreed that the Committee might well recommend that the states and municipalities of the country be encouraged to hire police officers of the very highest qualities, thoroughly trained for their positions.

(7) Mr. Hoover agreed that the selection of state and local officers to participate in the F.B.I. Police Training School ought to be done without regard to race, creed, color, etc., and he agreed that a recommendation by the Committee to this effect would be appropriate.

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CONFIDENTIAL

Thursday, March 6, 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, Mr. Charles E. Wilson, Chairman, presiding.

Present: Mrs. M. E. Tilly, Rabbi Roland B. Gittelsohn, Dr. Frank P. Graham, Mr. Charles Luckman, Mr. Francis P. Matthews, Mr. James Carey, Mrs. Sadie T. Alexander, Mr. Channing H. Tobias, Bishop Henry Knox Sherrill, Mr. Morris L. Ernst, Mr. John S. Dickey, and Mr. Boris Shishkin.

Also present: Mr. Robert Carr, Mrs. Merle Whitford, Mr. John Durham, and iss Frances Williams.

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P R O C E E D I N G S

Mr. Wilson: If the meeting will come to order, we will get under way with this rather lengthy agenda of ours.

Mr. Carr is first going to give us a description of this printed material that he has gathered for us.

Mr. Carr: We have been sending you miscellaneous items — perhaps too many items but we thought some of you might find these materials interesting.

In this envelope there is this report of the War Relocation Authority which has just been published. I thought you would find it interesting for two reasons. I think it is a beatiful job of printing and a most attractive report. The final chapter is an excellent summary of the program and contains a good deal that bears upon the problem of civil rights.

We have also the first report of the Fair Employment Practice Committee, which we thought you would find interesting. The second — final — report is about to come from the press and when we receive copies of it we will send them to you.

There are two statutes — or in one case a statute, in the other case a bill — that ought to be added to your collection.

We have the Massachusetts Fair Employment Practice Act. You already have the New York Act, and we are getting the Indiana Act and the New Jersey Act.

This next item is the Austin-Mahoney Bill, which has caused so much excitement in New York in the last few days. It is a Fair Educational Practices Bill, which apparently has finally been withdrawn but, again, we thought you might be interested in having a copy of that bill.

There is a copy of the January issue of Survey Graphic, which deals entirely with the problem of segregation. There are some very worthwhile articles in this issue; one on the District of Columbia which I think you will find very pertinent to your work, as well as some other articles that are very interesting.

And than a copy of the FEPC Bill which the National Committee for a Permanent Fair Employment Practices Act have put together and are sponsoring. You can add that to your collection of statutes and bills.

I think that takes care of everything that is to be found in these brown enevolopes.

MR. WILSON: Unless you have some questions —

MR. CARR: Pardon me. There is one further item, a memorandum on a recent lynching case which was tried by the Civil Rights Section in Louisiana. It is a very significant case. The lynching occurred at Minden, Louisiana, about a year ago and this is one of the very few instances in which the Federal Government has been able to get an indictment and take a group of mob members to trial.

The case was tried last week. Some of you may have seen items in the newspapers about it. The defendants were all acquitted. This is a confidential memorandum. I have marked it highly confidential because, as you will see when you read it, the Justice people comment on the Federal Judge, the United States Attorney, and some of the other principals that were involved in the case; so I wish you would regard it as highly confidential. It is an attempt to tell you the story of that particular case in which the Justice Department one more tried to use Section 52 as a basis for prosecuting and if possible obtaining the conviction of members of a lynch mob.

MR. WILSON: Thank you. Now, Mr. Carr, will you introduce to the Committee as a whole the new members of the staff.

MR. CARR: I might say that this problem of finding staff members has proved more difficult than I thought it would. Perhaps I was a little innocent about the undertaking.

We are handicapped at the very beginning in that we want people who are immediately available and yet we can offer them only a temporary job and really have no notion as to when the work will be over.

I do appreciate very much the suggestions that I have received from various members of the Committee. I hope you won't hesitate to continue to offer suggestions.

Thus far I have made only two additions to the professional staff:

Miss Frances Williams is sitting over here on this side of the room; and Mr. Charles Durham over on the other side of the room. I won't add anything to the brief statements here concerning their qualifications and background.

I had hoped to be able to tell you that we had obtained the services of Miss Eleanor Bontecou. She is a women who has spent a good deal of time in the Government service — a lawyer — she worked for the Civil Rights Section over a period of years.

Unfortunately, she has just returned from Germany, where she went on a mission with the War Department to help in the War Crimes Trials. Her health has failed and she is also hoping to go to the University of Chicago Law School to join a research unit which they are establishing there and I am not sure just to what extent we are going to be able to have her services. At the very least I am sure she will serve as a consultant and make available to us many materials and memoranda that she has herself prepared over a period of time in the past.

Our greatest need at the moment is to add a lawyer to the staff, a lawyer who has legal training and competence but who also has a measure of flexibility in his make-up and some interest in the civil rights problem. It is very difficult indeed to find a lawyer who is an authority in the civil rights field There just aren't many of them, and it may be that we will have to content ourselves with some lawyer who is sufficiently flexible and does have what you might call a sociological background as well as training in the law.

A number of suggestions have beem made to us and we have interviewed a good many people and hope very quickly to come to some decision in that respect; but if you have further suggestions you would like to make to me, I should certainly be delighted to receive them.

MR. WILSON: Now, about our relations with the Statler Hotel, Mr. Carr.

MR. CARR: I simply wanted to say that we have established relations with the Statler. They are happy to take members of the Committee. They make the point that they would like to be able to say that the President's Committee on Civil Rights is staying with them.

Now, that doesn't mean that all 15 members have to stay at the Statler. Those of you have loyalties to other hotels or who live in Washington or who are in the habit of staying with friends, may feel free to continue to do so, certainly; but I do wish, if it is a matter of no great concern to you, that you would stay at the Statler; and if you want to let us know in advance what your wants are, we will be glad to make a collective reservation with the Statler each time the Committee meets.

MR. WILSON: Now, the method of the expense accounts. We may as well get all these internal matters behind us.

MR. CARR: We discovered that there is a choice that you may have, that you may submit expense accounts as you did following the last meeting, itemizing the various expenses that you have incurred; or you can take a flatten dollars per day allowance. That is in addition to transportation. All of you have your transportation books, which cover transportation.

I am told that the members of the President's Committee on Universal Training elected the ten dollars a day allowance, feeling that they probably wouldn't lose by that method and that it would save them the necessity of itemizing expenditures.

As I understand it, the ten dollars a day runs from the time you leave home, or at least, the time when your train departs from you home community until the time your train takes you back to your home community.

MR. CAREY: Portal to portal.

MR. CARR: And you can figure part days in terms of quarters. That is, if you have been away three and three-quarters days, you would get $37.50 -- if you elect that system. I think the Committee perhaps should instruct the staff on this point.

MR. WILSON: What is your desire? Would you like to go to that more simplified method of putting in your expenses rather than itemizing them, or do you want to go to the itemized method? You would like to have uniformity on it, would you?

MR. CARR: I don't know that it is necessary but I think it would help.

MR. MCKEY: I might offer expert testimony on this, Mr. Chairman, from years in the Government. Anyone who elects the itemized account is letting himself in for years and years of discussion with the Comptroller's Office. I assure you, you can afford to lose up to five or ten dollars and still save money.

MR LUCKMAN: I feel very strongly that we ought to use the flat rate, provided that Mr. Carey accepts the premise that it does not thereby establish this premise on his point of portal to portal pay.

MR. CAREY: I might say, we have no fear; Congress has already established the premise; they get portal to portal pay.

MR. WILSON: Can we blame certain other sins on them, Jim?

MR. CAREY: You mean blame other sins on Congress. They even pay their people when they are under indictment.

MR. WILSON: We, the people.

Then, do I take it that the ten dollars per day shall be our standard method? If there is no objection, we so regard that.

MR. CARR: In any case I guess we are going to have to deal with vochers. I am going to ask Mrs. Whitford if she will explain these vochers to you.

MRS. WHITFORD: Here is a little memorandum telling about it. If you take this ten dollars, per diem, you still would charge your taxi fares to and from the station, because that is counted as travel. The per diem is in lieu of subsistence.

This explains it just a little bit. I think it would be a good idea to keep that memo for your information in filling out the vochers. I will mail you

a supply. I am sure you had rather have me do that than carry them along.

There will be very few places, then to fill in.

MR. CARR: The expense accounts you have already submitted are at the bottom of the pile somewhere, but some day action will be taken on them.

RABBI GITTELSOHN: They should be two or three up from the bottom by now.

MRS WHITFORD: Just these few words of instruction. You don't have to fill anything on the first page except your name and address. Where it says "Official headquarters" you don't have to bother with that, or residence; just the name and address you want the check sent to; but be sure to sign where it says "payee."

MRS. TILLY: Where is that?

MRS. WHITFORD: On your left, right here. Your name and address here, and your signature where it says "Payee." That is all you have to do on the first page.

Then turn it up this way, and on the second page, since you are using a per diem, the one thing that I can think of that you could still add there would be your taxi fares to and from the station; and you will have to say "Station to hotel in Washington," and "station to home in Grand Rapids.

MR. CARR: Or "Hotel to White house."

MRS. WHITFORD: Yes. Then somewhere under "Character of Expenditures" just write in these words: "Per diem in lieu of subsistence," and that is on your little memo; "per diem in lieu of subsistence, three days at $10 a day," and carry out your total.

BISHOP SHERRILL: What is counted a day?

MRS WHITFORD: Twenty-four hours. If you leave at four o'clock in the afternoon, then four -- it is counted like this: six until midnight, and midnight until six a.m., and six until noon, and noon until six.

MR. CARR: The smallest unit, in other words, is one-quarter of a day.

MRS. ALEXANDER: Would you repeat that? Six to midnight --

MRS. WHITFORD: Six and twelve for the breaks; six to noon, noon, six p.m., and six p.m., to midnight.

RABBI GITTELSOHN: How would that work out if, for example, you left your home at seven o'clock in the morning and you get back there at ten o'clock the following night? Is that two full days?

MRS. WHITFORD: I think it would be counted a day and a half.

I will tell you where to insert the hours -- on the top of the second page. Be sure to fill out date and hour of departure from your home. It says "Important" there.

You do have to fill out on the back page, then, the date of travel and your little number from your travel order that you use getting the transportation. Those books are numbered.

RABBI GITTELSOHN: Is that the number of the book, or are you speaking of the request?

MRS. WHITFORD: I think it is the request. If you had rather submit an informal account and have us fill it in and send it back for signature, we shall be very happy to do that.

(There was general assent.)

MRS. WHITFORD: Give the hour of your departure from home and the hour of your arrival back.

MR. CARR: And the taxi items; you want to include that.

MR. WILSON: Now, while we are on this matter of expense -- which is always such a pleasant one -- Dr. Carr has prepared a budget for us. You are to hear the details of that and see whether you have any suggestions.

MR. CARR: I don't know to what extent we need bother you with the budget, because as nearly as I can tell, it is a somewhat hypothetical budget. I have had sessions with a representative of the Budget Bureau and also had the help of Mr. Gammon of the President's Committee on Universal Training -- who is a Budget Bureau man attached to that committee to service it.

They have suggested that we prepare a rather detailed budget, erring at every point along the way on the generous side because of the great difficulty of predicting what the Committee's needs may finally be before it gets through.

I have here a budget which includes an itemized statement for personnel, travel, communications, printing and binding, contractual services and supplies and materials, totaling sixty-four

thousand dollars -- which may seem like a considerable sum of money. On the other hand, when you realize that they want us at this point to anticipate the cost of printing the final report -- things of that kind -- it is very easy to run the total up.

MR. DUNN: That is an estimate for what length of time?

MR. CARR: To the end of this fiscal year. They only want it to June 30 at this point. We could go into detail.

MR. WILSON: I don't see any point in doing it. We know so little about it. We can get a deficiency appropriation if we are under; but it seems to me this covers the thing reasonably well until June 30. By that time we certainly ought to know much more about where we are going if we have to go over into the next fiscal year. If you have no objection --

MR. DICKEY: Do you want a motion?

MR. WILSON: No. If you have no objection we will accept that as the budgetary figure and let it slide.

Now those letters to organizations and individuals, Dr. Carr.

MR. CARR: Yes. Following the Committee's instructions, we sent out a letter to organizations and also to a selected group of individuals. We felt that much the same letter might go to certain individuals who are not associated with any organization.

To date we have sent out letters to 184 organizations and letters to 102 individuals. The answers to those letters are coming in rather slowly and we haven't had a chance yet to digest them. Ultimately we will try to present the materials we get in the answers, to you, in some brief, usuable form. As yet we haven't been able to do that.

I would say from the answers that have come in that we will get some very helpful suggestions, carefully considered recommendations; and at the other extreme we will get answers that will be of no use at all.

I think that a copy of the letter went to you, so that you know what statement did go out to the organizations.

MR. WILSON: I read mine with much interest.

Are there any comments on that? Any further suggestions?

DR. GRAHAM: Do these organizations include any that would be in the nature of opposition to civil rights?

MR. CARR: A few. I don't know; maybe Mrs. Whitford can give a better answer than I can. We put down some obvious ones like the Ku Klux Klan, the Columbians. How many?

MRS. WHITFORD: A few. We didn't always know the nature of their objectives.

MR. CARR: We did get back one very bitter letter from one of the real estate associations; I forget which one it was. They felt that the small home owner needed help and they were sure this Committee wouldn't do anything about it, and so forth and so on.

MRS. TILLY: I had letters from three people who wanted to know something. I told them to write to you. You will be hearing from some more.

MR. CARR: We hear from them every day.

DR. GRAHAM: Did you include the Daughters of the American Revolution?

MR. CARR: I unfortunately don't have the list here.

MRS. WHITFORD: No, I don't believe they were. Would you like a letter to go to them?

MR. WILSON: Do you think it would be desirable?

DR. GRAHAM: I think it would be valuable that we be able when we present our result to show that we were open to what is normally called the opposition. I am not necessarily classifying the DAR as opposition, but I just had them in mind.

MR. CARR: We did send to all the war veterans' organization.

DR. GRAHAM: American Legion?

MR. CARR: Yes. All the labor organizations. All the church groups.

MR. MATTHEWS: I am positively of the opinion we should send letters to those organizations that we felt were opposed.

MR. WILSON: I think that was the idea. Now, let's have suggestions, and let's see that we have covered the list according to your desires. Do you think of any others?

I certainly think the DAR ought to get it because they surely will be numbered among the opposition.

MRS. ALEXANDER: United States Chamber of Commerce?

MR. CARR: They are on the list.

MR. ERNST: The Treasury officials and Post Office officials yesterday promised if we would give them a list of a hundred or more names of groups or individuals acting in opposition to civil rights, they would make explorations without exposing the individual income tax returns or any one organization or person they would make a consolidated picture for us of the total amount of money received and such other information as they can get. They are relying on this Committee to supply to the Treasury and the Post Office, as I will report later, this list of a hundred.

It seems to me that some time it might be well to write to your 184 individuals and organizations and ask them, those of them that seem to be in favor of the expansion of civil rights, what organizations they feel are going to the mass mind of America in opposition to such expansion. Unless you can build up a list that somewhere else. The Post Office had a miscellanous list that might amount to 30 groups that were sending out various printed mimeographed material, first-class mail. It had come back to the Post Office because the recipients were shocked and asked for indictment for treason, at least.

MR. CARR: You could cull a good many from the list of the defendants in the sedition trial.

MR. ERNST: Still I think we will have to get a rather comprehensive list of people, most of them under night shirts.

MR. WILSON: Can't we begin the compilation of that kind of list? It seems to me that from the letters that are bound ultimately to reach us, we ought to be able to get together a pretty good list before we are through.

It may not be necessary to specifically ask these people to recommend them but if we can't get them any other way we may have to finally fall back on that.

Anything else on this question? Any other suggestions of

specific organizations that you feel ought to have the letter sent them? (No response.)

If not, the question of hearings, Dr. Carr.

MR. CARR: The staff would like to recommend to the Committee that it consider holding a limited series of hearings in the near future on a committee-wide basis. We have tried to give a good deal of thought to this problem. We have talked with interested people and we have received letters and it does seem to us that there are a few people whose story is of such a character that the Committee would do well to listen to them almost immediately, on a committee-wide basis.

MR. ERNST: Not public hearings?

MR. CARR: No, not public hearings. That is, we have it in mind that the main job of holding hearings is going to be done through the three subcommittees and we think that is desirable, but we do feel that there are some people who could stimulate the Committee as a whole at this point, who do have the benefit of years of experience in the civil rights field and have a story to tell that perhaps ought to be listened to by all 15 members of the Committee.

I think also it is important that the 15 members of the Committee not lose contact with each other; and while it is desirable at this point that most of the work be done through the three subcommittees, this would provide at least one opportunity for the committee to hold together as a group.

We have tried to list some of the people that we think illustrate what we have in mind: Roger Baldwin, director of the American Civil Liberties Union. He came into the office last week and spent about an hour with us just talking generally, and it seemed to me at the moment it would have been most happy had all the members of the Committee been there and been able to talk with him informally and get his reactions to a variety of matters.

The same way with Walter White. We put down not because he is the executive secretary of the NAACP, because at this point we don't think it is necessarily desirable to hear a representative of every organization, but rather because he stands out as one of a very small number of people whose work in the civil rights field is extremely important.

Robert Cushman, perhaps the outstanding academic figure in the civil rights field — professor of constitutional law at Cornell.

Charles Houston because he has had so much experience arguing various types of civil rights cases before the Supreme Court.

One might add the name of Arthur Garfield Hayes there. I don't know that either Hayes or Houston is the man to hear, but there are a small handful of lawyers who have had great experience in arguing civil rights cases before the Supreme Court.

Victor Rotnem, the former chief of the Civil Rights Section, now a practicing lawyer here in Washington. It seemed to us that he would be an obvious individual for the entire Committee to listen to at a relatively early stage in its work.

J. Edgar Hoover, because the Committee has already indicated a desire to talk with him, and we felt that, again, probably the entire Committee would want to participate in that session rather than let it take place through the mechanisms of one of the sub-committees.

Then, just to experiment a bit, we branched out and added the names of Elton Mayo and Chester Barnard. Mayo, as some of you may know, is Professor of Industrial Research at the Harvard Graduate School of Business Administration, and for many years has been regarded as a pioneer in social science research. He was identified with the famous experiments made at the Western Electric plant at Hawthorn many years ago. Recently he published a little volume some/you may have seen — "Social Problems of Industrial Civilization." It seems to us you may get a fresh and unique approach or suggestions from a man like that.

I don't know. It may well be he wouldn't be interested in appearing. He might feel he had nothing to say. The same way with Chester Barnard, who has been a member of the different atomic energy committees that have studied that problem in the last year or so. We felt that there, again, you would have a man who is not himself identified with the civil rights problem but whose interest in social relations and social problems is so great that it might be a good idea just to bring him in and put certain questions up to him and see how he reacts to them.

MR. MATTHEWS: Has he expressed any wish to come?

MR. CLARK: No. None of these people has expressed a desire. We made out our own list and we thought if the Committee felt that this was a wise move, these witnesses should appear by invitation only. We wouldn't advertise that we were having hearings. We would not try to give an opportunity to a representative of each organization to appear; that that would be handled through the subcommittees.

It is clear that there are certain organizations that sooner or later will have to have a hearing of one kind or another, but we feel you will be well advised to do that through the subcommittees, following the scheme that was suggested last time of letting the other members of the Committee know when a subcommittee is holding hearings and letting these other members attend the sessions if they want to.

BISHOP SHERRILL: This is a small point. I wonder if it wouldn't be wise to keep away from the word "hearings" in connection with these people, simply because that looks as if they had asked to come and we were hearing just the friends of this, rather than the others.

Couldn't it be described as consultations with experts in this field, rather than use the more formal word "hearings," that some time we might have to explain to a Congressional hearing?

MR. WILSON: I think that is a good point, Bishop.

MRS TILLY: A person that knows more about the Southern situation, especially the subversive organizations, is Alex Miller from the Southern Office of the Anti-Defamation League.

MR. CA[illegible]: I would say you have two decisions to make. One, whether you want to do this; and then a list of people that you would like to invite.

MR. WILSON: And that will clearly indicate a decision about our meetings, because, obviously, if we are going to resort to this, having the Committee of the whole consult with these individuals, then that will almost form a new pattern for our meetings — because it will take considerable time.

I can tell you that this is the pattern that was followed by the Military Training Committee. They have been holding meetings two days a week, and as they brought in these specialists in various fields for consultation it has taken pretty nearly 8- percent of the time of the Committee to hear them — and they haven't had so many either; but it runs into a considerable amount of time.

I think it has been most educational to the Committee, but it is a time-consumer, because we found in that Committee — which has been running now every week, two days a week, since about January first — that after the consultant has finished whatever statement he is prepared to make, it usually takes a couple of hours, or an hour at least, to interrogate him and satisfy the committee that they have gotten the information that they thought would be helpful

that they thought he might have. It has been a time consumer but very enlightening on the subject before that body.

MR LUCKMAN: Mr. Chairman, we had a similar discussion in our subcommittee yesterday morning. At this moment I certainly do not wish to speak for that subcommittee but I think I can generally indiacte the trend of that discussion, which was that conferences of this kind undoubtedly will be of help and assistance to us but that they might better be delayed until the members of at least our subcommittee have themselves become a little more familiar with the problem involved and with perhaps some suggested ideas of their own as to what might be possible solutions.

I think that was born of two things: First, those who are experts in this field have formed their own conclusions, which conclusions I for one do not wish to belittle at all, but nevertheless there is always the possibility that some one who is coming into the field fresh may have a different idea or a new idea that would be worthy of exploration; and before the expert formulates the ideas of the amateur it might be well if the amateur at least has had a chance to think a little bit and get down on paper his own ideas in the field of fools rush in where angels fear to tread — but sometimes they dream up something that is of value.

Secondly, that you cannot — at least, I couldn't — today sit down and intelligently interrogate one of these experts that might come in, simply because I don't know enough about some of the things that I know that our subcommittee wants to work on.

It will take me personally — I am talking about just myself — a matter of some further weeks before I will be sufficiently familiar with the basic issues and problems involved so that I can intelligently interrogate an expert. Therefore, I think, for myself, these hearings or conferences, consultations, would be of more value to the Committee if they come at a later date after we have begun to get our feet on the ground.

MR. WILSON: Very good, Mr. Luckman. Is that the general expression, that you had rather wait to hear these experts until we have gotten further along with out own considerations?

MR. MATTHEWS: I should think a man like J. Edgar Hoover could be helpful to the Committee in the beginning of the deliberations. He knows this field very well. I should think that in the case of our Committee at least he could make some suggestions that might shorten our work a great deal — our subcommittee.

MR. ERNST: You would get him in on the level that you got in

the Justice Department people?

MR. MATTHEWS: Yes.

MR. LUCKMAN: That is a different thing.

MR. WILSON: All right, with the exception of Hoover, then; and maybe we ought to have Hoover at the next meeting. If you feel that that is going to be helpful across the board, we could get him in.

MR. MATTHEWS: We might want to talk to him several times.

MR. WILSON: Would you like to defer the others a while, then, until the subcommittees have dug in a little better?

MR. CARR: I don't like to press this point but I am not entirely sure that I think such a decision would be wise. I think before you complete your deliberations today — and perhaps the next point will bring it up — the whole question of timing has to be considered, as to how long the Committee can take.

I think there is such a thing as being too leisurely about your undertaking. The Committee was set up in December of last year and it is already March. I will tell you a little later what I have been able to find out on the issue of timing, but I do think it is quite clear that the Committee needs to move forward as rapidly as it can.

MR. WILSON: Why don't we bring that right out on the table now? It has a very considerable bearing, Dr. Carr, on the whole thing; indeed, as the next subject on the agenda has, and that is, how many meetings we are going to have. Of course, I don't see how we can decide that intelligently unless we know something of the time table that is expected of us.

MR. CARR: I have talked with every person that I thought would have any ideas on this subject and I have asked them what they felt about the time element, how soon the Committee should report.

Every one agrees that since this Committee was set up by President Truman, in all courtesy to him the Committee ought to report in time to let him to something about it while he is still President of the United States.

Congress, as you know, operates on a two-year cycle and is now in the first session of a two-year period. Many people feel that

if you really expect Congress to pass any legislation as a result of recommendations made, the Presidential message ought to go to Congress at this session.

Now, that limits the time very drastically indeed, because under the Reorganization Act, Congress is supposed to adjourn around July first. That means that if the President is going to send a message to Congress on the basis of your report, the report would have to go to him some time in May. I am inclined to think that is probably impossible. One other alternative that has been suggested is —

MR. ERNST: Are you talking in terms of a final report?

MR. CARR: Yes, final report, The Committee might report some time in the later summer or early fall — september. The report could be printed and widely circulated. The President could acknowledge the report and there would be a considerable amount of publicity at that point; and then early in January of 1948 he could send a message to Congress recommending whatever he wanted to recommend.

There might then be some chance, on the basis of the build-up that had been talking place for three or four months, that Congress would act before it adjourned in 1948; and you can be pretty sure Congress will adjourn around July first, if not earlier, in 1948.

I think, accordingly, that whether the Committee feels it is feasible to report in May or June or not until later — and I don't very well see how you can make that decision right now — you have to assume that time is an extremely important consideration, that this cannot be a leisurely, prolonged contemplation of the civil rights problem, that the situation just doesn't call for that, that the Committee has to make as much headway as it possibly can.

If I may return at that point to the matter of these proposed hearings, I would want to emphasize again that we did not think of these hearings as taking place of the hearings of the subcommittees. We would feel that the subcommittee hearings would be the place where you would want to probe rather deeply on technical considerations, where I think Mr. Luckman is entirely correct that you want to understand pretty well yourselves what the problems are and what the technical difficulties are before you begin talking with witnesses or experts in the field.

But it did seem to us that there were some people whose ideas and suggestions would be helpful at a relatively early period while you are still making up your minds as to what areas should be

included or what areas excluded, or while you are turning over in your minds some of these more philosophical questions as to what is the responsibility of the Federal Government in the civil rights field as against the responsibility of the State and local governments; or what about criminal sanctions? Should they be used or should they be rejected?

We felt that those are troublesome issues of a broad character, that the work of the Committee is bound to be affected almost from the very start as to some of the feelings you have in those respects, and that it would be well to meet with a very few individuals, putting up to them pretty much the same questions — not technical questions as to the details of an FEPC bill or how to implement an anti-lynching bill — but rather some of the broader issues of a fundamental character concerning the general problem of civil rights in America.

MR. ERNST: Mr. Chairman, may I ask Mr. Carr — did I understand you correctly? You sort of put up alternatively either May or a year from May.

MR. CARR: May or September or October; not a year from May.

MR. ERNST: The strategy indicated seems to me the very opposite. We can very well get out a report this May on three or four or five or ten matters, and make it very clear we are coming back in September or October with the final document.

In other words, I can imagine if we are going to take a position on the anti-lynch law to be proposed, the poll tax bill, the FEPC bill, the white primary bill, and the District of Columbia bill — things that have been discussed in the public arena for a decade and studied and agitated — I think we ought to be heard on those propositions of the President farily quickly. That won't satisfy me by any matter of means.

I think we are doing a very puny job if all we are doing is saying "Amen" to a lot of material that has been shunted to Congress and has been in the market place previously.

Therefore, doesn't that change your whole attitude as to calling these people? I know most of them, have talked with most of them. I think it might be a real inspiration. I would not think they have any value at this time at all.

I have lived with Roger Baldwin, Walter White. I should think their great value to any committee here would be to call them in and sound them out on various innovations. There is no use in

sounding these people out on the FEPC, the anti-lynch law and the poll tax bill.

MR. CARR: That isn't what we are proposing.

MR. MATTHEWS: That may be true in your case, Mr. Ernst. You know them all. They might have something from some of the rest of us.

MR. LUCKMAN: I am not trying to interpret Mr. Ernst's statement, but I know from myself that I don't want to attend that meeting — and I am not being stubborn about it but I want to get my thinking clear before somebody begins to make up my mind for me.

I am not being stubborn. It is the same as any business matter or any educational matter. When somebody has been working on a thing for 20 years they have made up their minds about it. They may be perfectly right but I at least want to get my own thinking clear on the matter before I talk to a man who has made up his mind about it.

MR. ERNST: May I just add something? It seems to me at some stage you will get more benefit from the chairman of the Civil Rights Committee of the American Bar Association, which only took in a couple of Negroes a few years ago after a long fight, than you will/of this group. Now, this is a group I play with, am a member of counsel for, but I would like to see this Committee get hold of the president of the American Bar Association.

MR. MATTHEWS: To say to the president of the American Bar what objections he had.

MR. ERNST: When you finally decide, when this Committee decides what it wants to do, it seems to me, generally speaking, a dilution of effort and time if we call in a man that we know is going to say "It's a great thing. It's wonderful, marvelous."

Our problem is not with the man and the group he represents but with the head of the American Bar Association who just a year ago for the first time took in some Negro members, "Now, this is our thinking — and it may be a little tough on you. What do you think; and how can we adjust your views and ours?" Because it is that kind of work we are going to have to work with if we are going to do any good.

MR. CARR: How is that an alternative to hearing Victor Rotnem, for example? I don't quite follow you on that point.

MR. LUCKMAN: Then I get back to my point. If you called him in today I wouldn't know what questions to ask him. I think a month from now or six weeks from now I will know what to ask him. At least, I will know what interest our subcommittee —

MRS. ALEXANDER: Perhaps their subcommittee haven't gone as far as our has gone. That may cause a difference in thinking.

We are prepared now to ask some very specific questions on certain things, that we would want to ask Victor Rotnem.

MR. CARR: I think there is a difference in subcommittee hearings and full hearings. It would be a month, probably, before we could set anything up if you did approve it.

MR. LUCKMAN: If time is such an important factor, then isn't it even more important that we delay these hearings until we have made some progress, progress on the part of the Committee itself, instead of taking up days and weeks in long-drawn-out hearings before we have made up any program of our own?

I am not talking about before we have made up our minds. If any given subcommittee, as Mrs. Alexander said, is ready for hearings —

MRS. ALEXANDER: Not hearings but to ask questions whether this is the way to do it or that is the way.

MR. LUCKMAN: I think it is. I am speaking on behalf of our subcommittee. We are not ready for that.

MR. WILSON: Don't we have to settle one question even before we decide this one that we have been talking to now? That is, are we going to put in an interim report or not? If we are going to wait and have one report, then there is the timing of that.

Can we get that out, say by — what is the absolute dead line, do you think, Dr. Carr?

MR. CARR: I think the absolute dead line if you are thinking in terms of your group as being President's Truman's Committee, is September of 1947.

MR. WILSON: No, I mean if we wanted to get it in so that he might use it at the current session.

MR. ERNST: An interim report you mean, Mr. Chairman?

MR. WILSON: Well, a report; for the moment I will just say a report. What is the deal line?

MR. CARR: May 15th.

MR. WILSON: May 15, they would have to have it in their hands — see whether we could agree as to this, especially the chairman of the three committees. If we are going to get any report in the President's hands by May 15, are we in agreement that it would necessarily be an interim report?

MR. ERNST: Sure.

MR. LUCKMAN: For our subcommittee, I would vote yes.

MR. WILSON: Does anyone question that? All right. Then the next question —

MR. MATTHEWS: I don't know whether our Committee could decide that right now or not. We might be able to get a final report on it by May 15.

MR. WILSON: You think you may be able?

MR. MATTHEWS: I don't know.

DR. GRAHAM: I doubt if we get a final report.

MR. MATTHEWS: I doubt if we could. I don't see the value of an interim report for any purpose. What could the President do with it?

RABBI GITTELSOHN: Yesterday in our Committee meeting mention was made of the fact that one of the difficulties of the past has been that each of these liberal pieces of civil rights legislation has been presented to Congress per se, and the whole liberal battle has been focalized around one point and when we lost on that one point we had lost everything, at least for the time being.

We felt in our subcommittee, at least tentatively, yesterday, that it might be valuable to adopt what you might call a "smother them" technique. In other words, hit them hard with everything we have got at one time. Give them seven or eight or ten or twelve focal points to worry about at the same time, and then we might lose on seven or eight and still gain on two or three as a matter of political give and take.

I think from that point of view as well as from the public

relations point of view, the Committee would have a great deal to gain if we issued one report at one time covering everything — one big punch. Let them have what the civil rights committee believes in, what we want done.

I am very much afraid if we give interim reports along the line, each interim report will be swallowed up in the total picture at that particular moment and we will not create the impression that we would like to create.

DR. GRAHAM: I think you have a point there.

MR. CARR: The staff would certainly agree with that, and we have tried to give the problem thought. Our recommendation to you is certainly that you avoid interim reports.

DR. GRAHAM: I see this value in what you say, that if the President is to make a statement to Congress and the American people, in that statement should be the total impact. If he is going to make several reports, one on this and one on that and one on the other, your total impact is lost.

BISHOP SPERRILL: Mr. Chairman, there is another point, it seems to me. I speak subject to correction by the members of our Committee, but our Committee No. 1 has not been working along the line that we were going to simple endorse present bills before Congress. We have tried to see if we could not reach a result without going through stereotyped formulae which have already been passed out in Congress and in the press and all the rest. There has been an anti-lynching bill before Congress for 20 years.

MR. WILSON: That is right.

BISHOP SPERRILL: We have tried to approach it to see if there was any new form in which we might reach the same objective. Now I think that it is possible, with the progress which has been made, that certainly in regard to some of those things we may be able to report in the not too far distant future.

But if that report should go as an interim report and go before Congress, it would go without the impact of this total Committee, with the philosophy of the whole thing. I have the feeling it would be just a piecemeal matter that would probably not get the attention it deserved before Congress if it goes just as a legislative matter. What do you think about that?

DR. GRAHAM: I agree.

MR. CAREY: Mr. Chairman, I want to express a view th. in agreement with the views already expressed; and that is, th. should agree to a time when a report should be prepared.

DR. GRAHAM: A total report, or a series of reports?

MR. CAREY: Until such time as I had an opportunity to review the content of that report I would not say whether or not it would be an interim report or merely a report of progress; but it has been my practice to operate pretty much against a dead line and to have in mind when I have to report a report for the principals that I am employed by or the interests I serve.

Sitting as the President has to sit, I think it would be necessary, at some stage in our proceedings to give him a report of our progress, give him the opportunity to consult with us if need be about whether or not he should set the dead line or the method of presentation or we should set it.

I should certainly think that by May 15 we should have a document prepared and perhaps then determine in consultation with President Truman whether or not it is to be considered an interim report, whether or not it is to be made public, or whether it is to be a resume of our activity, the ground we cover and our plans to complete the work of this Committee.

I think it would be desirable in the interest of getting something accomplished to agree on the date when we will put together a report; and perhaps as we put it together we can better determine whether it will be a final report, an interim report, a report of progress to the President, or something for wide dissemination.

MR. TOBIAS: I agree.

MR. ERNST: I can't deliberate further on this issue until No. 11 comes up. That is the reports of the subcommittees. I am completely in the dark as to how each one of the subcommittees feels it is getting along.

MR. WILSON: I was hoping at this stage the subcommittees would tell us whether they believe they can do it. I think Mr. Luckman has very frankly expressed his views, at least I would interpret those views to be that May 15 would be a pretty difficult dead line for you to say you could come up with a report or the material for a report.

MR. LUCKMAN: As a final report. If I understood Mr. Carey, he is talking about what might well be called a progress report to

the President.

MR. WILSON: He doesn't want even to determine that if I understand him correctly. It is a report that may be accepted as final and maybe not.

RABBI GITTELSOHN: We would determine — is that correct — which kind of report it is?

MR. CAREY: In consultation with President Truman we would determine what we would do with it.

MR. WILSON: The President would probably determine if that is finis or not.

RABBI GITTELSHON: You can't ask the President what he thinks, and if he says "I think that is to be the final report," say we don't think so.

MR. CAREY: You have to go to him with what you regard to be the final report or progress report. He would leave that up to your judgment I am sure.

MR. WILSON: Can we decide that we would be prepared May 15 for a final report or an interim report?

Mr. Carey: I think you can. I think you can decide it is utterly out of the question to have a final report by May 15 or it is conceivable you can have a final report by May 15.

MR WILSON: Or you can decide, Jim, it seems to me, whether putting forth the best efforts you can, you could get something up worth while, particularly the three subcommittees could get up something worth while that they would be willing to put together and say "This is our answer if the President is satisfied to accept it as the final job."

RABBI GITTELSOHN: I would go along with Mr. Carey's suggestions on one condition only; namely, that we set ourselves internally a dead line of May 15 or what have you, and that we sit down when we have that report prepared and we decide whether it is progress, interim, or final, and we tell the President what it is rather than ask him what he wants it to be, so that we keep the authority of saying whether our job is done or not.

MR. WILSON: I will admit I come back to what Mr. Ernst said; I would be influenced very largely by what the three Committee chairman now as far as they have gone, believe. If they believe

from what they have seen to date that they can come up with - their particular realms — good material and good suggestions i a report by May 15, as far as I am personally concerned I would be very much better satisfied.

MR. ERNST: Couldn't we ask the chairman of the three committees now -- Chairman of Committees One and Two — just what they are up to, where they are going in exploration?

MR WILSON: We had that down as 11.

MR. ERNST: It seems to me it is all tied up in this one problem.

MR. CARR: One thing further there, because I think that will prove to be quite a prolonged discussion.

I still feel that there is another basic question that can be answered regardless of the areas that the three subcommittee are going to explore. I think you have to trust their judgment as to the time element. If each chairman of the subcommittees says he can't possibly get done by May 15, all right, that's that; but I would like to underscore what Bishop Sherrill has said. I think when it comes to the report you will make a very serious mistake to issue interim reports, because I think you will want to consider each recommendation in the light of the other recommendations. You will want to set them against some sort of philisophical background.

I think probably one of the greatest things this Committee can do would be to restate what you understand civil liberty in America to mean; what freedom in America means. You can write a sort of 1947 charter of freedom in America. You can try to restate the American creed or the American dream — put it any way you want to — as a background against which you make a series of recommendations designed to implement that ideal.

I think if the report can be properly written, if it can be given a challenging, ringing character, it may truly, over a period of years, constitute a charter of American freedom.

MR. ERNST: I don't like to disagree with Carr on it. I will give you the kind of illustration it seems to me is bound to bob up where it is our duty to advise the President.

Here is a bill, one hundred fifty million dollars of aid for education, with the support of Taft, Ellender, Chavez — a conglomeration of Republicans and Democrats, with a program up to three hundred million.

I take it we have really nothing to do with the educational part of the program. I personally am against that bill and feel it my duty so far as I vote here to advise Mr. Truman to recommend that he will veto that bill, no matter what it means education wise, if the money goes to Jim Crow institutions. I don't know if anybody else will go that far with me, but these things are coming up every day.

MR. CARR: But our Committee is going to be in existence only —

MR. ERNST: I am not saying we will not get out a challenging report. We can do that; but I see nothing so disastrous if we come slugging a few times, if the public have an eye towards us and say, "What else are they going to come out with?"

As a matter of fact, a good bit of our report has nothing to do with education. It has mainly to do with the education of the public mass mind.

MR. TOBIAS: I agree with what I understand Mr. Carey is suggesting to be, not an interim report, a partial report, but after we have done the groundwork of our thinking and are agreed in our own minds in the order of importance what ideas should be taken up, that then it is time to have a conference with the President on the results of our work up to that time; because I think we need to remember that, after all, this is the President's Committee on this particular subject.

It is one thing for us as individuals to have convictions. I know I have, on all of these issues — and what do we want? We want everything that is right. That is a very general statement. What the President in the last analysis is going to want to know is — and going to want to talk with us about — I don't think any final decision needs to be reached there; but I think we do need to know his mind on what we have done up to that time and then we can do our finishing job and put it into his hands and it is up to him then to do what he wants to do with it.

But to have a final report and to go to him with that final report before we have had a chance to confer with him is a kind of take-it-leave-it proposition. It seems to me that since we were set up by him we owe him an accounting for the things that we have done up to a certain time, and then get any suggestions as to what he may think is the order of importance.

What we think is one thing; he may think something else. We have made no final report; we have made no interim report; we have simply discussed our work up to that time — but I do think we need

the benefit of his counsel at that point.

Then when we come up finally with a report, why, we have done it in the light of what we think is right about it and what he has expressed as his own opinion about it.

RABBI GITTELSOHN: Mr. Chairman, for purposes of crystallizing that discussion, may I introduce a motion that this Committee establish now as its policy that it will have prepared for May 15 a report of some kind, the specific nature of which is to be determined by the Committee when the report is bring prepared.

MRS ROOSEVELT: I second that motion, Mr. Chairman.

MR. WILSON: All right. You have heard the motion, which has been duly seconded. Are there any further comments?

MR. MATTHEWS: This is a motion for self-discipline — is that right?

RABBI GITTELSOHN: That is right.

MR LUCKMAN: You are suggesting that we set May 15 as the time that we begin to get things in writing?

RABBI GITTELSOHN: That we have something in writing. We reserve the right to say what kind of report it is going to be, public or private. We may decide not even to report it to the President. It depends on what it is, what it turns out to be.

MR. CARR: I am afraid, as head of the staff, you are going to have to clarify your wishes a little more there before we can serve you very well on a point like that.

It seems to me in starting work on any kind of report, you have to have some notion in mind as to the type of report it is going to be. If a final report, you have to have your recommendations on each one of the very specific issues that fall within the jurisdiction of the Committee. The different subcommittees have to complete their work and submit their recommendations to the entire Committee to see whether it will accept them. You have to write the general background, the introduction against which you are going to set the recommendations.

If it is not that kind of report, if it is just to serve as a basis for a meeting with President Truman to report progress to him, then that changes altogether your thinking and your work as you try to set down on paper what it is you are up to.

HANNAH GITTELSHON: Mr. Chairman, all of us recognize, I am sure, that it is ridiculous to think in terms of a final report May 15. So it is going to be one of two things; either a partial, an interim report; or just a progress report. Would that not help?

MR. WILSON: Do you want to answer that question?

MR. CAREY: I would like to speak in support of the motion and perhaps make an effort to clarify my views on the subject.

I don't agree with Dr. Carr when he says that the report that we will prepare by May 15 if this motion is carried, of necessity eliminates the need of subcommittees continuing in their operations. I think there is a great advantage to having a dead line and also a report by May 15. I do not look upon that as a partial report but it would in fact be pretty much a report of the coverage and contain what recommendations we can agree upon by that time.

It would also provide an opportunity for at least one subcommittee; namely, Subcommittee Two, to continue an important phase of the work of this subcommittee, to design the methods of seeking support for the recommendations of this Committee.

I believe if we aim to have just one report, then dissolve the Committee, we will not have the full opportunity of using the channels of public communication — movies, radio, newspapers, non-governmental organizations, and others — to promote support for the recommendations of the Committee.

Subcommittee Two I think would need in their consultation of the movie industry some indication of the thinking of this Committee, in some form or other. I think it would be highly necessary, in fact it would be essential, to have something produced so we can engage in constructive discussions with these various groups that we have been assigned to talk with, to set up what I think is more important than anything else, gaining mass support for the recommendations of this Committee in the field of civil rights.

MR. SELSKIN: Mr. Chairman, I think there is much less disagreement than appears on the surface. I think the feeling is that of a good housewife concerned with a good household and how the job is going to be done if the job is assigned.

As I gather the intention of the motion, it is to provide self-discipline for us and to provide for us a schedule on which we can work.

My own feeling is that it is very useful for this Committee to be able to meet with the President at least once every couple of months — to have the officers of the Committee report to the President about the progress and get any indication from him as to whether he has any suggestions or how any interim material that may have been accumulated could be put to the best use, both in relation to him and in relation to the public.

I don't think that that motion is in any way in conflict with the long-term job. I don't think it can be completed before fall — the report that Mr. Carr has in mind.

I think the only thing that this action would do would be to make it more orderly and to crystallize our own work and our own thinking, in terms not only of the contents but also of the procedure, to have that kind of report, a very brief document, perhaps, indicating just what is the scope, what is the coverage, what are the procedures, what are the methods through which these procedures could be utilized.

It seems to me that the motion — if that is the proper interpretation of it — would be all to the good.

MR. CARR: That is very feasible if that is the proper interpretation. That is what I had in mind. Do you want to go to the President with perhaps three or four typewritten sheets indicating —

MR. LUCKMAN: We don't have to decide that. That has nothing to do with the motion. If it does, I will vote against it.

MR. CARR: You have to decide it.

RABBI GITTELSOHN: Not today, do we?

MR. CARR: Yes you do if you mean you want it a finished report that is carefully worded, by May 15.

MR. LUCKMAN: We don't want that.

MR. DICKEY: When are we going to decide it?

MR. ERNST: Mr. Chairman, may I come back to this point. I just can't participate any further in this discussion until I hear what the two other committees say as to the status of their work, how long it will take. I can make a guess on Committee 3 as to how much we will have ready by May 15.

MR. WILSON: I agree with Mr. Carey — and certainly in support of Dr. Carr. I will be pol-darned if I were in his place if I would

know at this time just what kind of report this Committee wants prepared within 60 days — roughly 60 days.

There is no use in fooling ourselves; the preparation of almost any kind of report within reason is a tremendous job; and if you want it to cover the general subject comprehensively, I think we all ought to recognize that that is a pretty big job.

I think we ought to tell Mr. Carr pretty definitely what kind and how much of a report we want.

MR. CAREY: Mr. Chairman, I rather agree with Dr. Carr, too. I think Dr. Carr, if he accepts what seems to be the general position of this Committee — he will advise us perhaps later today after giving the matter some thought and consideration, as to what kind of report in his opinion can be prepared by May 15.

I think we have to do that, give guidance to our Committee so they will know how far in detail to go as to these various questions.

I am sure if this motion is carried, which is broad enough, flexible enough — it might be decided to extend the date at some later time — but I would certainly think that Dr. Carr could prepare his ideas regarding the kind of report that we can have by May 15.

MR. LUCKMAN: Mr. Chairman, just for purposes of discussion — what if the May 15 report were a report from the three chairman to the entire Committee.

MR. DICKEY: I was going to make just that suggestion. It seems to me it makes sense for us to say the Committee should bring in their work by such and such a date, then we can get to work on an over-all report. If we instruct somebody to da a Committee report before we have even learned when the subcommittees are going to finish their work, we will get anywhere.

DR. GRAHAM: One thing on Dr. Carr's mind, I take it, is this: If we expect a pretty real report by May 15 we can't have these hearings. The staff has two jobs. It has two jobs there, to see that everybody get a hearing that should have a hearing, and to prepare this report.

I don't believe both of those jobs can be done by May 15, so I am inclined to go to the suggestion that the three committees have a report ready by May 15, and that will not eliminate the hearings.

I am afraid that if we go the full length of the suggestion made, we will give the staff an impossible job. Just within the time, look at the schedule for hearings that we have at least tentatively agreed on here. We will be bringing our a report before we finish the hearings, and then those who haven't been heard will say, "Well, look, they are making up their minds and I haven't even been heard."

MR. WILSON: Wouldn't you admit that if from any given date the staff had the recommendations of these three committees, if they had carried on deliberations and had gotten to a point where they could make some definite recommendations — that from a given date the staff ought to have 30 days in which to prepare that in report from if we are going to submit that report — whether it be interim or final; just if we are going to submit that report to the President, we ought to give the staff 30 days?

MR LUCKMAN: We should.

MR. WILSON: If you agree to that, then it seems to me what we are really saying, if we carry out the point Mr. Luckman and Mr. Dickey have recommended — which I think makes a lot of sense, too — we are saying to the three committee chairman, or to the three committees over-all, that we would like to have definite recommendations from you for our meeting, and then for a meeting of the Committee of the whole by April 15.

DR. GRAHAM: May 15.

MR. WILSON: No, April 15; and then, having accepted those reports from the three committee chairmen on April 15, the job will be turned over to the staff and give them that minimum time that they require, at least 30 days to get out a report, not now defining whether it is final. I think Mr. Carey has a point on that; not defining that, but a report then to the President on the 15th of May.

MR. ERNST: I understand it need not even go to the President; just a progress report.

MR. WILSON: All right; a report ready April 15.

MR. TOBIAS: Mr. Chairman, I insist the President should know what we are doing.

MR. WILSON: Well, all right.

MR. LUCKMAN: That is a matter of some opinion. I have my own

views on that, too, which at the moment are —

MR. WILSON: He will have his views, too.

BISHOP SHERRILL: Mr. Chairman, I come back to Mr. Ernst's point. How can we decide, those of us who do not know where any of the other committees are?

I move a postponement of this until we have heard a report as to the progress of the committees. I don't see how we can decide this until we have heard reports from the committees. I know the committee that I am on, but I don't know about the others or their problems. I think it is very difficult to vote on this until we have heard their reports. It is just a matter of order in the meeting.

MR. WILSON: Do you wish to defer the vote on the motion until we hear the reports, or not? Would you like to hear the reports of the chairmen of the three committees?

MR. MATTHEWS: I will second the motion to postpone.

MR. WILSON: All right; you have heard the motion. Will those in favor vote aye.

(The motion was carried unanimously.)

MR. WILSON: Then shall we hear from Committee No. One — Bishop Sherrill, of the Legislation Committee.

BISHOP SHERRILL: Mr. Chairman, we met all day yesterday. In the afternoon we had in representatives of the Justice Department, who were most helpful; and I can report, I think, progress and encouraging progress without being able at the present time to go into detail as to what our recommendations are to be.

We discussed very thoroughly Sections 51 and 52 of the general civil rights acts and I think came to a determination that it was not wise to try to amend those but to supplement them by recommendations which would make them more effective.

We had some very interesting suggestions before us along that line and I think the Committee felt were most helpful in a further application of what we are all trying to do, without changing what we already have achieved.

We also has before us some very interesting suggestions from the Justice Department in regard to the whole question of voting

privileges. We also had a very interesting suggestion from Dr. Dickey in regard to the liability of not only law officers but of others involved in acts of violence.

This is not a detailed report but I think I can say that we felt encouraged. There were certain areas in regard to peonage that we have not reached but I should be inclined to feel that by the 1st of May we might be able to make very definite recommendations.

Now, I would like to check with the members of the Committee on that. Could that be too optimistic a statement?

MRS. ALEXANDER: I think so.

MR. WILSON: The 15th of April?

MR. MATTHEWS: The Department is to prepare some further material.

BISHOP SHERRILL: That is right but I think we could meet this dead line in our committee; don't you think so?

MRS. ALEXANDER: Yes.

MR. WILSON: That is, the 15th of April would be the dead line.

MR. MATTHEWS: That means two more meetings of our committee, according to the present schedule.

MR. WILSON: Yes, unless you want to change it and have more meetings. You have a definite schedule?

MR. MATTHEWS: Assuming that this recommendation of the staff is adopted, it would be two weeks.

MR. ERNST: Mr. Chairman, may I ask a few questions?

MR. WILSON: Yes, sir.

MR. ERNST: A question such as I raised on the Federal Education Bill — does that fall in Number One or Number Two?

MR. WILSON: My guess would be that it is in Number One; that is what I assume.

DR. GRAHAM: It wasn't in our material.

MR. TOBIAS: It is in Number Two material but in the form of

recommendations.

MR. ERNST: What I am getting at, it seems to me you will find by April 15 or May 15 we can sort of make up our minds on the old-fashioned materials — revising the civil rights, field where people have done a lot of work; but when you come to these expanding powers that have never been explored, really, as to bigotries. taxing powers — reductions on tax returns, which shicked me, where there is discrimination by the institution; take an educational bill — those it seemed to me, and I would like to ask the Chairman, do you think there is any chance by April 15 that you committee can get anywhere on that?

I can assure you that there is practically no literature or thinking on the subject. Mr. Garr will tell you, looking over the field, there is nothing written by lawyers or others. But it seems to me it is a philisophical question that you don't need many facts on. I just happen to be a person who would vote against the Federal grant of money for education going to Jim Crow institutions. The arguments are pretty obvious. It may perhaps close up a lot of institutions. I just play my cards the other way.

MR MATTHEWS: Your bringing up this question reminds me of one thing we decided yesterday that you didn't mention, and that was, we thought the FEPCA should be referred to Committee Two rather than our committee.

BISHOP [illegible]: That had already been done.

DR. GRAHAM: Committee Two asked for it.

MR. LUCKMAN: Just for the record, Committee Two thought it was in its assignment.

BISHOP [illegible]: It was passed to you with entire good will.

MR. LUCKMAN: I can understand why, too, That is why I wanted to change the record.

RABBI GITTELSON: We weren't able to make up our minds whether we has suffered a tactical defeat or a tactical victory.

MR. WILSON: It is a fait accompli.

DR. GRAHAM: He raises the question also of where that subject should go. Yesterday we took up matters of lynching, mob violence, and also the —

MRS. ALEXANDER: Suffrage.

DR. GRAHAM: Suffrage, white primary, and so on.

MR. MATTHEWS: District of Columbia.

DR. GRAHAM: District of Columbia; and the peopnage matter is in our material, too; but in the assignment of materials that is our field. So the reason the Chairman has no answer to your question, it wasn't even brought up for discussion; it wasn't in our sector.

MR. ERNST: I would like this new field of material to be assigned to some committee, I don't care which.

MR. TOBIAS: It isn't altogether new, of course. The 73th Congress had a bill before it which was defeated, as you will recall, by Senator Langer who submitted an amendment meant to defeat it.

RABBI GITTELSOHN: Mr. Chairman, it seems to me that Mr. Ernst's recommendation as to this Federal Education Bill would actually depend upon a matter of policy that we have to decide. Are we going to consider ourselves a committee which ought to issue statements from time to time on pending matters, to act as a kind of advisory committee for the President currently while we are deliberating; or are we going to reserve any such statements, regardless of what comes up in the meantime, until we complete our deliberations?

Frankly, I don't know. I am not saying that because I have an opinion but I think we ought to decide it.

MR. WILSON: It seems to me we almost answer him if we are going to come out with a report on May 15. If we are setting ourselves that job, we can almost answer it that we wouldn't surely then start giving interim advice and —

RABBI GITTELSOHN: Not between now and then.

MR. WILSON: Between now and May 15, on the question of where this subject lies, it seems to me, Mr. Ernst —

MR. LUCKMAN: But does this subject belong to Subcommittee One or Two?

BISHOP SPENCER: I think the answer to it is, is it a matter which requires legislation or is it a matter which requires

education?

MR. ERNST: The things I am talking about are strictly legislative; require either legislation or amendment to the Treasury law that you can't take a reduction to a tax return if you give it to a discriminatory institution.

MR. LUCKMAN: That phase of it we did not touch at all.

MRS. ALEXANDER: We have Congress; we have it.

MR. SHISHKIN: Mr. Chairman, I have had some experience with jurisdictional disputes so I don't think we are ready to —

MR. WILSON: We will leave this to an expert.

MR. SHISHKIN: — resolve by across-the-table methods. I think we ought to clear that up. I think what Mr. Ernst has brought up is a question — I think we have been a little less than frank with ourselves here in this discussion; at least the part I have heard.

I think the question before the Committee that has to be met is whether or not — this Committee is in a sense circumscribed. We can, if we wish to, make interim recommendations to the President on legislation but only to him, and certainly not publicly. The President's Committee can't make public advice to the President as to what the President should do. It is his Committee.

I think there shouldn't be anything wrong with the Committee coming to the President and saying, "Look,. This is what our Committee feels about it. You can do anything with it you want."

I think the other big question that relates to the whole schedule on the basis of which the Committees are reporting is the question not only of the impact of philisophy but also the impact in the framework of our time schedule on the political life of the United States of America.

I mean, we know quite well that in 1947, if the report is made late, if it is made on the eve of the Congressional elections and closely approaching that, our report to the President is not going to be made public. Our report to the President is going to come out as his report and only subject to his approval. It certainly wouldn't be any criticism of the President to say that of necessity any report that is coming into the political atmosphere will be thereby circumscribed and stymied and therefore time is of very great essence for our basic statement.

MR. WILSON: Check.

MR. SHISHKIN: I think we may lose sight of the possibility that somewhere in between April 51 and September 1st might be the time we can do the kind of job with the President's agreement and with his approval that will really lay a groundwork for further work and perhaps continuing work by this Committee, but having our basic statement made then and as early as possible. I don't think we ought to get lost in the discussion of the specific dates. We ought to do it to the very best of our ability, as rapidly as possible, recognizing those facts as quite important in our decision.

MR. WILSON: Thank you. That is clarifying.

Now, are there any questions you want to ask Bishop Sherrill with regard to Committee Number One's report?

MR. LUCKMAN: Yes, I would, Mr. Chairman. Was I to understand you felt that somewhere in the vicinity of April 15 to May 1st your committee would be ready with specifically proposed changes in the legislation?

BISHOP SHERRILL: That is right.

MR. LUCKMAN: Covering what subjects? The poll tax problem?

DR. GRAHAM: Suffrage; lynching.

BISHOP SHERRILL: 51 and 52

MR. CARR: District of Columbia

BISHOP SHERRILL: And the District of Columbia.

MR. CARR: And involuntary servitude.

MR. LUCKMAN: The proposed act, you mean, for the District of Columbia.

BISHOP SHERRILL: Yes and the peonage. I think thise matters would be ready. I think we can make a report in regard to additions to the general civil rights act without changing sections 51 and 52. I think we can make recommendations in regard to suffrage.

DR. GRAHAM: Which includes the white primary.

BISHOP SHERRILL: In regard to the District of Columbia and in regard to peonage. Don't you think we can do that?

MR. CARR: I think you can.

MRS. ALEXANDER: And anti-lynching. Didn't we have that?

BISHOP SHERRILL: That is in the civil rights acts.

MR. LUCKMAN: And this matter of tax exemption that Mr. Ernst brought up.

BISHOP SHERRILL: We haven't discussed that. I an not qualified to express an opinion about it.

MR. CARR: In that point the staff has understood that would be Subcommittee Three's work, even though it might involve legislation just as FEPC might involve legislation. In other words, Subcommittee One doesn't necessarily have everything that might mean legislation.

MR. TOBIAS: Put it in Subcommittee Two. It is there.

MR. LUCKMAN: Education but not the tax exemption.

MR. ERNST: I just wanted to know which committee is going to take care of the provisions that we might develop in connection with the spending powers, the education bill, and the taxing powers.

MRS. ALEXANDER: I thought that drawing the legislation was in the province of Committee ~~xx~~ Number One.

MR. ERNST: I thought it was all in Committee Number One. I think it ought to be one committee or the other.

MR. LUCKMAN: Mr. Chairman, as I think I wrote to Dr. Carr when I first came up, I think that would be delightful. I wish that would be the decision of the Committee, because then the other two committees will be able to enjoy what I hope will be a beautiful spring. There isn't anything except the application of the forces of advertising to the decision of the Committee when they are all through that doesn't come within the realm of legislation. You will find it very difficult for any committee member to name one subject that doesn't at some point involve legislation.

DR. GRAHAM: That policy would put anything in Committee One.

MR. LUCKMAN: Which suits me fine.

MR. CARR: That would be a mistake.

DR. GRAHAM: We will have to revise our time schedule if we are to take on the work of the other two committees.

MR. WILSON: Well, now, practically, don't let's be too technical about it; practically, why don't we urge Mr. Ernst's committee to take up that subject. Bishop Sherrill, would you have any objection to that?

BISHOP SHERRILL: Not at all.

MR. WILSON: It seems to me we ought to urge him to do it because I happen to know that he is well started on the thinking within his committee about; and —

MRS ALEXANDER: Mr. Chairman, may I move that tax powers and spending powers be referred to Mr. Ernst's committee.

MR WILSON: Committee three.

MR. WILSON: Is the motion seconded?

MR LUCKMAN: Tax powers and spending powers on legislation.

MR. CARR: Any legislation that might use the tax powers or the spending powers as a means of getting at some problem.

MR. WILSON: I think that is good.

MR. SHISHKIN: Mr. Chairman, I just wanted to point out that one some of these things I think that the motion is perfectly in order, because what Committee Number Three does on tax powers and spending powers could be done excellently under Mr. Ernst's guidance; but I think that a number of areas that are covered by the other committees would be helped by interim recommendations from Mr. Ernst in Committee Number Three on those questions, whereas Committee Number Three would not be doing or responsible for the actual drafting of those because those two things cut across a number of other subjects.

MR LUCKMAN: That is the problem that is really raised when you have a broad statement such as that all legislation should go to Committee One.

MR WILSON: We may have erred in that.

MR LUCKMAN: I think this motion does, in fact, err — this motion, too, if I might point out — if I understand Mr. Shishkin correctly.

Our Subcommittee spent a good deal of time on this question of education as it pertains to discrimination from Federal grants or aids, and so forth. If we are to continue working on that, I can't conceive how Committee Three could possibly come up with any final thinking on legislation to prevent discrimination in Federal aid to colleges, for example -- unless they, too, studied the same fields we studied and duplicate our complete effort. You just don't pull out of a hat some legislation. First you study what is happening and why. Then you evolve the legislation you hope will correct it.

So that a broad sweep across the board in any one field will leave confusion, I think, in there, in the other two committees.

MR. ERNST: Mr. Chairman, I didn't mean to complicate your life. I don't care where it goes, really. I just don't want it to get lost sight of in the shuffle.

I think these new instruments have more value in the future than the criminal sanctions, trying to get convictions, which underlies the power of FEPC -- the lynch law.

MR SHISHKIN: Underscoring to make what I said perfectly clear, my feeling is -- and I feel very strongly about it -- that one of the three committees ought to have a subject under its final jurisdiction to make a final report on it. If one committee deals with the substance and another committee is responsible for drafting legislation on that subject, I don't think it will work out.

DR. GRAHAM: No, sir.

MR. ERNST: Couldn't I ask Bob Carr what his judgment is as to the power of sanctions?

MR. CARR: I think it ought to be with your subcommittee. I think we started in with the supposition that in the three subcommittees a logical distribution of the work could be made among them.

BISHOP SHERRILL: The motion is that this be referred to Number Three.

MR. LUCKMAN: All tax exemptions and --

MR. CARR: Any legislation that may use these techniques in getting at the civil rights problem.

MR LUCKMAN: Am I correct? I want to know what I am voting for and against. Am I correct in my assumption that Subcommittee

Two, of which I am a member, would then not get into the matter of prejudices and discriminations in educational matters in the United States — if this motion is passed favorably?

MR. CARR: No, I wouldn't agree with that. I think you should still deal with those things.

MR. LUCKMAN: I am confused. How does Subcommittee Three determine what should be done about discrimination in educational institutions unless they first do the same thing we did, which is to study the actual discrimination and what is going on?

MR. ERNST: Mr. Chairman, I have some deep prejudices already on the subject. It seems to me all Committee Three would do, if I were the sole member of the committee, is to analyze all the spending clauses in legislation currently going through, whether it be the GI educational bill, the land grant college bills, the roadwork bills, the maternity hospital benefit bills —and come to the conclusion that we would recommend to the President of the United States that we are not in favor of that spending unless the following clause against Jim Crow be added.

Now, that is how simple the thinking is, in my mind.

BISHOP SHERRILL: In other words, you want anotherweapon.

MR. ERNST: Our money from up North is a much better weapon than a local grand jury and a petit jury to get a conviction.

MR LUCKMAN: How do you determine what changes should be made in those laws?

MR. ERNST: There are no clauses. All I do is add a rider. I am dogmatic in this thing by this time. I see no great hope.

MR WILSON: Do you understand the clause he would write in?

MR LUCKMAN: Yes, but I fail to understand how he can arrive at that clause unless he know what is going on.

MR WILSON: He would put it willy-nilly in any one without further study.

MR. ERNST: This is just an act of faith. I think the people who are not bigots shouldn't be made to contribute money to institutions that are bigots. That is how simple it is. I will probably be voted down.

MR SHISHKIN: He will propose what to do and you, Mr. Luckman, will utilize that and say where and how and under what circumstances, on the basis of your studies.

MR TOBIAS: I think we have a very fundamental issue here and it ought to be cleared up. We are the President's Committee for making recommendations to him of what can be done within the present structure of government, the National Government, to assure to people their rights, and what additional legislation may be needed to implement the Federal Government in getting that result.

Now, Mr. Ernst has very deep conviction on some of these issues. That is one thing. Is the Committee going to take the position that it has a right to give to the public an expression of the convictions of the Committee on these issues, or is the Committee to make recommendations to the President and then abide by the President's decision as to what he can do, practically, with these recommendations as he confronts Congress with a message on this subject? It seems to me it is very important.

MR. WILSON: You mean, if we make our report and he refuses to go along with it and only uses part of it, what are we going to do?

MR. TOBIAS: That is right.

MR. LUCKMAN: Personally, I would be very much opposed to our ever making anything public.

MR. WILSON: So would I.

MR. LUCKMAN: It might surprise you, from what I have said before. This is a Committee appointed by the President. I know what I would do in my own company if such a situation happened; people looking for work, if they made something public before they came to me about it.

I think we would be violating our responsibility to the President if we made anything public, either before or after, as a Committee.

Now, I want to qualify that, because when all of our reports are in and through, nothing would prevent any of us as individuals from getting up publicly and saying what we think as individuals.

MR. TOBIAS: What I am talking about is this: Are we going to make the kind of report to the President that will express the kind of convictions that Mr. Ernst has expressed?

As I said, the education business in the 78th Congress worked out that way; worked out by a man who deliberately offered it — the representatives from the South would not support it — so that it would be defeated. It was defeated, notwithstanding the fact that there has been an understanding by representatives of all organizations concerned. It was in the nature of a compromise but they felt it the only kind of procedure that would get any kind of result at all.

It is just a question of whether you want educational help or whether you want to issue an ultimatum that will defeat the purpose of the thing. If we are acting for the President as we consider a thing of this kind, then we are going to think in terms of what it will be possible for him to do or to get done on the basis of our recommendations.

MR. ERNST: We don't have to decide it now.

MR. TOBIAS: No, but I say this, that we have to consider the public and what the public is expecting as a result of the work of this Committee. That is one thing; and the help that the President is expecting of us is another thing. We have a responsibility to both.

MR. SHISHKIN: Mr. Tobias, we have had some experience now, in the Council of Economic Advisers, that was set up under legislation. Its function is approximately the same scope.

In the first place, the Council has conferred with the President at his request several times. The President says, at this stage I would like to have the views of the Council as to what to do with this measure, what position to take"; and he says, "It is possible that if this measure come up for the final decision by Congress I will ask for a statement from the Council which I will make public with my letter to the Congress. This is my view and it is supported by such and such evidence." I don't see any possibility of precluding the President from even coming to us if the FEPC legislation is pending final decision in the Senate or if there is a filibuster, and saying"This is what the Committee has done."

I think we would be kidding ourselves if we think we can really do a great deal on our own in issuing statements on current legislation. This is the first of March. Congress is going to adjourn soon. It is well along in the session already. By the time anything comes along on new proposals, new legislation, I don't think we can make a contribution to this session of the 80th Congress, anyhow.

DAVID GITTELSOHN: Mr. Chairman, we have a way of working ourselves around to this problem. We are slippery as a committee. I am trying to figure out how we got back to this subject. Are we not supposed to be listening to the subcommittee reports and deciding how to settle jurisdictional disputes? Let's go on with that.

MR. CARR: I think maybe that motion ought to be deferred, too. The transfer of something bodily from one subcommittee to another when you have only heard the report of one subcommittee would be a mistake.

MR. TOBIAS: I wouldn't want to be inhibited as an individual from personal expression on any of these issues. If after the Committee has made its report the country expresses its opinion of the Committee's report, I must have the right at that time -- that is, I don't want to feel that the fact that I have served on this Committee —

DR. GRAHAM: — won't close your mouth.

MR. TOBIAS: That is right. Exactly what I am talking about.

DR. GRAHAM: We haven't lost our civil liberties by joining this Committee.

MR. CARR: If I haven't misunderstood Mr. Luckman, you didn't have in mind that the final report is not going to be published. Certainly my understanding of it is that it is. I think the President's advisers expect the Committee is going to give him a report that is going to be published. Government reports have been suppressed but I don't think this situation is in an area where there would be any suppression of the report.

MRS. ALEXANDER: That would be the same as the FEPC report. It would be published and available.

DR. GRAHAM: I know one report of one President was submerged and they called the chairman of the committee before the Congress — it wasn't suppressed by the President — and when the chairman appeared, the day before he appeared the report was published, after three or four months. So you can't keep a report from a Presidential committee in the dark.

MR. ERNST: The only one I know that has been thoroughly suppressed was LaGuardia's Commission on Harlem.

MR. WILSON: As I understand it, you are willing to defer the

vote on the motion. Let's defer it for the moment and let's get on with our business.

Shall we have the report of Committee Number Two?

MR. LUCKMAN: Mr. Chairman, Subcommittee Number Two met yesterday and having been asked to consider the broad social, economic and educational aspects of promoting the cause of civil liberties, we after serious consideration, arrived at the conclusion that there are three main areas which will interest us at the moment and to which all of our time and effort will be devoted. I am not meaning in that statement to exclude other areas but merely setting up a proprity system in an effort to get something constructive done within a reasonable time.

The first is the consideration of this matter of fair employment opportunities to all races, religious, colors and creeds, in public and private employment. On that point, I would say just a reasonable amount of work has been done; to be brutally frank about it I feel we have just scratched the surface.

The first effort of the committee, through the able assistance of the staff, will be to collate the work that has been done in both Federal efforts and State efforts, specifically with a view toward isolating the principles involved in those acts that currently are or have been on the books. By working on the principles involved we hope thereby not to get lost in legal verbiage of how to execute some of those principles, feeling that the execution of the principles can and should come at a later date.

The second broad item was the matter of the right of all persons to an equal opportunity in public and private education. In connection with the discussion on this point, I think a rather important matter was brought out by various members of the Committee, and that is, that while at first blush it might very well seem that the only general area of discrimination or lack of opportunity in education is in the colored race, that is in fact not true; that while the unfortunate situations existing, we have very definite problems facing other minorities in the Unites States such as the Jewish minority, the Catholic minority, the Polish minority, Italian, and so forth, which in total number of people involved exceed the size of the minority problem existing in the South.

Therefore, the subcommittee felt that it wanted to be very careful in the exploration of this matter of education opportunities to be quite positive that its work did not appear to be one of interest solely in the colored problem in the South but rather to

prove by its study, interest, and activities on this subject, that the subcommittee was in fact interested in the problems of all of the minorities.

I think I correctly state the feeling of the subcommittee when I say that we thought that there is nothing that we could do that would be more harmful to the effort in the South than to have it appear that the subcommittee and eventually the Committee, was interested primarily and almost solely in the problem arising in the South, because then we would in fact be a committee designed and operating to solve a problem in one section of the country and not have any national appearl to the rest of the United States.

It seems to us that our ultimate success in selling — which is a bad word but one we must use of necessity — the results of anything that is achieved by the subcommittees and the committee as a whole lies in our nation-wide appeal and not in any sectional appeal that we might have.

To that end the staff is going to work in the next few weeks to determine from various sources what are in fact the discriminations that cause problems to all minorities, specifically the colored, the Jewish, the Catholic, the Polish, Italian —

DR GRAHAM: And Mexican.

MR. LUCKMAN: Yes, that was discussed.

DR. GRAHAM: AND JAPANESE.

MR. LUCKMAN: And Japanese

MRS. ALEXANDRR: As well as women.

DR. GRAHAM: That is not a minority.

MRS. TILLY: I think you are right there.

MRS. ALEXANDER: There is great discrimination against women.

MR. LUCKMAN: That is a matter we did not discuss and I would not quickly be prepared to say would be a responsibility of this committee; but if it is the vote of the committee that it is a responsibility, that is another matter.

Third, the right of all persons to an equal opportunity in community services; and there we grouped together health, housing, transportation, amusement, and any number of subitems.

DR. GRAHAM: City streets.

MR. LUCKMAN: Community services. Yes, we tried to choose a heading for our own thinking, a phase that was broad enough to include the over-all problem.

MR. GRAHAM: That is one of the worst areas of discrimination.

MR. LUCKMAN: I don't want to touch on any specific points because I think it would unnecessarily take up the time of the Committee; but I would like to reemphasize so that the Committee as a whole will get our complete thinking, that I have read these in the order in which the Committee is going to attack the problems.

Now, that does not mean to say that we, through the staff and as individuals, will feel that we must finalize No. 1; that is, the fair employment problem, before we go to No. 2, the educational; but I think all of us on the subcommittee felt we had had enough experience in one kind or another, to know that if you try to do too many things at one time you don't do any one thing well and you don't reach any area of accomplishment.

I think it is more in line with what Mr. Carey was indicating before, a matter of self-discipline, getting the thinking pretty well set on one kind of problem before we go on to another.

I think I have indicated sufficiently the general processes that we are going to use to get this material together, except, afain, to indicate the view, for whatever it may be worth, of our subcommittee, that we did conclude that we would not have any private hearings at the present time, that we would first be sure that we had own own minds pretty well clear on the broad principles involved before we were advised by — and perhaps affected by — the testimony of people who have been in this field for a long time.

There did some up a point which I think is probably important enought that subsequently this entire committee would wish to correct us on. The question cams up several times as to the desirability of focusing our attention on the Federal agencies, in connection with some of these problems.

It was the general consensus — although there were some isolated objections — the general consensus of opinion was that we should not focus our attention on Federal agencies, for the primary reason that the Federal agencies in fact employ a relatively small number of the total number of employed people in the United States; and that while business — of which I happen to be a representative — has inevitably said, "Well, if Government can't do it themselves,

what is the reasonableness of asking us to try to do it?"

That certainly has been said. I personally am not in accord with that. I think that there are many thing that can be done in the United States by business, labor, all the other factors involved, which perhaps the Federal Government cannot do, for one reason or another. Our subcommittee is imbued with an interest in the over-all and not in trying to clean up or straighten up any one small segment of the total.

When the right time comes, the committee will certainly devote its efforts to trying to rectify any problems that might exist in the Federal agencies, but that would be treated as part of the whole and not as the whole.

Then, and finally, we spent some little time on the matter of education, not as it pertains to Point No. 2, but education as it pertains to the point that you raised, Mr. Chairman, when you were in our session. That is, the changing of people's minds through efforts other than legislation; because we all recognize that you cannot legislate a point of view. You must educate a poiht of view.

We have some to two conclusions in that very important phase. The first is that in the actual work that we are going to do on Points, 1, 2, and 3, and in any subsequent regulations that we might suggest, or legislation if that comes within our province; that within the regulations and legislation itself we make specific provisions for the education of those people affected by that legislation or those regulations.

That is a very definite possibility. Just to be sure that I make myself clear; if an FEPC act is evolved by this general committee, no act up to now has made any specific provisions within the act itself for a method, a vehicle for the education of those people governed by that act, as to the necessity and wisdom and desirability of those regulations or that act itself.

We all know in our experience it is onething to simply tell a person "You are to do this," but it is another thing if you tell them why they are to do it.

We believe, therefore, that part of that can be done within the framework of the very regul ations or legislation that might be suggested.

Then, secondly, a field whcih Mr. Carey touched on briefly, and therefore which I will repeat in an equally brief manner, that

there is a virgin field, actually, we think, for the general education of the people as to what this committee finally decides is right and what this committee believes in, and that virgin field is the broad field that has been used so often in other ways. The fat salvage campaign comes to my mind, war bond drives, and that sort of thing — a field which has never been scratched as far as civil liberties are concerned.

It was the brief of our subcommittee, in which I share as happening to be a businessman, on that committee — in having contact with advertising agencies and the film industry and so forth, that properly presented there is an enormous — I don't like to use adjectives but it is properly described as a gigantic-opportunity to go to the various agencies, the National Association of Advertisers, and the film industry, and have presented at the right time a broad over-all presentation to the public of what this committee believes to be the proper definitions of civil liberties.

Now, mind you, we have no thought of trying to sell through this media any particular thing such as a fair employment act, nor would we try to sell an anti-lynching bill, or anything of that kind. But our basic need, as you so well put it and as we discussed later, is to try to formulate those plans which will change the consciousness of people whether they are 12-year-old kids or 80-year-old people with definite prejudices, to try to change their consciousness so that they will be willing and ready to accept the views of this committee as to specific proposals of what should be done.

That is very brief, and I hope—

MR WILSON: Very good.

MRS ALEXANDER: Mr. Chairman, may I ask Mr. Luckman, did you include under the rights of persons in community services the right to serve in the armed forces?

MR. LUCKMAN: It was listed. Frankly, we discarded it as a matter of little consequence at the moment in comparison with all the other problems we had.

Now, I take the responsibility for that, Mrs. Alexander. We felt there are only a certain number of things by limitation of time that you can do first, and that first things should come first. We felt it was a matter of some academic interest at the moment, in that the armed forces are small and the war is over. It was an item that we did not discard but tabled for later consideration by the committee after we have resolved our views on these other

matters which we feel take precedence over that.

MRS. ALEXANDER: Of course, I wouldn't share your opinion because it seems to me so fundamental to have the right to defend your own country.

MR. LUCKMAN: No quarrel with that. In other words, I can make our position clear. Do you think if we had to choose between studying two matters — if we had to choose — that we should study that problem ahead of the FEPC?

MRS. ALEXANDER: Well, if we did not have a country we wouldn't have an FEPC.

MR. LUCKMAN: Answer my question. If we had to choose. You can probably say we don't have to choose. I am only asking if we have to choose, would you put that ahead of FEPC at this time, at this moment?

MRS ALEXANDER: I would put it in with FEPC. At this moment the Surgeon General is asking from some 1200 doctors and not a Negro doctor can be taken — so it is FEPC. At this very moment that is happening.

MR. LUCKMAN: If it properly comes under FEPC, it would be discussed by the subcommittee.

MRS. ALEXANDER: Then I think you have to explore —

MR. LUCKMAN: The Committee as a whole will have to overrule the views of the subcommittee, which was that we felt that the study of FEPC and education, the study of the broad field of education, came ahead of the isolated fields that go to make up community services.

MRS. ALEXANDER: Would you agree with me that it is a phase of FEPC when it comes to the employment of people by the Government?

MR. LUCKMAN: I don't know. I haven't got into it deeply enough.

MRS. ALEXANDER: I would like to throw that back to you.

MR. LUCKMAN: I am answering you out of ignorance.

MR. CAREY: I would like to say that will come up under both FEPC, vocational training, and community services.

MR. ERNST: Mr. Chairman, may I just throw out in relation to the problem discussed before and tabled, maybe that Committee Two is the committee that would have to consider ultimately in relation to these local social services such as roads, how President Truman can make any comment on it other than through the spending power. If you know any other way by which you can make that a Federal issue as to what the roads in Alabama should look like — moreover when you get to education, I think you have to consider also from the point of view of Federal impact, what about equal pay for teachers for the same service? What about the per capita now? It costs 22 cents for the Negro child and two dollars is being spent for a white child in many a county.

MR LUCKMAN: I was trying not to get into much detail. Perhaps it is important to say that the subcommittee recognized that when this subcommittee studies the matter of ability of a Jewish person to attend a given educational institution, we at the same time recognize the responsibility of the subcommittee to study the rights of a Jewish graduate, or what have you, to teach at that institution.

MR. ERNST: It disturbs me. How does the Federal Government get into the matter of roads in Alabama?

MR. LUCKMAN: The same thing is true, the hospital is part of the community service. It isn't enough in our opinion, the opinion of the subcommittee, to study from the standpoint of, Can Negro people participate in the services of this hospital? but, Can Negro nurses and doctors actually be on the staff of the hospital?

BISHOP SHERRILL: Mr. Chairman, I don't disagree with what Mr. Luckman, said, but I am a little sympathetic with Mrs. Alexander's point, not on the basis of numbers; but if your government in its own practices does not do away with discrimination it is terribly hard to bring influence on private parties to do the same thing.

In your armed forces and in your Veterans Administration, and in your public health administration, if you have discrimination there, it is very difficult to bring pressure on non-public institutions.

I think there is a strategic value in considering the government services, admitting they are much smaller in numbers than in private enterprises.

MR. ERNST: I make a suggestion that the committee might want to listen to Bob Patterson.

MRS. ALEXANDER: And the Surgeon-General.

MR. SHISHKIN: I wanted to ask a couple of questions of Mr. Luckman in connection with his report.

I see in the general committee assignment the committee was to consider the broad social, economic and educational aspect. In the consideration of the economic aspects, would the committee consider it to be its task to go to the issues of some of the economic conditions and causes underlying discrimination, and make specific findings on that? It seems to me that will be very important.

MR. LUCKMAN: I would think so.

BISHOP SHARRILL: Has that been given consideration? Is that in your plans.

MR. LUCKMAN: Yes. We think much of that will come under the FEPC. You see, I am not trying to philosophize but I think so thoroughly as Mr. Ernst does about one thing — and I am sure it is only because I am ignorant of the problem of civil liberties and because I am exposed to selling all the time. If we take the hackneyed, time-tried pieces of legislation and simply try to say "Amen" — or have we three new words that we want to add to it — it seems we will have wasted an awful lot of time of ourselves and everyone else concerned.

If they haven't been passed by now, they won't be passed. If in the actual presentation and perhaps the legislation itself if we have the phases of what I think you have in mind, if we can show that here is the basic problem down here below, and that many of our ills come from inequalities of the economic situation, and that we must change that through this procedure, we will at least have added a new facet to the thinking of the legislators if we can do it with the public we have less of a problem with the legislators.

Congress was never interested as a legislature in passing prohibition. Prohibition was passed because the legislators felt it was the wish of the public; and we can name fifty other things between that time and now —

MR. SHISHKIN: The question I was asking is merely this. My own feeling was that your own categories were a little bit self-defeating. I mean that you were limited by your own categories.

You talk about discrimination in employment, call that FEPC. Discrimination in employment is what we are talking about as a major area and quite properly, of economic discrimination; but I think

that includes wage discrimination as distinct from discrimination in employment per se. It is extremely important. And when you deal with housing and all other aspects, you find the underlying economic conditions, apart from disparity in income, are the causes of our discrimination. I think those would be opened up, because they haven't anywhere.

MR. LUCKMAN: That is all part of the study.

MR. SHISHKIN: That is the main thing I was concerned with, I disagree, of course, quite violently with you excluding Federal discrimination. On the FEPC we found that to be a major area of discrimination. And I also disagree—

MR. TOBIAS: Committee/was not of one mind on that. Two

MR. LUCKMAN: I said that the committee was not of one mind.

MR. SHISHKIN: — classifying the time of the committee so as to leave out the question of participation of minorities in national defense. The armed forces are now classified as part of our labor force.

MR. LUCKMAN: Just so the record is clear, I don't think you ought to say things like that. That isn't what I said. I at no time said we were eliminating any of those areas.

MR. SHISHKIN: I said classifying.

MR. LUCKMAN: You said eliminating.

MR. SHISHKIN: No, no; I said classifying so as to defer —

RABBI GITTELSOHN: In fairness to the chairman of the subcommittee, it wasn't a question of classification in any minor status; it was a matter of procedure. Initially, we were spending most of our time in the subcommittee meeting talking about Federal agencies and the Federal Government, and somewhere along the line we check-reined ourselves and said, "Hey. Wait a minute. How about the larger field in America of private employment?" So that we actually decided to canvass the whole field and not limit ourselves as we initially had been, to Federal agencies.

MR. LUCKMAN: That's right.

RABBI GITTELSOHN: I can assure you we haven't the slightest intention of overlooking the Federal agencies but we merely want to realize that that is a part of the picture; and we would be untrue

to our franchise as a subcommittee were we to limit ourselves to that part and not deal with the other field, I won't say "wider field"; with the other field of private employment. We want to do both.

MRS. ALEXANDER: May I ask you, Mr. Luckman, if in examining the right to an education, a professional education, you should find certain institutions which receive Federal grants, and we shall say, limit the number of Jewish students to two and Negro students to two, and also limit the number of women who can attend to two, would you feel that your committee could make a report on limitation of the number of women who either could be admitted or who could teach?

MR. LUCKMAN: Definitely, yes; that is where we have to decide something, because we get into this area of what the motion was that was tabled. I am not trying to bring it up.

If we in our work study, as we certainly would, the three things you have mentioned — the fact that that institution had a limitation of two Jewish, two Negro, and a total of four women, just to be conservative on the matter, that would be, we would feel, an area in which this committee would work. But I think that also is an area which gets into the matter of how do you solve that problem by restriction or what have you, on the Federal spending in that case.

MR. WILSON: I thought that that was a very good line right there. Your committee would come out and condemn that practice and recommend, I take it, complete equality. How you go about accomplishing that, I thought, was Mr. Ernst's.

MR. LUCKMAN: That is fine.

MR. WILSON: That he would come up with a proposed mechanism to implement what you decided.

MR. ERNST: Mr. Chairman, they could subpoena us to appear before them.

MR. CARR: I think this is the solution. Let Mr. Ernst's committee study ways and means, devices, the technical problem of using the taxing and spending powers as a means of implementing policy.

MR. LUCKMAN: Mrs. Alexander, I hope as we go along you will get used to me. I have a very unfortunate habit, believe me, of, in emphasizing a point, saying something which is much stronger than I

should say. But I have a fixation — having been through business and government — I have a fixation about trying to do too many things at one time.

The greatest mistake that this committee will make — the subcommittee will make certainly, and the committee as a whole — is in trying to cover too much territory at one time. We will simply never get anywhere.

I think you have to take first things first, and you continually have to force a pushing back of these other matters — which are important and interesting — pushing them back until you get this thing settled. It is somewhat like this meeting. It always has a tendency to get around on fifty different subjects.

MR. ERNST: When you mentioned housing, it was in the scope of your committee. I take it that is not just public housing, but restrictive covenants, too.

MR. LUCKMAN: I don't know. We wondered about that. We thought covenants were someone else's responsibility.

MR. ERNST: I was raising it for that reason. I don't know.

MR. TOBIAS. We didn't get to a discussion of housing but it was included in our recommendation.

MR. SHISHKIN: Where are the covenants?

MR. WILSON: In Mr. Luckman's committee. If he wants to make a deal for the mechanization of that with —

MR. LUCKMAN: I think we should discuss that later.

MR. WILSON: —with Mr. Ernst. Yes, but let's stick on these committee reports instead of getting in all these side roads.

MR. TOBIAS: Let me say with regard to the committee report, especially on this matter of government departments and community services, that we were not of one mind on that. I think that the whole question of discrimination in departments operated by government is of primary importance, because, as has been brought out, if the government is going to request private business to comply with certain principles, then it has a duty to practice that in its own set-up.

The point was brought out that that is very largely a matter of administration. It has been proved here in the District by two or three departments — some of them the lease popular at the present moment in the thinking of a great many people — the whole business was set right. It was done through O.P.A. when Chester Bowles put his foot down on discrimination. It was done by Henry Wallace in the Department of Commerce; and it was certainly done long before that by Harold Ickes in the Department of the Interior in connection with National Park Services, and even the park practices here in the District of Columbia.

And our committee thought in time that is one thing it can do, to request of the President to make a strong statement bearing on this whole business of discrimination within these departments, that it is within the power of administrative officers to do that and as an educational procedure, the memorandum itself suggested a conference with personnel and employment directors of the Government so that they may be instructed as to what is required by Government.

So that there was considerable discussion of it.

MR. WILSON: Shall we have Report No. 3 now?

MR. ERNST: Mr. Chairman, we have met several times and yesterday afternoon met with the Chief Counsel of the Treasury Department, Mr. O'Connell, two assistants, the Solicitor of the Post Office Department, Mr. Delaney, and an assistant of Mr. Delaney's, Mr. Mundell. We have had them up together.

The committee is exploring the other side of the medallion of Luckman's problem when he gets to his education by films, the reverse side being the mass of propaganda and that goes to the minds of the people of America hidden by nightshirts or the equivalent.

Whereas nobody is committed to anything on the committee, it seems to be the general consensus of opinion that it is worth exploring. How much value could we get in America if we could take away the nightshirts and make these people stand up and be counted; because in the main the people who are opposed to the expansion of civil rights are afraid to stand up publicly.

MR. SHISHKIN: You mean stand up in their nakedness.

MR. ERNST: In their nakedness. And more or less this position that we are exploring is consistent with an old-fashioned American tradition which is shown in the permit for postage privileges under second-class postage rights, the registration of foreign

agents; funds sent abroad for relief have to be exposed, and most communities have similiar legislation of one kind or another. If you are going out to raise funds you have to have some kind of permit.

We had the Treasury and the Post Office people over, and the Post Office brought with them a file of — oh, I should think a hundred documents, most of them printed or mimeographed, representing vitriolic attacks on Catholics, Negores and Jews.

These documents got into the hands of the Post Office Department even though they were sent through the mails first-class — which is sacred and can't be opened — because the recipients of these letters wrote into the Post Office outraged and said, "Why, this looks to us like treason; if not treason, at least sedition. Won't you prosecute?" or words to that effect.

We explored with the Post Office Department first as to the administrative difficulties and the basic philosophy which was underlying some legislation or regulations which would provide that mail in quantities over a hundred copies, or fifty, or a thousand — we didn't explore in detail — should have some kind of a declaration on it as to who is sending; and no longer permit anonymous material.

It was stated by one member present at the meeting that he didn't know why two copies would be allowed anonymous. We admitted we had to allow anomimity in love notes, but they are not usually in duplicate form.

The Post Office is going to explore further just what can be done administratively to expand what now exists in the statute books. If you want cheap postage rates, you have to disembowel yourself and say, "Here is our subscription list. Here are the stockholders and the bondholders."

We talked a bit about the difficulties of the administration of such legislation.

We then talked with the Treasury Department to see how far we could go to get information as to the extent of the funds used in this particular field. They have no breakdown at the moment, although their tax return forms that are sent out and are filed, do call for each tax-exempt organization to state the name of everybody who has contributed over three thousand dollars, in any one year.

We got a statement from the Treasury Department that if this

committee, through the staff, could get to the Treasury Department, as I said before, a hundred or more names of organizations, the bigotry organizations, the Treasury Department, living up to its obligations under the law and not being permitted to divulge any person or corporations' tax returns, would make a study to find out the extent of the operation, the complexities of the operation; because, as we discussed it, Gerald L. K. Smith, who is operating as a private individual in business, claiming to send out a million copies of a pamphlet in one year, so it all comes into his indivdual income tax return, and he claims no exemption.

They also pointed out in the Treasury that many of the organizations don't claim exemption because they don't want to run the risk of facing the Treasury in their request for exemptions and would rather have the donors pay tax or not be allowed to deduct a gift from their tax returns than expose the organization.

As soon as we get a hundred names the Treasury has promised to have an analysis of those tax returns for us.

I think until we get that information, we can't do more than continue to ponder over the philosophy underlying it and leave a little in abeyance as to the administrative complexities and diffculties.

Any law put through for disclosure will have a substantial amount of deception and cheating back of it and people will try to get around it. It doesn't dismay me at all; non-bigotry groups such as Mrs. Tilly works with are now going to reduce themselves to the spy level of the bigotry groups. Practically all of those worth while organizations are hiring spies, planted in organizations such as the Columbians.

All the organizations that I have talked to seem to admit that if you can once find out who is putting up the money, the organization blows up.

In other words, I have always used as an example the Liberty League. There was no law that gave the Liberty League and its functions dissolve, but as soon as it was known by the American mass mind who put up the money, there was no more activity.

I pointed out to the Committee that a lot of my staunch liberal friends like Arthur Garfield Hayes, believe that there is a civil right in anonymity and you will find quite some opposition from that front.

I am also mindful of the fact, as shown in the discussions,

you couldn't limit disclosure only to the bigotry groups, because that in itself would be trying to do what the Dies Committee ineffectually, disastrously, was trying to do by saying, "This is un-American. This is subversive."

In effect, what we will have to get to is that the market place is only a decent market place providing a hope for truth winning out in the end if everybody comes forward here and says, "Here are our backers. Here are our officers. Here are our directors." There is no more concealment.

As far as I know, the organizations that are in favor of expansion of civil rights are ordinarily not ashamed at all to say, "Here is our budget," and usually to print their statements.

That is the problem in relation to the total field, which will include the exposure of information of varying degrees from trade unions, if you please, and particularly of the extreme left and right groups, the Fascist and Communist groups, which in my opinion — I am speaking for nobody but myself — would be blown out of existence in our climate merely by exposure and disclosure. If we don't go forward with disclosure, it seems to me then we will go forward with suppression and will stoop to the very techniques of the Fascists and Communists, the totalitarian forces.

We expect to get from the Treasury in a week or so, after the staff gets the information over, the analysis, and then we will know the extent of the problem.

One thing I might add, my impression was that both Post Office and Treasury seemed to think that there was an immeasurable amount of material being pumped into the public mind by these hidden groups.

MR. WILSON: Do you want to add anything?

MRS. TILLY: I think he has covered it. We have found, as he said, the way the Columbians were forced to breathe their death breath was by exposure. We found out who it was, gave it to the press, gave publicity to it.

(Discussion off the record)

MR. SHISHKIN: I think the report is an excellent one. I would like to add my own feeling in connection with the total work of the committee, that the big question as to what is the source of the fuel that feeds a lot of hate, prejudice and discrimination is one of the most important things that this committee can do.

One point I wanted to make in addition on this, so there won't be any misapprehension since Mr. Ernst mentioned the trade unions, there are some bills in Congress now, a number of them, that require financial accounting by unions.

The position that the American Federation of Labor takes is that the financial accounting by unions required by legislation, is class legislation; that we would support financial disclosure of unions if it was coupled with the same requirements applicable to trade associations, employer groups, fraternal organizations, charitable organizations, welfare organizations, and so on; that that squares with the premise that I think is inevitable, that Mr. Ernst has taken, that disclosure has to apply to everyone.

MR. TOBIAS: I noticed an article in the paper yesterday that the President was going to make a statement soon about the employment of so-called subversives by the Government.

It seems to me that a point should be made here that there are different kinds of subversives. The only group that has received particular attention by the committee that has been dealing with this in the past has been the Communist group. I don't see how any statement could be made about subversives employed in the Government that should not apply to subversives who are members of and supports of the Klan and the Columbians and similar organizations, some of whom are elected to high office and other appointed to high office in government.

I think it is quite in line with the thing Mr. Ernst has been talking about. He has been talking about the way to get after it.

The great difficulty is how can you find out who is a Klansman or a member of the Communist Party? These are underground movements.

MRS. TILLY: You can't find out without being an underground movement yourself; that is the tragedy of the thing. We found in our study of conditions in the South that there is pressure brought upon business firms and individuals that almost forces them to make contributions to these organization, and I think they would welcome something that would protect them from such a situation as that.

MR. TOBIAS: I don't think the income tax appraoch to it is the only approach.

MR. ERNST: Oh, No.

MR. TOBIAS: I think it is quite possible to find out, after there have been reports, as to what the actual connections of these people are, what is Bilbo's connection.

MR. ERNST: May I say the Post Office agreed with the Treasury to also analyze as best they could how many or few of the organizations whose names we will give them make use of mass mailing. In other words, there seemed to be an implication, as I gathered from the Post Office and Treasury, that practically none of these underground movements operate without the mass use of the mails. They can't do it by just meetings and word of mouth, and so maybe the Post Office powers will be sufficient.

RABBI GITTELSOHN: Is it your thought, Mr. Ernst, that this disclosure power would be used only for contributions above three thousand dollars, or above a certain —

MR. ERNST: No./We discussed whether it should be over a hundred, over fifty, or what. We discussed some of the difficulties. There is a mass meeting and $22,000 is thrown in the hat and announced as raised at the meeting. It is not a simple thing.

The SEC has a disclosure statute which is simple. That is to prevent getting stuck a hundred dollars when you buy a share of stock. They have to publish a book every time they want to issue some stock.

MR. TOBIAS. Also, Mr. Chairman, it isn't wholly a matter of organization. A man has to be sworn into membership in the United States Senate. Deliberately from the stump, Senator Bilbo insisted that governmental machinery within the State be set up actually to deprive practically half of the people of his State of their right to vote, in the ~~hearing although~~ presence of a reporter who was not permitted to testify in the hearing although he actually had stenographic notes of what had been said. The statements were in direct violation of the spirit of the Constitution of the United States.

MR. ERNST: Ditto for forty other Senators.

MRS. TILLY: There is one field we haven't touched on that bothers me considerably, to find out how the political campaigns of the South are financed.

MR. WILSON: Now, you have heard the three subcommittee chairmen report —

BISHOP SHERRILL: Mr. Chairman, I would like to bring up again that decision. It seems to me that after listening to these reports

I feel more strongly that this tax power and spending power belongs with Mr. Ernst's committee rather than with Number One. It is aling the line of consultation with the Treasury Department.

That was postponed and I would like to move that that question be referred from Committee One to Committee Three.

MR. WILSON: I think that was the motion and it was seconded.

BISHOP SHERRILL: That is right.

MR. CARR: Is it now clear, however, that that does not affect what Subcommittee Two is doing?

MR. ERNST: No.

MR. CARR: It would merely transfer from One to Three the technical problem of how you would use the taxing and spending powers as a basis for legislative control.

MR. ERNST: Get a list of the statutes that have been on the books for years that are now being considered and relate to spending and Federal money, and address ourselves to a theory and program legally and socially of how that power could be used to reduce discrimination, and turn that suggestion over to Luckman and he will apply it against the facts; is that your theory?

MR. CARR: Luckman's committee makes the studies of the problem of discrimination in education or in other walks of life. Your committee deals with the technical matter of how you could implement a recommendation from Committee Two that something be done to prevent it.

MR. ERNST: We would send our recommendations so that the people dealing with the facts could then have the veto power. They would say this doesn't apply because it is de minimums, or for other reasons. They are going to get the facts and use our theories against their facts.

MR. CAREY: As I understand the motion, my understanding would be in disagreement with your remarks, Morris. Subcommittee Two would make its report in the field it has before it. Subcommittee Three would make its report including this measure that was just referred to it, and the compliation of those reports into the Committee's report would take care of the question raised.

MR. WILSON: That was the original motion as I understood it. This is the way I was going to put the motion.

MR. MINST: Does he intend to include in the motion also the question of the treatment of restrictive covenants? I am raising this just so they don't get lost sight of. I am raising very different Federal questions. Federal housing is being put under restrictions. This is a very difficult field to get into.

MRS. ALEXANDER: That had not been assigned to us.

MR. CARR: Discrimination is an area being studied by Mr. Luckman's committee.

MR. LUCKMAN: I don't think it follows it should go to our committee. It is the same as education. You would say because we are studying education, why, this other about Federal aid and grants should go with our committee; but having the feeling that shoudl go, I think the covenants should go also.

MR. TOBIAS: It is in the memorandum.

MR. CAREY: Mr. Chairman, as a member of Subcommittee Two, I listened to the excellent report made by the chairman of our subcommittee. Fortunately, I had the benefit of reading the agenda we considered ~~of this~~ in our committee yesterday and feel that if the other members of the committee had read that same agenda, then the report of the chairman of our subcommittee would have been complete. We had this matter covered in our agenda, and if there are later any questions arising requiring further exploration of that matter in the same form that you are dealing with this question of tax exemptions — the question of tax powers — we can do that, but I think the matter is well taken care of in Two.

BISHOP SHERRILL: This isn't a part of the original motion. Can't we pass this motion and take up the other later?

MR. WILSON: All right. You have heard the motion, which is to transfer the question of these covenants, et cetera, and the mechanism necessary to implement this.

BISHOP SHERRILL: No, it is spending powers.

MR. CARR: Spending and taxing powers.

MR. WILSON: That is right.

BISHOP SHERRILL: The sanctions.

MR. WILSON: Are there any further remarks? If not, all who favor the motion, vote aye — which is to turn it over to

Subcommittee Three.

(There was a chorus of ayes.)

MR. WILSON: Any noes?

(No response.)

MR. WILSON: It is a vote.

Now, do you want to deal with the other subject, the other transfer?

(No response.)

MR. WILSON: No response, there bring no desire to do that, forget it.

I think before we decide definitely that we can turn out these reports for the staff by April 15 if the dead line is May 15, it seems to me that we should necessarily consider the other subject of how often you are going to meet, because I think that has a very definite impact on this question. If you meet twice as often, why, maybe it can be done, or maybe the various chairman would then decide it could, whereas they might think it could not if we continue the present schedule.

It has been suggested that we meet twice a month, in other words, four days per month. Four days per month, the suggestion was, rather than two. Spend two days every two weeks.

Presumably — this is for your decision — the subcommittees meet one day, and then we meet as we are now.

What is your desire?

MR. MATTHEWS: I move that the recommendation of the staff be approved.

RABBI GITTELSOHN: I second the motion.

MR. WILSON: Any further remarks on that question?

MR. MATTHEWS: I will add to that motion, with the consent of my second, that we meet on Wednesdays and Thursdays.

MR. WILSON: In other words, that would be, just so we know what we are doing, that we would next meet on Wednesday and Thursday,

the 19th of March and 20th of March.

RABBI GITTELSOHN: That is satisfactory to the seconder.

MR. MATTHEWS: And every two weeks thereafter.

MR. WILSON: The next meeting after March 18th and 20th, I take it, would be the 2nd and 3rd of April; is that right; and the following meetings the 16th and 17th of April?

MR. MATTHEWS: Right.

RABBI GITTELSOHN: The 30th of April and the 1st of May also.

DR. GRAHAM: I have a date on the 19th and 3rd.

BISHOP SHERRILL: It is very difficult for me. We won't find a date for everybody.

MR. WILSON: It would be the 30th and the 1st, the following one; and then the 14th and 15th of May.

Now, it seems to me there is one point still to be cleared up.

RABBI GITTELSON: We haven't passed that motion, have we?

MR. WILSON: You mean as to these being the dates? I thought we did.

RABBI GITTLESOHN: The motion was put and seconded.

MR. WILSON: I beg your pardon. Will all in favor vote aye.

(The motion was carried unanimously.)

MRS. ALEXANDER: May we have the dates again?

(Mr. Wilson listed the dates previously mentioned.)

MRS. ALEXANDER: The 30th of May is usually a holiday.

MR. WILSON: The report is going to be in the 15th of May. I thought maybe you would want to recess then. I didn't go beyond that, if we are going to get the report in by the 15th of May.

MR. LUCKMAN: I have to ask to be excused, for a lucheon engagement. Are we meeting right after lunch?

MR WILSON: I think we are finished, unless you have something.

MR. CARR: I would like a little further clarification on this point 7, as to hearings. Have you abandoned that altogether? What would your wishes be?

MR. WILSON: If I understood the trend of thinking here this morning, you deferred that until the committees asked for it. That was my understanding.

BISHOP SHERRILL: Seven?

MR. WILSON: Seven is the question of this group of people, bring them before the main committee — Messrs. Baldwin, White, Cushman, Houston, and so on.

MR. MATTHEWS: Don't you think it would be well to hear Mr. Hoover at our next meeting, that he be invited to meet with us on the 20th, at our Thursday morning session?

MR. WILSON: That was the one exception. The Thursday morning session; that would be the 20th.

RABBI GITTELSOHN: I would suggest that each subcommittee at the Wednesday committee meeting spend a little time talking about the specific information that they would like to have of Mr. Hoover; at least prepare some kind of agenda of questions to fire at him.

MR. ERNST: I think if the Chairman could let the secretary know in advance the specific material on which you would like Edgar Hoover to be more or less prepared, that might be helpful.

RABBI GITTELSOHN: The chairman of the subcommittees.

MR. WILSON: I would like to be sure we are in the clear on one thing. My own recollection is that we are not; that there is agreement now by Messrs. Luckman and Ernst and Bishop Sherrill that reports will be available from them by April 15, for the benefit of the staff.

MR. CAREY: May I suggest that that be April 17, because that would be the day the full committee will meet.

MR WILSON: All right, April 17; excellent. By April 17; you know what we mean; that we can consider it on April 17th. That is what we want.

MR. MATTHEWS: Is it settled, Mr. Chairman, that Mr. Hoover will be invited on the 20th?

MR. WILSON: Your word is law, sir. He will be here on the 20th if we can get him.

MR. SHISHKIN: I just wanted to make a suggestion that in the consideration of any other persons that may be invited for such informal consultations as are suggested, a representative of the National Council for a Permanent FEPC be so invited.

The National Council has held very extensive conferences with a large number of members of Congress on this. Mr. Paul Sifton or Eleanor Chalmers would, it seems to me, be very useful, one of them or both, in giving advice to the Committee about the current status of the situation.

RABBI GITTELSOHN: I would be glad to suggest Subcommittee Two —

MR. WILSON: I was just going to say, won't Subcommittee Two do that job and hear that group. I don't see how they would pass up the opportunity to bring them before them.

MR. CARR: If the subcommittee are going to report by April 15 and want to hold hearings of their own before then, let the chairman get in touch with the staff and let's make plans so your hearings will be arranged and the people you want to have before you will be notified, sufficiently in advance to make it possible.

MR. WILSON: There is one question before we break up, however. We haven't made arrangements for a press release. Do you feel, in view of what we decided today, that we have anything to report to the press that is worth while? It would seem to me that anything we have done would not be very illuminating to the public at this stage of the game.

If there is no desire for it, we will forget it, and the meeting is adjourned.

(Whereupon, at 1:00 p.m., the meeting was adjourned.)

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President's Committee
on
Civil Rights

CONFIDENTIAL

Thursday, March 20, 1947

The President's Committee on Civil Rights, Washington, D. C.

The Committee met at 1:00 o'clock p.m., in the East Wing, The White House, Bishop Henry Knox Sherrill presiding.

Present: Mrs. M. E. Tilly, Rabbi Roland B. Gittelsohn, Dr. Frank P. Graham, Mr. Francis P. Matthews, Mr. James Carey, Mrs. Sadie T. Alexander, Mr. Channing H. Tobias, Mr. Boris Shishkin and Bishop Francis J. Haas.

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

P R O C E E D I N G S

BISHOP SHERRILL: The meeting will come to order.

The order of business will be first of all to hear reports from the subcommittees.

Subcommittee 1 met yesterday afternoon and this morning, and this morning we had a conference with representatives of the Department of Justice, including three representatives of the Civil Rights Division and the Assistant Attorney General, Mr. Caudle.

I think all that it is necessary to report at this time is that we have made very real progress in consideration of proposed legislation, and I think that at our next meeting, or certainly by the 17th of April, we will be able to make a full report in regard to these matters.

Has Subcommittee 2 any report?

RABBI GITTELSOHN: I have the report, in the absence of Bishop Haas.

As Subcommittee No. 2 reported to you on March 6th, they decided to explore at this time three fields: Fair employment practices, equal opportunity in public and private education, and the right of all persons to an equal opportunity in community service.

The past two weeks have been spent in the main in exploration of fair employment practices, though a beginning has been made on relevant factors to the area of equal opportunity in public and private education.

We can now report that common agreement among the members of the subcommittee present indicates that by April 17th, they will be ready to bring to the committee as a whole a written report. That

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does not mean to imply necessarily a written report on all three areas, but we will have some written report. In the meanwhile, we wish to make the following report.

Regarding fair employment practices: The subcommittee recommends legislation for a permanent FEPC with judicial enforcement, though not necessarily using the name FEPC. Since proposals for FEPC do not cover practices in federal agencies, the subcommittee recommends that the President restate his position on fair employment in federal agencies and provide for the implementation of this by the creation within the Civil Service Commission and the personnel departments of the various agencies, on-the-job training programs and such machinery as is necessary for hearing and acting on discriminatory practices in hiring, promoting and transferring of federal employees.

Regarding public and private education: The subcommittee has endorsed the principles of the New York Austin-Mahoney bill as stated in the revised version of the bill. They discussed possible recommendations that they might later wish to make regarding discriminatory administration of federal aid for education. As a matter of fact, we have gone beyond just discussing that and we have agreed among ourselves to recommend that in the apportionment of any federal monies for educational purposes, it be understood that such monies be administered without discrimination. Report of the subcommittee's position in this field will be given at a future meeting.

Regarding extension of areas which the subcommittee has voted to explore: The subcommittee voted to extend its exploratory work to the area of the armed forces. In other words, we have added a fourth field following the prevailing sentiment at the full committee meeting last time that we ought not drop the matter of discrimination in the armed forces.

Regarding a program for mass education on civil rights: The subcommittee reviewed a proposal from its chairman, Mr. Luckman, concerning the possibility of the full committee holding local hearings. It was thought that by holding extensive local hearings - he mentioned holding them in the 48 states - we would by that very fact be publicizing the work of the committee and also be serving an educational function. The subcommittee approved Mr. Luckman's proposal in principle. They recommend consideration by the full committee of a limited number of local hearings in selected focal areas with the clear understanding that the hearings should be conducted by members of the full committee with or without the cooperation of local leaders. We felt that Mr. Luckman's proposal was on far too wide a scale in view of the time limitation, and therefore, while we accepted the advantages of his proposal in principle, we felt we would have to limit ourselves to selecting a few focal points for the holding of hearings.

In addition, the subcommittee recommends that the federal agencies use their own media for education to the end that the public acquire an understanding of their rights and responsibilities if civil rights are to become a reality in this country.

I might add that we have also directed the Research Staff, through Miss Williams, to start immediately securing for us the additional information we will need so that next time, in addition to FEPC, we can extend our efforts to the other three areas more largely than we have already. On FEPC we have scheduled subcommittee hearings on April 2nd with Malcolm Ross, if we are able to secure him; Charles Tuttle; and someone from the New York State Commission on Discrimination if Mr. Tuttle feels it advisable to bring someone from the Commission along with him.

In the afternoon we propose to have hearings in the field of government employment agencies, for which purpose we are consulting with Mr. Carey and we are going to have the CIO Committee Against Discrimination, and in that connection the United Public Workers, if Mr. Carey so desires. We are also going to contact Mr. Shishkin to see whether there is a parallel AFL group which would want to be heard just in that field. We are not covering the field of intra-union discrimination because that would be covered, if at all, under the FEPC legislation, but we are going to give both the CIO and AFL an opportunity to be heard the next time by the subcommittee in the field of discrimination in federal employment.

BISHOP SHERRILL: Are there any questions or comments?

MRS. ALEXANDER: I should like to ask if in connection with federal aid to education you had in mind the already established land-grant colleges?

RABBI GITTELSOHN: Yes, we had in mind all federal aid to education whether as existing now or in the form of a future national education bill. In the latter regard we felt that we would be overstepping our proper limits were we to recommend federal support for education, but that we would not be overstepping our limits if we stated that in the granting of any federal funds for education there should be no discrimination.

MRS. ALEXANDER: Did you have before you the differential in the grants to Negro land-grant colleges and white land-grant colleges?

RABBI GITTELSOHN: No. We authorized Miss Williams to get us all available information in that field, and I assume that that will include discrepancies or differentials such as you have mentioned. We just don't have the facts now, Mrs. Alexander, but we hope to have enough to start work on.

MRS. ALEXANDER: In regard to the War Department, does that include the Veterans Administration and the employment of Negro personnel in veterans' hospitals?

RABBI GITTELSOHN: Speaking just for myself, it certainly should.

MRS. ALEXANDER: I would like to request that the committee explore that field.

RABBI GITTELSOHN: In that field we made less of a beginning than in any of the others, because we just added it this morning, but in that field we decided immediately to contact the War and Navy Departments for their official statements of policy, and also to check with such groups as the American Veterans' Committee, and the NAACP, in so far as the practical application of the real or alleged principles of the War and Navy Departments are concerned. We have also asked Miss Williams, through Dr. Carr, to request of Walter White when he comes to testify before the full committee, that he include in his testimony some information regarding discrimination in the Armed Forces.

MRS. ALEXANDER: One further question and I will be through. I should like the committee, if it has not already done so, to request the Surgeon General to appear before your subcommittee concerning the employment of various racial groups as physicians in the Health Department. That is a very sore spot and I don't think that the War Department would reach it; I think you would have to ask the Surgeon General. But before going to him, Miss Williams and Dr. Carr might get the information so that you would be aware of just what is happening.

RABBI GITTELSOHN: Yes.

MRS. ALEXANDER: I am sure that both Mr. Carr and Miss Williams know that the National Medical Association, which is the national association of colored physicians, could probably be of great help in giving you information concerning that.

MR. CARR: We have been in touch with them and have data from them which we haven't as yet had a chance to analyze.

BISHOP SHERRILL: Your committee really crosses into the field that Mr. Ernst was discussing when it recommends no grant in educational funds.

RABBI GITTELSOHN: Yes, we do, except that it was our understanding on the subcommittee that we had arrived at a line of demarcation the last time at the full committee meeting, in that we said that Subcommittee 2 would consider more or less philosophically the problem of whether we wanted to exercise such taxing and spending powers

of the government and having ascertained, if we do, that we do want to use them, we will then throw the problem over to Subcommittee 3 and say, "You work out the way to do it." We are just deciding whether or not we want to do it.

BISHOP SHERRILL: Are there any other questions in regard to this report? Has Subcommittee 3 any report?

MRS. TILLY: Subcommittee 3 did not meet because I happened to be the only member present. I am rather distressed about that because of the element of time that is in the picture, and I have asked Mr. Carr to see if Mr. Shishkin and Mr. Roosevelt could meet in between this meeting and the next regular one, and I will be glad to come back to Washington for a day's meeting, because I think it is vitally necessary that we have something before we meet in subcommittee on April 2. I sat in with Subcommittee 2 and I was very glad to do it because it gave me a little clearer understanding of the demarcation between the job of the two committees. When they first picked up the question especially of federal aid to education, I thought at first they were duplicating what we were doing, but as they went further into it I did see the difference between the work of the two committees.

BISHOP SHERRILL: Are there any other matters to come before us in relation to the committee reports?

The next order of business, then, would be to consider what approach we should make in order to obtain the greatest possible information from Mr. Hoover. Dr. Carr, do you want to report on your conference with him, just to say what you have already told him.

DR. CARR: He asked me to come to his office Monday afternoon to discuss his appearance before the Committee, and I told him that I thought it would be appropriate for him to make an introductory statement. I told him that the Committee is particularly interested in hearing from him concerning the administrative problems that are encountered in enforcing Civil Rights legislation, and even more specifically, the problems of making investigations.

I took up the matter of having a transcript made of his testimony. He was naturally a little reluctant but I think I persuaded him that it would be a satisfactory arrangement. I had in mind, of course, the knowledge that several members of the Committee would be absent. So I think he will be willing to let some, at least, of what he says go on the record. I would think that you people should give thought to the questions you would like to ask him, following his introductory statement.

RABBI GITTELSOHN: We did that in Subcommittee 2 this morning. We drew up, for our guidance, a list of some of the questions which members of the committee would like to have answered, if they are not answered in his original presentation.

BISHOP SHERRILL: Are there any other matters to come up?

Why don't you read those suggested questions so that we may all have the benefit of them?

RABBI GITTELSOHN: This is a pooling of all the questions by the subcommittee:

Should the Civil Rights Section of the Justice Department become a division? We are not altogether sure that that is within Mr. Hoover's province, but felt that it might be interesting to get his reaction to it.

To what extent does the FBI rely upon local enforcement officers when making its investigations? The obvious purpose of that is to discover to what extent they go to the very people who are suspected of discrimination.

The next one is typed slightly stronger, I think, than we actually expressed it. It says: Why is the FBI never able to find any of the people who commit the crimes? What we had in mind is that the FBI advertises that it always gets its man, but it doesn't always do that in the case of racial relations, and we are curious to know why the techniques which are so successful in other fields of crime, apparently fall down when a matter of racial relations is involved.

BISHOP SHERRILL: A more tactful way to put it would be: Why does the FBI occasionally fail to find people who commit these crimes?

RABBI GITTELSOHN: The next two questions go together: Does the FBI have specially trained agents for Civil Rights work or does it rely just on agents whose primary use is for other kinds of investigatory work? If not, what would you think of the idea of having such specially trained agents?

How prejudicial is the appearance of the FBI in a local situation?

How much does the FBI employ local people?

How independent is the FBI from the Attorney General's office?

To what extent, if at all, are there Negro agents in the FBI?

MRS. ALEXANDER: Don't put in "if at all" because they do have them.

RABBI GITTELSOHN: All right.

To what extent are there Negro agents in the FBI? The point

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there is that Negroes might be more willing to give information to Negro agents than they would be to whites, in that type of situation.

MRS. ALEXANDER: May I suggest that you add there -- and in what capacities?

RABBI GITTELSOHN: All right. What efforts are being made through the Police Academy and the other FBI contacts with local law forces to teach them how to deal with their responsibilities in civil rights, and carry them out efficiently? I think that is a very important question.

That is the list as we have developed it, Mr. Chairman. I would like to suggest that all the members of the full Committee hereinafter assume that this list is public property and that everybody fire one question, instead of just using a list of this kind and have only the members of Subcommittee 2 do the asking.

Mr. CARR: May I suggest that the first question you list there be one of the later ones to be asked?

MRS. ALEXANDER: You give as one of your questions one that asks if they have agents specially trained in civil rights matters. I would like to ask - do they have lawyers who are specially trained. After all, it is important when a man goes to investigate a crime to know what the law is and what makes a crime in the civil rights field.

DR. GRAHAM: They do have a large number of lawyers.

MRS. ALEXANDER: Yes, but are they trained in the field of civil rights?

BISHOP SHERRILL: Are there any other matters to clear up before Mr. Hoover appears? Is there any further business to come before us?

MRS. ALEXANDER: Would we want to ask Mr. Hoover his opinion as to whether or not the Civil Rights Division should have its own investigating arm?

RABBI GITTELSOHN: Don't we know what his answer to that would be? You are asking the head of the FBI.

MRS. ALEXANDER: I suppose so.

DR. GRAHAM: I would like to ask him, or have asked, what he has found from experience to be the cause for the lack of convictions in the civil rights cases.

MRS. TILLY: The answer to that is the local jury.

DR. GRAHAM: And what suggestions he would have to improve the situation.

RABBI GITTELSOHN: There is another question that just occurred to me that was asked in the subcommittee meeting this morning which didn't get on this typed list, concerning the time element, and the question is: What, if anything, could be done to get the FBI into a local situation before a lynching instead of after? That is to say, where a Negro has been arrested for an alleged crime against a white, and there is reason to believe that something unfortunate might happen, what possibility is there to alert the FBI before it happens.

MRS. ALEXANDER: It is a legal question as to what right they have to go in.

MR. CARR: To pin it down even more, you might ask him if the Monroe, Georgia, situation was of such a character that an alert agency might have had a man in there before the crime actually occurred. They certainly are free to send their agents anywhere they want to, to observe what is going on. I think one question here is whether these things take shape so suddenly that it would be just inconceivable for the FBI to have a man on the spot; or whether there are a sufficient number of advance warnings in an area like Monroe, Georgia, 24 or 48 hours ahead, that a bad situation is developing.

RABBI GITTELSOHN: It was probably known, but the people who knew it wouldn't be particularly anxious to have the FBI alerted.

MRS. ALEXANDER: Mr. Chairman, I would like to ask this, and perhaps somebody can answer me. Is the FBI in any way responsible for the broadcasts that we hear over the radio as to what the FBI is doing and how they break crimes? If so, I was wondering why we never hear of a crime involving civil rights.

RABBI GITTELSOHN: You mean on the "thriller-diller" programs?

MRS. ALEXANDER: Yes. I mean thave they anything to do with that? I don't know.

MR. STEWART: I can give a tentative answer. I think the programs are planned and executed by either the advertising agency or the network, but I do believe the FBI serves as technical consultants. I don't know whether they could, if they wanted to, recommend that a civil rights investigation be used as subject matter, but I think we might ask Mr. Hoover in a general way whether he

doesn't think it would be a good idea to publicize their work in that area.

BISHOP HAAS: Don't you think we ought to ask Mr. Hoover whether in his judgment there is more law that he needs, or less law; is he satisfied with the present status of the law?

BISHOP SHERRILL: That is a good question.

BISHOP HAAS: Mr. Chairman, is there opportunity now, while we are waiting for Mr. Hoover, to bring up a matter that our committee discussed this morning?

BISHOP SHERRILL: Surely.

BISHOP HAAS: There was, in the recommendations that our chairman made, reference to the committee holding local hearings, and to me that seemed to be somewhat extreme. The recommendation was that hearings be held in every large city in every state. That covers a lot of ground. But the bigger question is how should these hearings be conducted, by the individual subcommittee or by the committee as a whole, or by representatives of the committee of the whole? That is what we would like some light on. Is that your understanding, Rabbi Gittelsohn?

RABBI GITTELSOHN: Yes.

BISHOP SHERRILL: That matter is open for discussion. I am wondering if some light could be thrown on it if it were known that the committee would be willing to hold hearings, depending upon the response from any community as to those who desired to appear. If, as a result of this communication that you send out, Mr. Carr, there is evidence that in certain sections of the country there was a great desire to be heard, that might make some difference. I don't know why we should go out and just sit in a place waiting for somebody to turn up, or try to drum up trade, so to speak.

MR. CARR: We don't as yet have any evidence at all that there is a desire for hearings in local communities. There are certain organizations that have expressed a desire to be heard. One reaction I have had to Mr. Luckman's suggestion, in the light of the full Committee's action yesterday, is that any public hearings ought to be run on a committee-wide basis to explore all areas it may be considered desirable to explore. It would be a mistake to hold a series of hearings just on FEPC or just on anti-lynching. There would not be economy of time and effort if it were done that way. Accordingly, I think it would be wise to clear all plans for public hearings through the full Committee, and it would be well if each

subcommittee considered that its authority to hold hearings extends only to private hearings to gain information for its own use.

MISS WILLIAMS: Mr. Carr, the subcommittee had that in mind. It recommends consideration by the full Committee of a limited number of local hearings in selected focal areas with the clear understanding that the hearings should be conducted by members of this committee - meaning the full Committee - with or without the cooperation of local leaders.

RABBI GITTELSOHN: If I can presume to read Mr. Luckman's mind since all we have is his written memorandum at the present, I don't think that what he has in mind is holding hearings for the purpose of adding to our fund of information. I am perfectly well satisfied, and think he will be, that on the strength of the public hearings we have already planned as of yesterday for these meetings, we will get all the information we need. I think what he primarily has in mind is increasing public interest in various parts of the country in the work of this Committee, and by increasing that interest to help do the job of selling the public the thing that we are trying to get across.

BISHOP SHERRILL: I must say that I have great difficulty in visualizing any time schedule, with the busy activities of the members of this Committee, and the difficulty of even getting a complete Committee membership for our meetings here, which would envision a great many hearings all over the United States held by members of this Committee. Practically, it seems to me, it is almost impossible, particularly if we were going to do it not for the purpose of gaining information but for the purpose of calling attention to what we were doing.

RABBI GITTELSOHN: We felt that way, also, and that is why we said that if we were going to do it, it would have to be on the basis of a limited number, possibly only three or four, in the crucial, focal areas where we would be able to divide up the full Committee and call on any one individual member probably to attend only one such hearing.

DR. GRAHAM: These would be regional rather than local hearings, wouldn't they?

RABBI GITTELSOHN: I would presume so.

MR. CARR: Wouldn't it also depend somewhat on the nature of the report as to how that report might best be advertised?

RABBI GITTELSOHN: Mention was made at our meeting this morning, for example, of a suggestion which was on our prepared agenda last

time but which we didn't reach, that a subcommittee go down South sometime later this month, I believe, to actually sit in on a police brutality trial. That was on the agenda, but I don't recall our reaching it in discussion. I think that was a little bit of the idea that we had in mind, that we ought to reach out a little bit and not just be a Washington committee.

MR. CARR: Incidentally, since you bring up that item on the agenda, we completely overlooked it. Fortunately, in between the time we put that item on the agenda, and the time the committee met, a technical difficulty had arisen and the case is now set for trial in May, so it would still be possible for the committee to attend the trial, or discuss the wisdom of attending it at a subsequent meeting, if it is desired. We felt, I think, however, that if a group did go to such a trial that there had better be no publicity concerning such a trip. The purpose of attendance at such a trial would be to let the committee see just what is actually involved in a police brutality trial, what the members of the jury are like, how much difficulty the Government is actually up against in trying to win a conviction in that sort of case. I think you might get into trouble if it were widely heralded in advance that the President's Committee on Civil Rights was coming to Montgomery, Alabama, to attend the conduct of the trial.

BISHOP SHERRILL: Have you anything to add, Bishop Haas?

BISHOP HAAS: No, I haven't, any more than that the subcommittee asks the larger committee this afternoon what the larger committee wants to have done. It was our feeling that outside of doing this thing, if it is to be done at all, in a few unusually sore spots, that it is quite impracticable. That was our general feeling.

DR. GRAHAM: Yes, for this reason. We have difficulty now in getting a large attendance every two weeks, and if we add five regional hearings I really think that would be too much. If we attend the national meetings I think that is more important than that we substitute a regional meeting for a national meeting, in the case of the members of this committee. I think it would have value and if it were practical I would certainly vote for it, or if we had more time I would vote for it.

MRS. TILLY: I think it would be a right wholesome thing to have one in Atlanta right now.

DR. GRAHAM: You could hold a hearing in Atlanta, Mrs. Tilly.

RABBI GITTELSOHN: In view of the fact that this proposal came

originally from Mr. Luckman, and that he isn't here now, and apparently we don't know quite what to do with it, if I sense the general feeling, how would it be to defer any decision on that until later when he is here and that will give us an opportunity to let him state his mind, instead of guessing at it.

MRS. ALEXANDER: Because we lose too much time. I am all excited over what we could do with a hearing in Atlanta. It could be arranged.

MR. CARR: The decision yesterday permits a hearing in Atlanta right away. No further authorization is needed.

(At this point, Mr. J. Edgar Hoover entered the room.)

BISHOP SHERRILL: Mr. Hoover, Mr. Carr tells us that he has had a conference with you so that you know the purpose of the Committee of the President, and we thought that if you could open the question with any statement you felt might be helpful to us, then various members of the Committee have questions that they would like to ask you.

MR. HOOVER: I would be very glad indeed to proceed that way.

BISHOP SHERRILL: In order that it may be clear all around, on account of the members catching trains or planes it will be necessary for the committee to adjourn at 3:30.

STATEMENT OF J. EDGAR HOOVER,
Director, Federal Bureau of Investigation

MR. HOOVER: I think I can make my statement comparatively short.

I am very happy, however, to have this opportunity of being here with you folks and endeavoring to explain to you some of the problems that we have been faced with in the investigation of violations of the Civil Rights Statutes.

I think the greatest problem that we are faced with is the lack of a militant attitude in the various communities that could prevent occurrences of these acts that come under the statutes.

BISHOP SHERRILL: May I interrupt just a moment? It was understood, I believe, between you and Mr. Carr that there would be a transcript made of this?

MR. HOOVER: That is correct.

BISHOP SHERRILL: And I want to say that if at any time you want to go off the record, please so indicate.

MR. HOOVER: Thank you.

I think if this militant attitude had been prevalent in these various communities where these conditions have arisen, that the instances could have been prevented, and where those instances have occurred, that same militant attitude, I believe, would be very helpful in the solution of the crime.

We are faced, usually, in these investigations, with what I would call an iron curtain, in practically every one of these cases in the communities in which the investigations have to be conducted. Now we are absolutely powerless, as investigators, unless the citizens of a community come forward with information. In other words, our function is to go out and get the evidence. You have got to have sources of information, you have got to be able to go to citizens and have them talk freely and frankly to you in order that we may prepare the case for the prosecuting attorney.

Then, in addition to that, the juries and the courts have also got to have a courageous attitude in order that they may do their duties and perform their functions free from the prejudices that prevail.

I want to cite to this group today some of the cases in which, notwithstanding the overwhelming evidence presented by our Bureau in the Federal courts, inadequate sentences were imposed or acquittals rendered in the face, as I say, of overwhelming evidence.

First I want to touch very briefly on the work we did during the war on what we call the wartime investigations. This group may be more interested today in the problems that are facing the country in regard to Sections 51 and 52 of Title VIII of the Criminal Code, but I do think it is important to have a brief picture of what was accomplished during the war period, and I am very happy and proud to say that so far as the Federal Bureau of Investigation was concerned, there was not a single violation of any civil right or civil liberty during the course of our investigations. The situation was different in World War I.

Many of you folks will recall that there was a hysteria that swept this country during World War I, with a lot of volunteer organizations, well meaning but intent upon being what I would call pseudo-Sherlock Holmeses, going out and trying to catch a spy, and many injustices were done, many abuses were indulged in.

You will recall in World War I the so-called draft raids where great groups of law enforcement officers and private citizens would sweep down and effect warrants. That did not occur in World War II.

At the beginning of World War II I was confronted with the suggestions and offers of quite a number of patriotic groups, offering to be of assistance, or wanting a badge to go out and try to arrest somebody or investigate somebody. I tenaciously resisted that request. My conception of our function was that the enforcement of law should be in the hands of the constituted law enforcement officers of the country, the men who are trained by education as well as by specific and technical training within the organization to make those investigations. So we did not have any volunteers; it was all conducted by the constituted agents of the F.B.I.

Now I would just like to read to the committee a statement that I think clearly proves that point, and then I will pass on to the broader field.

Mr. Roger Baldwin, head of the American Civil Liberties Union, conferred with me several times during the course of the war on the problem of civil rights and civil liberties, and I requested him, as he went around the country, to personally inquire into any acts or perhaps representations of the F.B.I. which might constitute, in his opinion, a violation of those civil rights. He wrote me this letter from which I will read the following:

"I have attempted to find out as I have come across the country just what complaints there are concerning those very difficult investigations of what are regarded as subversive opinions and activities. I find that your local agents are keenly aware of the delicacy of these inquiries and faithfully reflect the Bureau's policies. Nothing could be fairer from the point of view of the interest both of the Government and the employee himself (referring to the investigation of Government employees for loyalty) than the procedure followed. It seems to me that your Bureau has accomplished an exceedingly difficult task with rare judicial sense."

I very frankly treasure that statement of Mr. Baldwin because he has been one of the great champions of civil rights in this country and I knew, therefore, that he would be alert to any practices that might be contrary to the basic conceptions of what a person is entitled to have and be treated by law enforcement officers.

I want to refer in a very few words to the investigation of our cases falling under what we call the Peonage Statutes. In the last ten years we had 770 complaints of a violation of the peonage laws. There were 15 convictions, 7 of those 15 in the past 3 years.

Now I just want to take one typical case that was handled last year, in October of 1946, the case of a man by the name of Biggers in Georgia. That man swore out warrants for alleged debts owed to him

by Negro employees. The sheriff made those arrests and then the Negroes would be released to this man to work on his farm, to work out the particular debt that was charged. If they left that farm, as some of them did, they would be rearrested and sent back there. We went in and made a very thorough investigation and this man was indicted in the Federal Court in Atlanta, Georgia, on 18 counts, and promptly acquitted.

That is why I refer to the militant spirit that is necessary in the communities, the public opinion that must back up whatever laws we have today, or whatever laws may be enacted in the future. Without that, you cannot get convictions.

We have pending today a case with which you folks are no doubt familiar, the case of the Negro woman out in San Diego, known as the Ingalls case, where a woman by the name of Dora L. Jones had been held in slavery for over forty years by a man and woman, well educated people. The man at one time was a member of the State Legislature of Massachusetts and the woman has been active in various fields of public work and civic work. They have kept this poor woman, who is now well along in years, from the time she was a girl, as a slave, never allowed her to go to a motion picture show, never allowed her to have a friend -- and that family has been arrested as a result of our investigation, and has now been indicted and the case will be tried within the near future.

Now I do want to refer to a number of the very definite handicaps under which we work, as regards again to what I refer to as the lack of that militant spirit. I can best prove my point, for your information, by just citing a number of specific cases and the conditions prevalent in those cases.

Many times we are criticised because a Grand Jury does not return an indictment. The Federal Grand Jury is called and we present all our evidence to them and then they return a No Bill on the ground either that there is no jurisdiction or that they don't consider a violation of law has been committed.

I want to cite this particular case which to my mind was one of the most atrocious lynching cases investigated by the F.B.I. (The Sikeston, Missouri, case - 194.) The defendant, an ex-convict, stabbed a woman while he was committing a burglary. The police efficiently located the assailant, and en route to the police station the suspect pulled a knife and seriously stabbed the arresting officer. In the course of the struggle the assailant was shot. Given emergency treatment in the local hospital, the assailant was then taken to his home because of lack of hospital accommodations, and his critical condition. His family requested his incarceration in

the local jail because they were fearful that something might happen to him.

A few hours later an angry mob, estimated at from 500 to 1,000 persons stormed the jail. They seized the prisoner, tied his feet to a car and dragged him over the streets through the Negro section of town, where his body was saturated with gasoline and burned. A couple of our agents went in and investigated the affair. Eye witnesses were interviewed and made complete statements. The Federal Grand Jury considered the evidence and no indictments were reported. The Grand Jury issued a statement merely condemning the failure to afford proper protection to the prisoner. And a State Grand Jury also refused to indict. There was a lack of determination on the part of the community to wipe its slate clean of this blot upon it as a result of this murder.

Another case was a case where two Negroes were held in a county jail on charges of vagrancy. Around ten o'clock at night a group of men began milling around the jail. Then, shortly thereafter, 15 or 20 men entered the jail with a key. They entered the cells with handkerchiefs over their faces. One of the victims was seized by the leader of the mob and vigorously cursed, tied to the bars, gagged and crudely emasculated. The leader then seized the other prisoner and, to continue in the prisoner's own words, "dragged me over to the door and bound me so tightly that I could not move at all. Somebody put a hat over my face and then began the worst pain that I have ever experienced." He described the emasculation and said that they "used a not too sharp knife on me," and he identified the man who had performed the operation. The jail officials, by coincidence, happened to be out of town when the mob took the law into their own hands; they were conveniently absent.

The job leaders were named by witnesses and the facts presented to a Federal Grand Jury which ignored the case. That case occurred in Texas in 1941.

All of these cases that I have referred to are within the last five or six or seven years.

Now another problem that is equally difficult for us is the inadequacy of the law. These two cases that I have cited are instances of where the Grand Juries have been almost guilty of malfeasance rather than non-feasance.

A few years ago we received a complaint that a young Negro had been dragged behind an automobile and beaten into insensibility after his arrest for the theft of an automobile tire. (The Screws case in Georgia.) An eye-witness account reflects the violence that was

inflicted upon this victim, and I am quoting the eye-witness:

"He was bloody and full of dirt and he was unconcious but crawling around on his all fours. The back of his head was beaten to a pulp and he was in a pool of blood. His head was swollen so that his eyes were closed. There was a big hole in his right ear and back of his left ear. There was a hole in his left temple. There was a gash about an inch and one-half in the top right side of his head. The skin was off his forehead, nose, both sides of his face and under his chin. The skin was off about half his back in spots. There were rings around each wrist where the skin was gone."

An ambulance was called to come to the jail and the attendant from the ambulance asked of the jailer as to whether the man had been in a wreck, and the jailer replied, "Yeah, he was in a wreck." The man died a few minutes later.

The investigation we made in that case - and this case occurred in Georgia in 1943 - revealed that the man had been beaten by the sheriff, deputy sheriff and town marshal. Following their indictment, all three were convicted and given prison sentences. The United States Circuit Court of Appeals upheld the conviction, but the U. S. Supreme Court ordered a new trial, and the three were freed after the Trial Court in following the Supreme Court's interpretation of the law, instructed the jury that it was necessary to prove that the defendants had a specific intent and purpose to deprive the prisoner of a Constitutional right, as it was not sufficient to show that the defendants had a generally bad purpose.

That was the law that reversed that case and released these men who had committed this perfectly atrocious crime.

Now another instance where we also find the inadequacy of the law. This case involves a little difference from the usual cut of this kind of case, but a Southern newspaper, very civic-minded, was carrying on a very vigorous campaign against vice and gambling in the community, and one of its employees was intimidated and severely beaten by underworld characters because of his crusade against the Gambling interests. (The Power case in Mobile, Alabama) We made an investigation and were able to bring them to trial on charges of conspiracy to intimidate an American citizen in the exercise of his right of freedom in the press. Five of the defendants were convicted in the Federal Court and given substantial prison sentences. On appeal, however, the U. S. Circuit Court of Appeals held that Congress was without power to protect the press in its discussion of so-called local crime and corruption as against interference by private individuals. Accordingly, the conviction was reversed and the Supreme Court refused to consider the case for review. That was in

Alabama in 1939.

Now I want to cite just a few cases to you on the inadequacy of sentences that have been imposed, because there again I come back to that first premise of the necessity of having an aroused, militant spirit to do something about this, irrespective of what the law may be.

A 33-year old Negro farmer borrowed $15 from a former deputy sheriff a few days before Christmas of 1945, so that his wife and three children might have some Christmas, on the promise to work out the money by setting out onions later in the season. On February 1, 1946, he was arrested. That night the former officer and another man called at the jail. They cursed the Negro and told him that they would kill him but for the fact that he had too many relatives. The former deputy sheriff declined to accept the $15 offered to him by the victim's mother-in-law in settlement of the debt. The two men administered a severe beating to the helpless Negro. Later he was taken to another jail, ordered to undress and given another beating. The Negro was falsely charged with swindling the officer out of $55 and finally, after six days of beatings, the former officer posted a $500 bond for the Negro and took him to his farm. He escaped.

Our investigation led to the arrest and conviction of the former deputy sheriff, the sheriff, town marshal and jailer. Sentences were imposed varying from six months to one year, and fines ranging from $500 to $1,000. That is a great weakness of the Code in that the maximum penalty can only be one year.

Another instance which has particularly revolting practices involved. In a particular jail it was seldom that a Negro man or woman was incarcerated who was not given a severe beating, which started off with a pistol whipping and ended with a rubber hose. Negro women and men were placed in the same cells. On one occasion, after an 18-year old Negro girl was beaten she was required to remove her clothes before being placed in a cell with several Negro men. The tragedy of this case, I think, lies in the fact that the jailer received only one year in prison and on his release can carry on the same sadistic tactics he had carried on before, provided he is reappointed.

Recently a local U. S. Attorney came to us with a story about a 59-year old colored woman and her 10-year old son who were being held captive by a farmer. During the day both the mother and the son were compelled to work on the farm. At sundown they were locked in a cabin with the door chained and padlocked. The cabin contained one bed, one chair and a small wood stove which was not connected with any pipe to let the smoke out. There were neither windows or

lights in the cabin. The mother had made three attempts to escape but on each occasion she was apprehended and brought back. When we investigated the situation we found the mother still locked in the cabin when we arrived there. She was freed and the owner was taken to jail, the owner of the farm.

He advanced the alibi that the Negro woman had asked him to lock her up at night to prevent her husband from taking her to another farm. He protested that she was free to leave at any time she desired. Nevertheless this farmer pleaded guilty to the Federal charges and received a 15-month probationary sentence and a fine of fifty dollars for each of the two counts in the indictment. That was an atrocious case, revolting practices, and an inadequate sentence. That case occurred in 1945 in the State of Mississippi.

Now there is one other case I want to bring to the attention of this Committee, and I think this is a particularly atrocious one also. This occurred in one of the convict camps. A grocery keeper had reported to the sheriff that his store had been robbed. Seven men and a woman were arrested as suspects, brutally beaten and kept in the prison camp for long periods of time before charges were preferred. A sixty-year-old man was taken from his home and after a day in the prison camp he was taken to a kitchen, forced to remove his clothes and lie on the floor. One trusty sat on his head and another on his feet. He was flogged with a leather strap five feet long and four inches wide. When he lost consciousness, water was dashed over his face to revive him and the torture resumed. He still refused to confess. Days later, a trumped-up charge of gambling was placed against this 60-year old man. Others likewise were beaten. The most vicious of all was the treatment accorded the woman in the case, a young mother of a two weeks' old child. At ten o'clock in the evening, she was taken to a wooded area along the river. Her dress was pulled over her head. She was forced to the ground and held by two men while three others unmercifully flogged her bare body. Blood streamed from multiple wounds. Finally, the exhausted men relaxed over her prostrate form after they had extorted from her a confession of a crime she did not commit. Other similar beatings followed in this case. A mass of evidence was collected by our agents in this matter and the sheriff and four associates were indicted in the Federal Court. They charged that the allegations were unfounded. In court, however, four of them pled guilty and received suspended jail sentences of eighteen months, with fines ranging from $100 to $500. The sheriff entered no defense and received only a $500 fine. That was a case in Mississippi in 1945.

I cite these cases to you, ladies and gentlemen, merely for the purpose of showing the type of cases with which we are confronted, the type of problems with which we are confronted in work of this

character.

If you will recall, in practically all these cases our evidence was sufficient to bring about indictments in the Federal Courts. Notwithstanding the evidence and the convictions -- in some cases the defendants even pled guilty rather than stand trial - sentences of less than a year and $50 to $100 fines were imposed.

You probably would be interested in having the statistics in regard to what we call the Civil Rights cases. In the past twenty years, there have been 25 convictions totalling 30 years and 2 months. Twenty-five of those 27 convictions were obtained in the last five years, and 14 of them in the last five months. I emphasize that for the reason that I think there has been an improved effectiveness in the enforcement of the law, which indicates that certainly public opinion is assisting in this matter. We are getting more convictions in cases of this type now than were able to be obtained previously.

Now I want to refer to what is know as the Monroe, Georgia, case, with which, no doubt, you are quite familiar. That is the case where the four Negroes were killed in July, 1946. We had 20 agents on that case and interviewed 2,790 individuals before presenting it to the Grand Jury. That was a case in which the phrase I used, the "iron curtain", is typical. The arrogance of the population - of that county - the white population - was unbelievable, and the fear of the Negroes was almost unbelievable.

We went in there; we had no cooperation from the local authorities. In fact, the sheriff of the county boasted that he intended to take no action. The state police made a perfunctory inquiry and we were left with the entire case. The matter was presented to the Grand Jury; 106 witnesses appeared before the Grand Jury and they returned a No Bill. Now fortunately - and when I say "fortunately" I don't mean it in the way of what happened to one of the witnesses, but it at least enabled us to take some action in this case that might bring some results - one of the witnesses who testified for us before the Federal Grand Jury was a Negro boy by the name of G. L. Howard. After he had testified and after the Grand Jury had been adjourned, he was beaten unmercifully by two brothers known as the Verner brothers. (Off the record) This Negro came to our Atlanta office and told us what had happened. We received word that if any arrests were attempted down in this county that the F.B.I. agents would not come out alive. My Atlanta office called me and advised me of this and I ordered that two cars of agents be sent into the particular little town where these two men lived, and that they be apprehended and that they be handcuffed in the public square in broad daylight. I wanted to show that there was at least an authority of the law that they could not deny. We went in there and did arrest these two men

and did handcuff them in broad daylight and did bring them out - and there was no shooting. They have been indicted and will be tried in the Federal Court. They were tried by the State Court, however, and acquitted, and yet these facts were as clear and as overwhelming as any particular case could be.

BISHOP SHERRILL: How can they be tried in two courts for the same offense?

MR. HOOVER: Well, I imagine they were probably indicted under an entirely different statute under the state law, and under Section 52 of the Federal law. That is probably the reason for the ability to take action. (It does not constitute "double jeopardy" to try a man for the same offense under both state and Federal law.)

MR. ALEXANDER: Will there be a change of venue?

MR. HOOVER: That will be entirely up to the court. This case won't be tried, probably, until around the end of the spring or the first of fall. But it was the only straw upon which we could claim jurisdiction. We had no jurisdiction in the murder of the four Negroes, the Grand jury had ruled on that, but the attack on a Federal witness gave us the necessary jurisdiction.

I imagine probably, to answer your question, Bishop Sherrill, that the trial in the state court was preducated upon assault, whereas the charge in the Federal Court will be for the intimidation and assault upon a Government witness, rather than under the Civil Rights statute.

Another case of rather well renown is the case of Isaac Woodard, Jr., a young Negro discharged from the Army in Georgia in February, 1946. According to the reports and evidence he was supposed to have caused a disturbance on a bus coming North, and the bus driver had him arrested at Batesburg, South Carolina, by the chief of police who claimed that young Woodard resisted him and that he therefore had to hit him over the head once with a blackjack. There were conflicting statements from all sides there. Nevertheless, the fact was definitely established that Woodard had received some kind of a blow that completely blinded him. There was no question about that fact. We went into that matter and made an investigation. I want to point out that in this particular case we were between the devil and the deep blue sea, if I might describe it that way. We did not have the cooperation of the local authorities nor did we have the cooperation of the National Association for the Advancement of Colored People. It took us one month before we could get access to Woodard to question him, to get the facts. Counsel for that Association had advised him that he should not talk to the F.B.I. "because they are not on

your side, they are on the Government's side." It was only after I personally appealed to Mr. White, President of that Association, that he finally made him available. I want to say that we have received magnificent cooperation on every occasion I have had to go to Mr. White personally to have the assistance that he could render us.

The local authorities were, as I say, uncooperative. The trial was held and acquittal rendered in ten minutes after the Jury retired. After that trial was over, one of the sheriffs in South Carolina at the South Carolina Law Enforcement Officers meeting introduced a resolution to ban the F.B.I. from ever being invited to or attending any Law Enforcement conferences in the State of South Carolina. That resolution was defeated by wiser heads, but I cite that as evidence of the kind of attitude that we are up against from the local law enforcement officers on many occasions.

One more case I want to refer to is the Minden, Louisiana, case, where two Negroes were released last August from jail by the sheriff, were taken out and beaten, and one died. We made a thorough investigation. We indicted two deputy sheriffs and three private individuals. I think it was the best case we have ever made, we had clear-cut, uncontroverted evidence of the conspiracy. All five were acquitted in the month of Marth. The friends of the defendants went around and collected funds locally. I am now in a running controversy with a Member of Congress, Congressman Brooks of Louisiana, who has charged the F.B.I. with high-handed tactics in the handling of this case, and has stated publicly, and has issued his letter to the press which he wrote to me, that we should be more interested in the welfare of the citizens of Louisiana than appeasing the Northern Negro organizations that bring pressure. Now his letter was a tissue of misstatements and untruths. I replied to him. The press has been trying to get a copy of my reply but he won't release it, and I know for very good reasons why.

Another case is the Pickens County, South Carolina, case which occurred within the last two months. A young Negro there was seized by a mob and lynched. Within ten days we had been able to effect the indictment of 31 taxicab drivers, most of whom confessed to their participation, and they were all indicted in the state court on March 12th of this year. We had fine local cooperation, there was a fine militant spirit there of the citizens and the Governor of the State who was desirous of having this thing cleaned up and the culprits brought to justice. Whether they will be convicted we will have to wait and see. However, indicative of some of the local attitude is the fact that there are little collection boxes all around the town and to date they have collected $2,000 for the defense of these 31 confessed murderers or participants in the murder.

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There are one or two major problems that we are faced with that I want to touch upon. For instance, take the primary election in Georgia. We had to make an investigation in regard to the abuses that were alleged to have arisen there in the prevention of Negroes from voting. We were assailed by the Talmadge faction on the one hand and criticized by Negro groups on the other. We have gotten a little calloused to the fact that we get criticism and have to have a rather thick hide.

Our purpose and effort is to go down and get the facts in these cases, and I think the record will show that we have gotten excellent results in most of these cases, but we have to have the cooperation of the local citizenry to get evidence in order to obtain convictions, in order to bring these people to justice.

In the Columbia, Tennessee, case - those were the riots in February, 1946, we conducted an investigation and submitted voluminous evidence to the Grand Jury and the Grand Jury came to the conclusion that there was no violation of a Federal statute, and a No Bill was returned. Again we were criticized by both sides for not having obtained a conviction. Our function, which I think the public sometimes misconceives, is merely to get the facts and to get any available evidence. What the Grand Jury does about it, or what a petit jury does at the trial is not within our control. I sometimes violently disagree, as in the case I have cited to you today, with the action taken by juries, but that is naturally beyond my control.

Now while I have portrayed a rather gloomy picture in regard to some of these cases that have been investigated by us, there have been some very excellent accomplishments. For instance, there is what we call the Sam McFadden case. That is a case where a former city marshall by the name of Tom Crews in Florida - a very atrocious case, but again a case where we got results - had taken a Negro, the father of ten children, had beaten him and then took him over to a bridge across a river, said that he would give him a 50-50 chance, and pushed him over. The poor Negro, when he hit the water - he had already received a severe beating - grabbed hold of one of the girders on the bridge to try to save himself, and the town marshal commented that he thought he might have to finally waste a shot. However, he slipped off the girder and drowned, and the body was later found. That case was tried in the state court and nothing accomplished.

We investigated it; Crews was found guilty under Section 52 and given one year and a fine of $1,000 - a great travesty on justice, but they imposed the maximum punishment possible under the statute.

There was another case which occurred in Danville, Illinois,

where we obtained the indictment of nine persons, including the sheriff and three deputies, for killing a Negro en route from Tennessee to Chicago. They were convicted and sentenced to a fine of $200 apiece - no prison sentence.

Another case like that occurred in Ashe County, North Carolina, which is known as the William McMillen case. He was the registrar of voters and he refused to register some Negro voters. We investigated the case under Section 52. He was tried and fined $500.

I could cite you innumerable cases of that kind, but I won't bore you. They follow a general pattern.

I do want to give you a picture of some of the things we are trying to do within the Bureau, and of the facilities of the Bureau to handle this class of work. I think that the F.B.I. has done in exceptionally good job under very difficult conditions and with very inadequate laws.

We have 51 field offices in our organization; all of our agents have to be either graduate lawyers or expert accountants. By being a graduate lawyer they can evaluate evidence and present it in court in the proper manner so that justice is done. I think the proof of that is that in all our cases that go to trial, all classes of cases, we obtain 97 percent convictions, and of that 97 percent, 89 percent plead guilty rather than stand trial.

We give a special course in our training school - the training school for agents I am referring to now. In a few moments I will refer to the police training school. We give a special training course on the matter of civil rights; how the investigation should be conducted, how evidence should be obtained, what is the admissibility and inadmissibility of confessions, how interviews should be conducted, and the agents go out into the field service with a very firm understanding, I think, of the requirements under these particular statutes as well as under the other statutes that the Bureau has jurisdiction over.

In our National Academy for Police Officers, which is maintained as a branch of the Bureau, and to which we bring in three groups of ninety every year, police officers from all over the country, we again go over with them the matter of obtaining competent evidence; we outline again the same problem of confessions and interviews, and we emphasize again the jurisdiction on civil rights, and the necessity for eithical tactics in law enforcement.

One of the things I have tried to,do, as Director of the Bureau,

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is to raise law enforcement to the level of a profession, such as law or medicine, and through the National Academy of Police Officers we are trying to get over to them the necessity of being proud of their work, the necessity of having good public relations, and therefore the necessity of being fair and decent and honorable in their conduct.

I am not contending for one moment that all the law-enforcement officers of this country are of that type. We have good, bad and indifferent in the local law enforcement officers of this country. I think there has been an improvement - but again public opinion enters that picture. You will have no better law enforcement in any community than the community desires or wants. If they want good law enforcement, they can get it and they will have it.

Now in regard to the statutes, I think - and I am saying this probably gratuitously, because it is not my function to recommend to you ladies and gentlemen the changes that should be made in the statutes, but I am going to give you the benefit of my experience and observation from our long years of handling those cases - I think Section 51, Title 18, is entirely too general and too ambiguous, and is subject to various interpretations. There is a great confusion as to what the Federal jurisdiction is. I think that that particular section should be changed to be specific.

If the Committee is interested, either now or later, I will be very glad to submit recommendations in regard to the improvement of that statute.

Section 52 is also a very broad statute. I think the evil of Section 52 is the inadequacy of the penalty which provides for one year in jail and a $1,000 fine. We need, I think, a clear-cut civil rights statute specifically setting forth the various rights to be protected by the Federal Government as opposed to those which are protected by the states, in so far as the Federal Government and Constitution may have jurisdiction. I think those rights should be enumerated.

As I say, I have a list of the rights I think should be covered, because the difficulty today is that the various Federal Courts of this country are in confusion as to that particular jurisdiction.

I think this Committee might very well consider the necessity of certain amendments. I think both statutes are desirable. I think Section 52 should be amended certainly as to penalty, and that penalty increased to 10 years and a $5,000 fine.

No doubt you want me to make some comment upon the so-called

anti-lynching legislation. There have been four bills that I have noted that have been introduced in Congress. Of course, there has been an improvement in the problem facing this country on lynching, but even one lynching is one too many. From the statistics which we have available and which we obtained from reliable sources, in the last 46 years, 1,966 lynchings have occurred; in the last 10 years, 45 lynchings as against 172 in the previous 10 years. In other words, there is at least a ray of light in seeing an improvement, but one lynching, I say, is entirely one too many.

These bills that have been introduced in Congress have several defects that I see. The bills are aimed solely at police officers and their misconduct or their failure to assure the proper protection to the person in custody. I think they should be aimed at all who participate in a lynching - private citizens, the constables, the sheriffs or any other person. I don't see why those laws should be so drafted as to be confined solely to the malfeasance of a police officer. I think that the provision in the bills that provides that the Attorney General should not be able to act or should not be able to order the Federal Bureau of Investigation to enter the case until an oath is prepared and submitted to him outlining the violation of law, is also undesirable. I think if there is a violation of law, the F.B.I. ought to be in on that investigation immediately. By the time you have some group or some individuals prepare an affidavit and then have that sent to Washington and submitted to the Attorney General, valuable evidence can be lost. Witnesses can disappear, memories become vague, and you don't have the opportunity of making the case that you would have if you can get in freshly on the ground.

I say that from our experience in kidnapping cases, and the other types of criminal violations that we have to handle, the sooner we can get onto a case the better results we can accomplish. Therefore, I think that restriction in the pending legislation is undesirable.

There are some questions of Constitutionality on some other phases of it, but I won't go into that because that is not in my jurisdiction.

But I will just outline the five points that I think, if there is to be an anti-lynching bill, should be included:

I think there should be a definition of what a mob is, and I think that should be three or more persons.

There should be a definition of a victim as one formally charged with a crime, either in custody or on bond. Certainly under our Constitution that man has a guarantee of a fair trial. Anyone who

takes any action to prevent that should be investigated and prosecuted if found guilty.

There should be a definition of lynching, I think, as any action by a mob which might result in death or in the maiming or disfigurement, and which action is taken as punishment to the victim for the commission of a crime charged. In other words, I think it ought to cover the maiming of a man, the disfigurement, such as these cases of emasculation. That is just as vicious and probably more inhuman than killing a man.

Fourth, I think that all persons participating in a lynching, whether they are present or whether they have connived with it or by lack of the proper performance of their duties, should be included in the violation of the law.

Fifth, I think the penalty should certainly not be less than 10 years and a $5,000 fine. My recollection is, from an examination of these bills that are pending in Congress, that the penalty is five years. I think that is totally inadequate. A murder is committed. I think at least 10 years ought to be the penalty imposed.

That covers, Mr. Chairman, my statement I wanted to make, and I would be glad to answer questions.

BISHOP SHERRILL: We are very grateful to you, Mr. Hoover. One question. Of course, our subcommittee on legislation has gone into 52 and 51, and while we would agree as to the desirability of the goal, we are up against a very real question as to the Constitutionality of any legislation. There is no need of passing anything and then have the Supreme Court throw it out, and that is where the limit is. You can't just assume certain things, because you have got certain Supreme Court decisions that make it perfectly clear that the Supreme Court would declare it unconstitutional, which is a great limitation on approaching this problem from a new point of view, don't you think so?

MR. HOOVER: Yes. But I think the matter of that penalty of Section 52 should be certainly corrected. I think that one year is totally inadequate as punishment.

BISHOP SHERRILL: The Committee, I know, has questions they would like to ask Mr. Hoover, and they now have the field.

DR. GRAHAM: Our Committee, on the suggestion of Mrs. Alexander, took up the question of why three rather than two, as the minimum size of a mob.

MR. HOOVER: I have no very strong view on that. Usually three is probably viewed more popularly as a mob than two. The real thing you are trying to hit at is the taking of a man who has been in custody or is in custody, and lynching him as a punishment outside of the control of the law. Whether that is done by one or two or three men --

DR. GRAHAM: Two could do that.

MR. HOOVER: Yes.

DR. GRAHAM: Two could do it as agents of a larger mob.

MR. HOOVER: Very true. That is why I think that the present bills that have been pending in Congress are inadequate, in that they do not take in individuals who might be very responsible for the lynching to be committed. It is directed solely at the law enforcement officer and not at the private citizen.

MR. TOBIAS: Has the F.B.I. the right to go into a community on its own initiative on the report of a crime that might lead to lynching?

MR. HOOVER: No, it has not. As a matter of fact, the procedure in the Department today is that we do not go into any civil rights case until it has been reviewed by the Civil Rights Section of the Criminal Division of the Department. And then if they determine that there should be an investigation, they direct us to proceed.

MR. TOBIAS: Would there not be an advantage, if that could be remedied, in going in in time so that valuable evidence that might be lost later could be secured?

MR. HOOVER: I think that is a very good point; it is a point that I make in regard to this oath requirement. The delay of even a day or a week can be fatal to an investigation. If we had to wait, for instance, in a kidnapping until the matter could be reviewed by a group of lawyers in Washington, by the time we got to the place of the kidnapping, there might be a delay of a week, and fingerprints and all those things have disappeared. Therefore, I think there is great value in getting to a violation of law promptly.

In this particular type of violation, civil rights cases and labor disputes, and anti-trust cases, the Department directs that those must be passed upon by the Department legal headquarters. They cannot even be directed by the United States Attorney until the Department has reviewed it and determined that there should be an investigation.

MR. TOBIAS: How long a hiatus is there?

MR. HOOVER: That varies. Sometimes it might be a week, or two or three or four weeks.

MRS. ALEXANDER: Is that a Departmental ruling, or based on some law?

MR. HOOVER: It is a Departmental ruling, no law requires that.

DR. GRAHAM: How soon did you get into this recent South Carolina case of the taxicab lynching?

MR. HOOVER: Within almost 24 hours afterwards. There was very prompt action there by the Department authorizing us to proceed. As a result, we got approximately 31 indictments.

DR. GRAHAM: If you had waited 10 days, you wouldn't have gotten them?

MR. HOOVER: That is right.

I would like to say this off the record.

(discussion off the record)

MRS. ALEXANDER: What is the basis of the Departmental ruling?

MR. HOOVER: I think, Mrs. Alexander, that probably is due to the fact that by reason of the delicacy of these cases and the controversial character that arises out of civil rights cases, of labor cases and antitrust cases, they desire to assure themselves before the Department enters it that it has, at least in their estimation, jurisdiction.

MRS. ALEXANDER: Does it apply to robberies of trains, for instance?

MR. HOOVER: Not to kidnapping or bank robbery or any other Federal violation of law.

MRS. ALEXANDER: But it does to lynching?

MR. HOOVER: Yes, to violations of civil rights.

RABBI GITTELSOHN: In a case like a kidnapping case, it is possible, is it not, for the F.B.I., to be alerted even before a kidnapping? If, for example, there is reason to suspect that a kidnapping

is to occur, the F.B.I. can get on the job even before it occurs, can it not, then be alerted?

MR. HOOVER: Oh, yes.

RABBI GITTELSOHN: Is there any way in which we can make it possible for the F.B.I. to be alerted in advance of a lynching case, for example?

MR. HOOVER: Well, of course, if a Federal lynching statute was passed, as we would under all of our statutes that we investigate under, if we obtain any information in advance of a contemplated violation of law, we would take steps immediately to be prepared to gather the necessary evidence on that particular move of a violation under that law. We of course wouldn't wait until the lynching took place, but we would anticipate that by taking steps, through either local authorities or ourselves, to prevent it; and if it can be proven that it is a conspiracy that is planned. That might be a phase for this Committee to give thought to, as to whether a conspiracy planning such a lynching should be covered. Usually lynchings are spontaneous, and are the result of some frightful passion or surge of the emotions of a group in a community, usually ignorant people, who then go out to take the Negro or whoever they are going to linch, and take him out of the custody of the law enforcement officers. But if a Federal law was passed, we would handle it just the same as we would a kidnapping statute or bank robbery statute.

RABBI GITTELSOHN: But you couldn't be alerted in that way in advance without a specific Federal law?

MR. HOOVER: That is right. Of course, if any information came to any one of our 51 offices that there was to be a lynching in a community, we would at once notify the Governor or the State Police or the local authorities. We would not ignore that information, but we couldn't act upon it.

DR. GRAHAM: You couldn't go in with one of your men even as an observer?

MR. HOOVER: No, there would be no jurisdiction.

MR. CARR: Can't you send an agent anywhere you want to in the country?

MR. HOOVER: We can send him, but he has to be on a mission involving a violation of a Federal statute. In other words, there has to be a contemplated violation of law. We can't just send a man in to observe a situation that has no Federal aspects to it.

MR. CARR: You mean he has a headquarters and can't leave them?

MR. HOOVER: No, no. For instance, we have headquarters at New Orleans, which is our big office in Louisiana. Throughout Louisiana the agents of the Louisiana office are working through that area, all through the state. If they hear any rumor, even though it doesn't come within our jurisdiction, like a proposed lynching, it would be their duty to at once report it to the local authorities or the state police or governor. But we would have no power, if we heard that there was going to be a lynching, to send a man up there to observe it or be there at the time it was to take place, unless there was some evidence that there was going to be some violation of the statute involving a law enforcement officer.

MRS. ALEXANDER: Even then you would have to wait for clearance from the Department?

MR. HOOVER: That is very true, the same way as on labor violations.

MR. TOBIAS: Suppose one of your men, as you say, who has been circulating in connection with his regular duties throughout the area, heard of this crime that he might suspect would lead to violence. As you said, he could report it to the governor or the police. But if he remained in that community and happened to be there when it actually took place, what value would his testimony have?

MR. HOOVER: Well, if it came under one of the Federal statutes that we have, it would be of value to us, provided we were then authorized to go in on the investigation. In other words, to answer your question, Mrs. Alexander, while technically we would have to get clearance from the Department before going into an investigation practically and actually we would not be blind to that. That would be perfectly asinine for us to take the position that we can't even know about it until we ask the Department whether we can know about it. That is what the rule would provide, but we would not follow that particular procedure. We would apply the practical solution.

On the matter of the admissibility of that evidence, if that agent had any knowledge of it, saw it or was in the community, if it was a violation of the state law we would authorize him to testify in the state court. If it was a violation of the federal law, the information he got would be a part of the investigation we would make and submit to the Federal Grand Jury.

MRS. ALEXANDER: Your agents knew what was happening in Monroe, but they couldn't move in and get the evidence?

MR. HOOVER: We didn't know about the four people being murdered before they were murdered.

MRS. ALEXANDER: But as soon as you knew they were murdered, you knew it.

MR. HOOVER: Yes.

MRS. ALEXANDER: But you had to wait until you could move in?

MR. HOOVER: Yes. The point I make is that if an agent of our Bureau happened to be at that bridge where these four Negroes were taken and murdered, he would not have ignored it, he would have observed it and would have been able to testify in the state or Federal Court. after the murder was committed, and with no knowledge in advance that they were going to be murdered, then the Department in due time ordered us to proceed. We could not initiate the investigation.

MRS. ALEXANDER: And if he were standing there he could not send for more men to help him take the various prints?

MR. HOOVER: Theoretically, not, but practically, yes.

MRS. ALEXANDER: How can we help in this regard; what is the process by which we should ask the Department to change its ruling so that the FBI can move in in such cases?

MR. HOOVER: I don't know whether the Attorney General has appeared before you or not, but if he has not I would invite him to come over. There might be some very good reason that I am not cognizant of, which he could give you. He might want to give consideration to a change.

MRS. ALEXANDER: Would we be at liberty to state that your department feels that it would be helpful?

MR. HOOVER: Certainly. I am perfectly willing that that be stated because it is a thing I sincerely feel; the sooner we can get onto the scene of a crime, and conduct the investigation, the sooner the evidence is available. Meantime, if you have endless delay, the people who have been participants in the lynching will go around to the Negroes living in that area who might have been eye-witnesses, and will so terrify them that they wouldn't talk to you for anything. That is the problem we are faced with; that terror is a definite thing.

RABBI GITTELSOHN: May I forward to you a question which has

been asked of many of us on this Committee, and which we are obviously not prepared to answer. To what extent, if at all, does the F.B.I., in making an investigation under civil rights statutes, rely upon the local law enforcement personnel who might themselves be involved in the deprivation of civil rights?

MR. HOOVER: I can answer that right now for you. I would like to say this off the record. (Off the record)

MRS. TILLY: Mr. Hoover, I want to ask you possibly a double question. You spoke of your police training schools. How general is that, and how far does it reach into communities?

MR. HOOVER: That has grown remarkably well, and I think it has been a very fine influence. We started it in 1935 and we started it for several purposes. In the first place, up to 1935 there was a great deal of jealousy between local authorities, and the FBI, because we would go into a community and we wouldn't ask the police to go in with us. As I have indicated, there were some very good reasons for that. On the other hand, many of them were inept and not properly trained. So I felt that if we could have a school established here at Washington, without any cost to the Federal Government, that these men could come on here and receive that training. We don't profess to make a man into a police officer. The men picked are already captains, inspectors or chiefs of police.

They come here, pay their own way, and are here for three months, and receive special training - in fingerprinting, laboratory work and other things. Then they go back to their communities, and in turn we encourage them to establish local training schools in their own police departments, to be run by that particular officer. If he wants our assistance and wants us to send lecturers out, we are willing to send a specialist on ballistics, or on fingerprinting, or whatever it may be, to lecture without cost to that police school.

Since 1935, to date, there have been 2,600 graduates from that academy, and we have a long waiting list of applicants to come into it. We started out with a school of about 40, and now it runs to 90. And from many parts of the country I am receiving letters almost weekly from mayors and city managers, asking me to recommend someone for chief of police. In making that recommendation, I select not one name, but generally two or three names, and they are graduates of the academy who have had that special training.

It has been 12 years since that was started, but already we have seen a marked improvement. It won't be perfect in another ten years, and maybe will never attain the perfection that we hope for. But I see in the type of officer who is coming to the academy today men of

higher standing, men who are making great sacrifices to go into law enforcement. As I say, these people pay all their own expenses, including railroad fare. One man's wife went down to the tourist camp on the Potomac Park and took in washing so her husband could stay here and take that training course.

MRS. TILLY: That is just for city police?

MR. HOOVER: No it applies to all types.

MRS. TILLY: You do have county officers and sheriffs?

MR. HOOVER: Oh, yes. Every class is divided into four groups, the city police officer, the county officer, the small city officer and the state police, so that this group of 90 officers is a cross-section of the United States, and that is one of the values of it for the reason that while they are here they live in the barracks at the Quantico Marine Base, they live together, work together, and get to know each other so that the police officer from a large city begins to understand that the police officer from the county has his problems. Furthermore, our men who are in training are in barracks there and they get to realize that we are not a so-called bunch of stuffed shirts, and we get to realize that they are not the ordinary common flatfoot, And by the time that three months is over, there is a meeting of minds, an understanding, and then we arrange, once a year, for a reunion, where they come back, and instead of having just social activities, we have a week of so-called refresher courses, and a police officer from any part of the country can come back to this reunion and may indicate in advance the specialty that he wants to be assigned to. Maybe it is fingerprinting, or traffic, or juvenile delinquency, or something of that kind.

So in a period of 12 years I think we have now raised the tone of the local law enforcement officer. What I have always in mind, frankly, is that when you have something wrong with your eyes, you go to the best occulist, and when you have something wrong with your stomach, you go to a stomach specialist. And when your life and liberty and property are threatened you ought to be able to turn to the best minds in the community to protect and aid you - and that is the purpose of this National Academy.

MRS. TILLY: The final question I wanted to ask is this. Since life is at stake, and civil liberties are at stake, is there any way in which law enforcement officers can be required to take courses before they enter upon their duties?

MR. HOOVER: I am a very strong believer in that. I don't think that any man ought to be handed a badge and an authorization card and

gun and billy and allowed to go out and enforce the law. He ought to be required first to have certain educational requirements. He ought to be thoroughly investigated as to character; he ought to be fingerprinted; those prints ought to be checked at the National Fingerprint Bureau which we maintain; and then he ought to be put through an intensive course of training. Most of the large cities are doing that, such as New York, Chicago, Los Angeles and San Francisco.

MRS. TILLY: I am from Atlanta and I know all the Monroe situation; I know these things and know the type of men you are talking about. Is there something this Committee could do to make that a requisite.

MR. HOOVER: I think that certainly a recommendation from this Committee would be very helpful along the lines of insisting that law enforcement officers be properly chosen as to character, training and background, and insisting upon them receiving certain training. That might add the impetus that is needed.

DR. GRAHAM: In North Carolina, Mr. Hoover and the FBI cooperate with the University of North Carolina in the training schools.

MR. HOOVER: That is correct; it is part of the outside training work.

BISHOP HAAS: Mr. Hoover, I understood you to say that your contact with the Department of Justice, in going into a case, let us say in Mississippi or Alabama, is through the Civil Rights Section?

MR. HOOVER: Of the Criminal Division of the Department, yes.

BISHOP HAAS: Maybe you would care to answer this and maybe you wouldn't. In your judgment should that section have more prestige, more standing in the Department, have more men?

MR. HOOVER: Well, I frankly wouldn't want to express an opinion on that because it is outside of my jurisdiction. I have 10,000 personnel that I have to handle, so I have my headaches.

MRS. ALEXANDER: Mrs. Tilly raised the question of whether or not enforcement officers should be required to have certain training. I am going to put it the other way - should he also be allowed to have certain training? With that in mind, I want to know whether or not Negro officers have an opportunity to come into your training course, and if so, to what extent?

MR. HOOVER: We have in the Bureau --

MRS. ALEXANDER (Interposing): I don't mean in the Bureau, I mean in your officers' training course.

MR. HOOVER: In the officers training there is no restriction on race or creed. The selection of the officer to come here is made by the local police department.

MRS. ALEXANDER: Therefore, unless he is selected locally, he doesn't get to your school?

MR. HOOVER: That is right.

MRS. ALEXANDER: Isn't it possible for your Department to reach out and ask for a change in this respect, because we do know that we have Negro policement in certain sections, and they need to be trained to handle certain problems? I therefore ask whether your Department can't do something about that.

MR. HOOVER: That is a very good idea. Of course, what we have been fearful of with this National Academy is that we don't want to try to impose upon a community a direction or a supervision by a federal government agency. There is a great resentment, state rights and so forth. So in the National Academy, all we set down are certain qualifications as to age and experience and background training before the man is selected. If he is selected by the local chief of police or the mayor or whoever wants to send him in, we accept him, provided he meets the qualifications we have specified.

MRS. ALEXANDER: He cannot make an application himself?

MR. HOOVER: He can to his local mayor or police chief, but not to the F.B.I.

MRS. ALEXANDER: So therefore I presume, from what you say, that you have never had in your Academy any Negro officer?

MR. HOOVER: That is right. I will say that we have had officers from China, and from South American Republics, several of them, and from Mexico.

MRS. ALEXANDER: But I am talking about my own race.

MR. HOOVER: No.

MRS. ALEXANDER: Have you any suggestion to us as to how we might make that possible?

MR. HOOVER: Well, again, I would think that that would be a very

proper recommendation of this Committee in regard to the training, that the local communities select officers without regard to race or color.

MRS. ALEXANDER: Wouldn't it be very suitable for your Department to make the suggestion that they be selected without regard to any requirement as to race or color.

MR. HOOVER: I have no objection to making it. As I say, I religiously try to avoid injecting myself into telling a local community what to do. That is by reason of the conflict of the so-called local and state pride and state rights. But there would be no reason that I can see why a Negro should not be designated to come to the National Academy. As you say, and it is a fact, in many of our communities there are Negro officers of high rank in local police departments. We never take a patrolman, we take an officer, and the restrictions are that it be a man who is in line for promotion. What we have in mind, frankly, with the graduates of the Academy, is that ultimately they will become chiefs of police, and I think one-third of all our graduates are now chiefs of police in various communities in the country.

MR. TOBIAS: You say that you recommend that they conduct schools in their local communities.

MR. HOOVER: Yes.

MR. TOBIAS: It seems to me that a suggestion of curriculum content would be both acceptable and helpful to them, and I can see where it would do a lot of good. If, of course, all the emphasis is on law enforcement, then it wouldn't, but if your curriculum carried in its course lectures and talks on respect for law and order, and how to promote that in a community, I think it would be very helpful.

MR. HOOVER: As a matter of fact we do give to them suggested curricula; they don't have to follow them of course. But we do furnish them with lecturers who will speak on the subjects we recommend, covering those points. I know in our own school we had the former chief of police from Milwaukee who has given lectures on the handling of minority groups. A great many of these officers that go out seek advice from us, and we encourage that. The curricula in most of these local training schools are not limited strictly to the police function. For instance they cover juvenile delinquency and public relations, and the matter of handling minority groups - and frankly I don't like that phrase "minority groups" because we are all minority groups if you come to analyze it.

MR. TOBIAS: To make it concrete, there is Dr. Graham at Chapel Hill; there is Durham nearby. If the police training group at Durhan had as a part of its course of instruction, the calling in of people who are well known and respected - suppose at Durham they called in Dr. Graham or some other professor, some professor of social science at the University of North Carolina, or Duke, to talk to those men on how to encourage law and order in the community, that is approaching it from a positive side.

MR. HOOVER: That is an excellent idea. Our faculty is composed of our own experts, and then we have a great number of outside lecturers who come in and lecture on special subjects. We have several men who come in from the press, lecturing on the matter of press relations and public contacts. We have several members of the clergy who come in and lecture on special phases, both to the National Academy and our own agents.

I think in North Carolina that is followed to some extent, if I recall correctly, because they have a kind of traveling conference arrangement. They got not only the police officers in North Carolina, but they get the judges and the prosecuting attorneys, and they have at times invited our men to go around with them, and they have outside lecturers in to make talks to them.

I think, not because Dr. Graham happens to be here, but North Carolina and California have been probably the two most outstanding states in progressive work in law enforcement training and raising it to the level of a profession. Usually a person expects to have one mention one of the Northern states, but North Carolina and California have been far ahead of the other states of the nation in that respect.

BISHOP SHERRILL: Are there a number of Negroes in the Department?

MR. HOOVER: Oh, yes, we have them as agents and as experts in regard to surversive activities, and matters of that kind.

MR. CARR: Is that generally known, or do you prefer that it not be?

MR. HOOVER: Their identity is not generally known. (Off the record)

RABBI GITTELSOHN: Are these Negro agents ever or frequently used in cases involving lynchings, for example, where Negroes might be more willing and less afraid to talk to a Negro agent than to a white one.

MR. HOOVER: I am glad you asked that question because that very definitely would be a thing that I would think should not be done. If you send into, let us say, a community like Monroe, Georgia, a Negro agent, that Negro agent is like a sore thumb right away; he is immediately going to be subjected to terrorism by the white group in the community that is guilty of the lynching. Of course, he is a Government agent and we can protect him, but obviously we have had agents killed also, and he might be killed. Secondly, the local Negro I think would be more disinclined to talk to him because the particular type of Negro living in Monroe, was a very ignorant type of Negro and for that reason they were scared, they wouldn't talk hardly to anybody, and I don't think they would talk to a Negro agent.

We have utilized the Negro agents to great value in the metropolitan areas; they have been doing excellent work. In Los Angeles we have agents who have done excellent pieces of work there.

RABBI GITTELSOHN: Don't you think it might be worth while, notwithstanding the objection you raise, which we recognize to be a valid one, might it not be worthwhile to try it once, at any rate, to see whether the local Negroes would talk to a Negro agent?

MR. HOOVER: I would like this off the record. (Off the record)

MISS WILLIAMS: Is it not possible, though, that if you had a Negro on your Southern Regional Staff, or in the groups of agents who work all the time in the South, to help the white men -- I wouldn't use him as a front man for testimony, but to help the staff get an interest, and learn how to be skillful, who would build up contact in the Negro community, who would help the white man know when you really got into the thing, and if he lived and worked in the South and became part of the scenery of the South, I can see how you might find that advantageous. I can also see how you couldn't send a Negro from New York City to Monroe, Georgia, but I think this is quite different from a Negro who lives in and of the south.

WHEN you become part of the coloring of the South it is amazing what Negro can do, and if the Negro is a person of character and skill and zeal who really would qualify and have the respect of his fellow officers, he might do the background work and let the white men do the front work, the testifying. I don't think you should close your eyes to that possibility.

MR. HOOVER: I haven't closed my eyes to it because I recognize all too well the great work that has been done by the Negroes. For instance, in New York they have done magnificent work.

I think that that point you make might very well be tried. Of course, we have such a comparatively small force and you can never anticipate where one of these cases involving civil rights is going to break. Let us say that we might assign a Negro agent to the Atlanta office. There might not be another case involving civil rights in Georgia for three or four or five years. You would have great difficulty in using that Negro agent on other investigations in Georgia by reason of the prejudices that actually prevail. The same thing is true with regard to other racial groups. (Off the record)

MRS. ALEXANDER: We have such a variance of complexion in our race that it is very difficult often to know just what we are. As Booker T. Washington said, it is the strongest blood in the world - one drop makes one a Negro.

Walter White has certainly investigated many lynchings and no one has known what he was. You certainly have available men of his complexion who would have what Miss Williams refers to as the zeal for it, and whose racial identity need not be known to anyone any more than that they were F.B.I. agents.

MR. HOOVER: That idea that you have advanced probably could very well be tried.

MRS. ALEXANDER: And couldn't it be on the basis of his complexion? They wouldn't even know.

MISS WILLIAMS: I think there are two ideas here that should be explored, Mr. Hoover. I was thinking not in terms of a man who would not be visibly colored. I think the other is perfectly possible.

MR. HOOVER: In other words, your suggestion is that this particular agent might be utilized as we term it within the Bureau as a kind of undercover man or bird dog; he gets the scent of a thing and brings it in, as we utilize them in some of our other criminal cases.

MISS WILLIAMS: Yes, and I am saying that his daily contact with his fellow workers would make them a different kind of men; they would be different because they had lived and worked with someone they respected, but who had an unusually keen scent on these things.

MR. HOOVER: So far as the Bureau is concerned, there is no problem involved because the colored agents in our large metropolitan offices are respected and accepted just like any other agent is respected.

MISS WILLIAMS: I meant that they would build kind of a new approach and help you on this particular problem in the South.

MR. HOOVER: There might be something well worth trying on that; I am glad to have your suggestion.

MRS. TILLY: I am trying to think of that type of man in the South, in Smith County, Mississippi, or Walton County, Georgia. I don't think they would even come from Atlanta and go down to Monroe.

MR. HOOVER: May I say this off the record. (Off the record)

MISS WILLIAMS: But the very fact that Negro police are now functioning in Southern cities would mean there would be some opportunity in the large places to use them.

MR. HOOVER: Yes. Of course most of those Negro police, and I think very wisely, are being used with the Negro population, where they understand the psychology and where there is not that arrogance that sometimes is manifested by a white officer.

MR. TOBIAS: You regard that as a good move and worth encouraging?

MR. HOOVER: Yes.

MISS WILLIAMS: I was thinking again that in getting cooperation with local police the services of Negroes would be encouraging.

MR. HOOVER: That would certainly be worth trying, but I must say that I share somewhat the view of Mrs. Tilly. (Off the record)

MRS. ALEXANDER: Mr. Hoover, couldn't we also work through the radio? I had raised, before you came in, the question as to whether or not these gangbuster programs that I hear my children listening to, might not at some time portray a civil rights case?

MR. HOOVER: It would be a very excellent idea.

MRS. ALEXANDER: Does the information for those programs in any part come from your Department?

MR. HOOVER: No. We have, from time to time, furnished to various programs of the country what we call our closed cases. They come in and want a case on kidnapping or a bank robbery or any other type of crime.

MRS. ALEXANDER: They might not ask for a civil rights case, but

couldn't it be suggested by your Department?

MR. HOOVER: That could very well be done. It has been done in the motion picture business in regard to the evils of the chain gang in the South.

MRS. ALEXANDER: But civil rights is never touched either by the movies or by the radio.

MR. HOOVER: It is a thing, however, that I think could readily be done.

MRS. ALEXANDER: When you referred to the fact that 97 percent of your investigated cases resulted in convictions, I presume that the other 3 percent must be lack of convictions because they come within this field of civil rights?

MR. HOOVER: Some are in that field and some are in others. There would be some of these civil rights cases that would be in that field.

MRS. TILLY: The Southern Regional Council is reorganizing the Southern Association of Women for the Prevention of Lynching, and there are 18 women's organizations in Georgia that are pledged to take this education down to the last community.

MR. HOOVER: That is an excellent idea. If that could be done in every state in the South it would be fine; that is an excellent thing.

BISHOP HAAS: Who fixes your appropriation?

MR. HOOVER: The Bureau of The Budget acts on it first and then Congress comes along a little later.

BISHOP HAAS: I presume that you feel that you need more money?

MRS. HOOVER: Oh, most certainly. We felt that with the cessation of war our work might diminish, but of course, what happens is that Congress passes innumerable laws and never gives us the money to enforce them. Form instance, in this atomic bomb appropriation, we have the requirement of investigating all personnel and all violations of the Atomic Energy Act, but the matter of funds had to be dealt with after the law was passed. Our funds are very meager for what we have to do. We asked Congress for a$35,000,000 appropriation and we turn in through fines, recoveries and other savings that are effected about $75,000,000. So we are more than a self-running organization.

DR. GRAHAM: How much do you need?

MR. HOOVER: Well, we asked this time for $42,000,000 and the Budget Bureau cut it to $35,000,000, and Congress has indicated that they are going to cut it 20 percent more. The evil of that, Dr. Graham, is that you then have to fire qualified men. Now later in the year when you have this great backlog of work you come in for a supplemental appropriation and maybe Congress will give it to you. Then you have to hire green men, and it costs us $6,000 to train a man, to investigate him, training him and put him out into the field.

DR. GRAHAM: And you train a highly efficient person, which costs you money as you say, and then fire him, which is notice to other high-calibre men who were thinking about making it a profession that the tenure is precarious.

MR. HOOVER: That is very true, and that is the very problem that we are always faced with. I would much rather retain the experienced men and do the job. As I said, the expenses of the Bureau are always more than doubly exceeded by the returns which we make to the taxpayer.

BISHOP SHERRILL: Are there any other questions?

We have come to 3:30, the time agreed upon for adjournment. Are there any other questions?

Mr. Hoover, we are very grateful to you. I am sure the members of the Committee found this discussion most helpful and most illuminating.

MR. HOOVER: Thank you very much; I enjoyed being here with you also.

(Whereupon, at 3:30 o'clock p.m., the Committee adjourned.)

President's Committee
on
Civil Rights

Thursday, April 3, 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, Mr. Charles E. Wilson, Chairman, presiding.

Present: Mr. Charles E. Wilson, Mrs. M. E. Tilly, Rabbi Roland B. Gittelsohn, Mr. Charles Luckman, Mr. Francis P. Matthews, Mr. James Carey, Mr. Channing H. Tobias, Mr. John S. Dickey and Mr. Boris Shishkin.

Also present: Mr. Robert Carr, Miss Frances Williams, Mrs. Merle Whitford, Mr. John Durham, Mr. Milton Stewart, Mr. Herbert Kaufman, Mr. Joseph Murtha, and Mr. Edward Jackson.

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P R O C E E D I N G S

MR. WILSON: The Committee will please come to order.

(From 10:00 a. m. to 11:15 a. m. was devoted to a Business Session, which was not reported, and at 11:15 a. m., Hon. Tom Clark, The Attorney General of the United States arrived.)

MR. WILSON: We are delighted to have you with us this morning, Mr. Clark. You got us started off on our first day and now we would like to have you enlarge on the statement you made to us then as to how you would like to see our efforts directed, and to make other suggestions as to how you feel we can make our operations more effective along the lines that the President has laid out for us.

STATEMENT OF HON. TOM CLARK
Attorney General of the United States

MR. CLARK: Have you come to any conclusion as to what you might be able to do from a statutory standpoint in spelling out more specifically the rights that might be secured, or have you decided that that is a Constitutional question?

MR. WILSON: I think that comes within the range of Mr. Dickey's

subcommittee. Would you want to express an opinion on that, Mr. Dickey?

MR. DICKEY: I think Mr. Carr could give a better answer to the question than I could, Mr. Chairman, but in so far as I have reached a personal conclusion on it -- and I will let the Executive Secretary or Mr. Matthews speak for the rest of the group -- I don't believe that there is an insurmountable Constitutional question there.

MR. CLARK: Well, assuming that, I would say that you could render a great service by suggesting legislation that would enlarge the present Sections 51 and 52 of the Civil Rights Statutes so that those who engage in mob activity or lynching activity, as it is commonly known, might be found guilty of a federal offense. In other words, as I outlined before, I think, the only way we can attach responsibility now under the statute is against some officer for failure to do his job or for activity in connivance with others to perform acts in violation of the statute.

The various anti-lynching bills are largely aimed at officials, sheriffs or constables, or people engaged in law enforcement. I think there is a responsibility likewise on the individual that engages in activity of that type. I believe that if we could attach responsibility to individuals who join with others in lynching parties or mobs, you would have done a great service.

As to whether or not that can be solved through statutory amendment is a pretty close constitutional question. Perhaps it is worth trying.

As I said, I am anxious to try to secure a case in which we can extend the doctrine of federally-secured rights to a person's right to life and his liberty and his pursuit of happiness. Under the Slaughterhouse cases those are not federally-secured rights. I am going to try to use the case in South Carolina as a guinea pig, you might say. If we could extend the federally-secured rights to include life, liberty and the pursuit of happiness, you would be able to handle a situation of this type under the existing law.

I think, too, that your Committee can spearhead interest, in localities and communities, of the responsibility of the community to prevent uprisings of this type. I think that that is most important. Law enforcement largely depends on the communities. You can't legislate morals in the people; you have to educate morals into people. We have to cause communities to become more interested and more public-spirited in this regard.

I think we have made a great advance. The other night I was

studying just what had been accomplished, -- and I don't mena this personally, -- since I became Assistant Attorney General and head of the Criminal Division in 1943, and it is surprising that most of the cases have occurred since that time. I am speaking now of civil rights cases. There have been but 30 or 40 in our history that have been carried through the courts, and some 22 or 23 have been in the last four years. I think it is 25 in the last five years. So we have made great progress, and the history insofar as statistics are concerned, with reference to mob violence, shows that there has been great progress in the last two years. But I think we can make much more progress. We can insure to all groups the protection of the Federal Constitution if we can get life and liberty held to be a federally-secured right.

I understand that you are going to make a report along that line, and I think it would be very helpful. I believe if you could interest organizations in it, -- interest those who are public-spirited and who have a wide coverage, in trying to bring home to the American people the importance of this question, and their responsibility, you would accomplish a great deal.

We have a Bill of Rights, you know, that we depend upon, but very few people think about a Bill of Responsibility; they don't think about that at all. They think what "my right" is, but they don't think about "my responsibility to you." We have got to spearhead that.

Again I refer to a personal experience, but you take the juvenile problem, I think we are now getting it spearheaded and drawing attention to it. The reason I say that is every day people come in to see me about some local juvenile problem. That shows that they are becoming conscious of the problem.

Here you have an important problem and one that has been neglected, -- one to enforce the laws, the State laws. Every time you have one of these occurrences it violates a State law, either a murder or an assault if there is not a death, and it is surprising the lack of cooperation, and in fact the refusla to cooperate, as well as a specific intent to throw obstacles in the way of investigations, that we encounter when we go in to investigate this type of case. Education is all that you can do with reference to that, I think.

I believe that Mr. Hoover talked to you, and he outlined the details of the program we have been following. The Department has had, ever since Mr. Justice Murphy was the Attorney General, a Civil Rights Section within the Criminal Division. We have used the F.B.I. as the investigative agency, as we always use it, for the purpose of

ferreting out the facts, and we have found it to be very successful. From time to time there have been some obstacles thrown in the way of the F.B.I., but generally we have been able to get at the facts. We have found in some communities that they just won't talk, like in Georgia. We had a Grand Jury down there in addition to quite a number of F.B.I. men who had been on the job for several months, but we just couldn't get any citizens there to give us information, although we know they have it. We have, I think, two incidents down there now with reference to the treatment of a witness, a federal witness, that may prove productive when we try them, which I hope will be next month.

In Tennessee we had a similar experience. Then in other communities, like in the Woodard case, although we had all the facts, the juries would turn them loose. We had a similar experience in Louisiana two weeks ago, where we had, I thought, a pretty strong case, but the jury turned the defendants loose very quickly.

So I think that you are going to find that education will be v ry helpful.

As far as the Department is concerned, we want to continue our activity and we would like to have any suggestions that you may have. I understand that some members of the Committee are worried about the rule that Mr. Murphy put in when he was Attorney General, with reference to clearance by the Department, or the Criminal Division, of investigations before the F.B.I. can go into an investigation of a civil rights offense. That was, I think, employed and is now employed for two or three purposes. One is so that you would have a uniformity of enforcement over the United States. These statutes are very controversial, and if we had a case down South that we did not know about in the Department, we might get a ruling that would be contrary to some case that we had in the East. So we try to bring them all to the same focal point.

Second, I have used it to emphasize prosecutions. For example, in other lines of criminal activity we have authorized the F.B.I. to take cases direct to the United States attorneys. Then we very often don't know about the investigation at all. That is handled by the United States Attorney on a local level. We will, of course, know the progress of the case in the court, and the disposition of the case. Frankly, these civil rights cases, if we handled them that way, would very often never reach the courts. We have quite a number of complaints, -- I wouldn't want to venture a guess on the exact number, but I would say it would run 10,000 a year, -- on these statutes, and if we left those to local clearance I believe that you would find that we would have fewer cases than we have now.

Another reason is that, of course, with that vast number of complaints, we have to clear out the chaff from the wheat, and in doing that we try to get the stronger cases. For example, now, in our effort to extend the federally-secured rights doctrine, if we choose a weak case we will lose our objective very quickly. If we choose a strong case, we will possibly have a better opportunity to overturn the decided cases in this field. Of course, there is only one place where we can properly evaluate the cases, and that is here in Washington where we have all the cases available.

So those are some of the reasons. I don't think that there has been any delay that has caused harm. Of course, if the F.B.I. happened to be in the vicinity at the time some occurance came about, they would immediately go into it without any clearance at all, and then they would report it to me, as they very often do, not only in this line but in other lines, and then we would tell them to proceed. For example, in Tennessee we had a person over there before the murders were committed. The two murders were committed the day after our people got there. And in Georgia we had them there very quickly. I think you will find in most cases that expedition is the rule rather than the exception.

So I think that by bringing them here we are able to get a stronger policy. For example, in some communities, as I have said, there is a tendency not to prosecute this type of case, and if we get the things here we can force them into prosecution. In the Woodard case, for example, I filed an information, or, rather I requested the judge to permit us to file an information, because we felt that possibly a Grand Jury wouldn't indict. That case, aside from the national publicity incident ot it, would never have come to the attention of Washington if we had not had this rule.

So while in most of these cases you will find that they do come to our attention because they are more or less publicized, the Civil Rights Section of the Department thinks and I think that it would be best to continue this clearance policy. However, I would be glad to get your reactions to it. Certainly I don't want to delay or cause any delay in investigations of this type of case. If your study has indicated that there has been delay, I will be the first to set aside the rule, and it is within my power to do that. If there is any responsibility as to that, it is my responsibility as the Attorney General. So if you think we should set aside the rule, I will be happy to consider that. I rather doubt if it would be best, but perhaps it would be, and I would be happy to have your reactions to it.

We also have in this section a rule that we send out people to prosecute. Sometimes that is a double-edged sword. In some

communities there is an inborn resentment of Washington lawyers coming in. Now we don't send a Maine lawyer to Texas to prosecute; we usually send a Texas lawyer to Texas, or a Massachusetts lawyer to Massachusetts. But we have found that it is very helpful, and the United States Attorneys generally ask for some help. We have found it helpful because the people that we send out are well acquainted with the legal end of the case, and having had a vast experience in the field they are able to get more out of a case than a United States Attorney or an Assistant United States Attorney who has handled mostly other types of prosecutions. This section only handles this particular type of prosecution, so they have an everyday running experience in the field which is very, very helpful. This section has operated very successfully insofar as it has been possible to operate, and I think that an examination of their record will show that they have been not only very diligent but most conscientious in their efforts to bring about an enforcement of these particular statutes.

I have been hearing of your work and of your hearings and meetings, and I want to congratulate you and say that I am most happy to hear of the good work that you are doing. I believe that you can accomplish a great deal in the field, not only in the remedial suggestions that you might make with reference to legislation but to administration. Your focusing of the attention of the public on the problem will do a vast good in the advancement of the ideals that we all have, that no one is above the law and that everyone will get equal justice under the law.

If there are any questions, I would be happy to attempt to answer them.

MR. WILSON: I am sure there must be questions.

MR. LUCKMAN: I would like to ask one, if I may.

You spoke of one instance in which you had a man acaually present in an area before a murder took place. Do you feel in the Department that you have any rights, under the legislation today, to act in any way to attempt to prevent what you think may become a murder?

MR. CLARK: We very often do. For example, during the war we very often would hear of what you might call race tension, -- so I would get in touch with people in the various agencies -- I was then Assistant Attorney General -- we would activate the agencies in the area in order to prevent it. For example --

(Off the record discussion.)

MR. LUCKMAN: Under the statutes today, if you learned or had reason to believe on Tuesday that a lynching was going to take place on Wednesday, would you have the authroity, for example, to move the people you suspected were going to be lynched the next day, to another location where they might be safer?

MR. CLARK: Not unless they agreed to it.

MR. LUCKMAN: Who agreed agreed to it, the parties involved?

MR. CLARK: Yes.

RABBI GITTELSOHN: Would you have the authority to alert the F.B.I. in that area?

MR. CLARK: I would. I do it many times.

I know of one or two instances where the National Association for the Advancement of Colored People has taken protective measures. One was in that Louisiana case where they took two of the witnesses away so they couldn't be bothered. They made them available to us. They have been very cooperative.

MR. MATTHEWS: If the prisoner was charged with an offense against the State statutes, would you have authroity in that situation to move the prisoner for the sake of his protection against possible mob violence?

MR. CLARK: No, we wouldn't have any authority to move a prisoner unless he was in our custody.

MR. MATTHEWS: That is what I thought.

RABBI GITTELSOHN: On this matter of clearance, Mr. Clark, I think all of us recognize the need for some centralization, and as you properly presented it, the need to exert pressure from a central office on the local offices. However, some of us, at any rate, after hearing Mr. Hoover at our last meeting, were a little disturbed about the delay in getting the F.B.I. actually on the spot for investigations. Now Mr. Hoover gave me, at least, the impression that in some cases the clearance moved so fast that he would be able to get in there and operate in 24 hours. That was given as an example of fast procedure. Now obviously, in 24 hours all kinds of clues can vanish, accidentally or otherwise. I, at any rate, am quite disturbed over that 24-hour to 72-hour possibility of evidence vanishing. Would it not be possible to preserve all the benefits of centralization by insisting on immediate reports from the field to Washington, but freeing the F.B.I. from the requirement which they

apparently are operating under now, of clearing here in Washington through the Criminal Division before they can even send investigators out to get clues before they vanish?

MR. CLARK: If Mr. Hoover thinks he has been hampered in any way, I will correct it.

RABBI GITTELSOHN: I didn't mean to give the impression that he thought he was being hampered, but that, having heard his testimony, we wondered why it ought to take even 24 hours to get the F.B.I. working on a case.

MR. CLARK: It shouldn't. If that is true, we ought to perhaps authorize them to make immediate investigations and reports to Washington upon the happening of any event or upon any leads that they might have, or sources that they might develop, that there would be a lynching or something of the kind. I will get together with Mr. Hoover and have that done. Certainly you are right, there might be some clues or leads destroyed in a 24-hour period, and we don't want that at all. The only purpose is to have the benefit of this central authority that we can use.

MR. TOBIAS: I was about to say that I think the Committee's Subcommittee No. 1, that is dealing with legislation, is taking into account that suggestion about federally-secured rights. But after that has been done, and as useful as that may be, it is still true that only the exceptional cases will be delt with under such a statute. That is still the responsibility for the maintenance of law and order, and the protection of individuals under the law would be a function of the State and the local community, where the thing happens. What concerns me in that somehow or other we have to get back to the cause underlying these attacks upon particular groups of people, minority groups. I think that the chief cause is the cheapening of the personality of these groups through practices of discrimination that go unchallenged. Amman is lynched because the people in the community realize that it doesn't cose as much to do him to death as it does a representative of a group whose personality is up to par. Therefore, he is the easy victim. And until he had the right of participation in local and State government to the extent that he can have some say who the officials will be, then he is going to continue to be cheap and his life is going to be taken.

Now all of that involves another responsibility of this Committee, Subcommittee No1, and that is the protection of people in the exercise of the franchise, and the right to become participants in government if the elective franchise is sufficient to give them that privilege.

Now the threats such as we experience in Georgia at the present time, to participation even under the declared, law, declared by the Supreme Court of the United States, are such as to make all the more evident the lack of power on the part of the group concerned to protect itself, even to participate.

I don't see how we are going to be able to take care of the rank and file who are kept cheap in that way because they, as someone has expressed it, are second-class citizens. We have a double standard of personality in American life. Now that is clearly illustrated in a clipping that I took out of a paper this morning. Here in the District of Columbia a young white woman elected to go to a school that is declared -- and I want to ask you whether it is true that it is declared by law -- to be a Negro school in the District of Columbia. The denial of that right to her to choose the school where she feels she will get the thing that she wants, upon purely racial grounds, in the District of Columbia, highlights the problem not only of discrimination but the basic thing that we are talking about this morning, mob violence, because it is quite clear that mob violence results, on the scale to which we know it in America, because of these people who are below the line, below par in the acceptance of their personality.

So that it seems to me that even in order to get after the right to live and to protection from the job, we have got to get after the right of every citizen to be on equality with every other citizen in those basic rights like education, those things that involve life, like jobs, and everything of that sort; that if we are going to do a thorough job and not a superficial job, we won't just be thinking in terms of an added statute that in an emergency might take care of a situation, but of our total structure as it affects minority groups.

It isn't a direct question that I am asking; I am expressing a concern.

MR. CLARK: Yes. I think that discrimination is certainly one of the bases of the problem that you are studying, and that your conclusion with reference to trying to eliminate it is certainly justified.

MR. SHISHKIN: On this question of discrimination, General Clark, I don't know whether you have had an opportunity to give any specific thought to this, but in one of the major bills that has been introduced, the Ives-Chavez Bill of 1947, the anti-discrimination bill, there is no provision expressly dealing with discrimination in federal employment, and it presents a question that is likely to come up some time in the construction of that legislation, as to whether the Federal Government, in invoking a national policy on

private employment, does not have a direct obligation of taking some steps to enforce that policy in its own employment. I was wondering whether you had any thoughts as to the best way in which that problem could be met -- by modifying the law or by providing executive procedure?

MR. CLARK: Frankly, I don't know of any discrimination in employment in the Federal Government. We have attorneys of all races in our Department; we have clerks of all races; we have stenographers of all races. Some of our best attorneys happen to be colored men. I know of two or three. One was a captain in the last war, a boy named Bellinger, I believe, in the Claims Division; and then we have another who works in this very section--

MR. SHISHKIN: Well, the Department of Justice has had an excellent policy in that respect, but there has been a great deal of discrimination in federal employment elsewhere.

MR. CLARK: That could very easily be adjusted by the heads of the various departments. I don't think you need any additional legislation to accomplish that.

MR. LUCKMAN: You would lean toward an administrative solution rather than an attempt to include it in current legislation?

MR. CLARK: I think you could do it much more quickly. Of course, if you thought that a change of policy would occur when you had a change of executives, perhaps it would be good to put it in the legislation. However, it depends on the heads of the departments, as you well know. It depends, after all, on the individual that heads up or enforces the particular statute. So I think that after you got your statute it would still depend to a large extent upon the individual executive.

MR. SHISHKIN: But do you think that in the absence of a legislative enactment there would be room for an Executive order by the President that would lay down a directive and place the responsibility on the agencies?

MR. CLARK: Well, of course, President Roosevelt issued such an Executive Order under the War Powers Act, creating the F.E.P.C. As to whether or not it would be necessary to have an Executive Order by the President in this instance, I would like to study that. I know each individual executive in each department could very easily adjust it very quickly.

RABBI GITTELSOHN: The question has come up several times, Mr. Clark, as to whether, from the point of view both of prestige and of

facilitating the work itself, it might not be advisable to make of the Civil Rights Section a division in its own right, within the Department of Justice. Would you care to comment on that?

MR. CLARK: You mean have an Assistant Attorney General heading that division?

RABBI GITTELSOHN: Yes.

MR. CLARK: Well, we have six divisions in the Department now. Each usually handles a specific type of prosecution. For example, we have a Criminal Division that handles criminal cases. We have the Lands Division that handles all cases with reference to lands, condemnations and things of that type. We have the Tax Division that handles taxes. We have the Claims Division that handles claims against the Government and claims that the Government might assert itself. We have the Alien Property Division that handles all alien property. This would be a division within a division if you created a division. We have this unit now within the Criminal Division, which reports to an Assistant Attorney General, but from a practical standpoint they usually report to me. So an Assistant Attorney General would report to me likewise. I rather doubt if it would be of any assistance from the standpoint of prosecutions at all. You would have the same people doing the work. I think the matter gets down larrgely to the question of the individual. I believe we have in that section people who are very civil-rights minded, as we call it, and I don't believe you would be able to get any better people by having it as a separate division. You might get more publicity from the standpoint of having an Assistant Attorney General in charge of it.

MR. TOBIAS: It would add to its prestige, don't you think?

MR. CLARK: It would do that, yes.

MR. DICKEY: Mr. Attorney General, I have at the moment some reservations as to how far we ought to go in dealing with the specific language of statutes, but that is something to be determined as we go along, and I well realize that the head of a Department is not in a position, always, to comment on specific technical questions. But do you have any opinion on the possibility of r eaching the private participant in a lynching which arises from the victim being taken out of the hands of an officer of the law, on the basis of a rough analogy to the Lindbergh Act, by writing a federal statute based upon a showing in the hearings and in legislative record that the great majority of the unsolved lynchings are cawes where men were taken out of the hands of a State officer, and that there is a considerable social history to suggest that there was

connivance on the part of the State officer in permitting hi s prisoner to be taken away from him? Now with that legislative history behind the statute, do you have any offhand guess as to whether it would be worthwhile attempting to set up a statute to reach the private participant in such a lynching by providing that federal jurisdiction attach on the presumption, prima facie, and a reguttable presumption, that the prisoner was taken out of the hands of the officer of the law, for the purpose of getting federal jurisdiction on there, unless within a certain period of time the State has prosecuted or indicted someone for murder -- I should make it clear that that wasn't the case -- or unless in the course of the trial in which that person was prosecuted, he proves that there has been not eno connivance with a State officer, or, as in the case of the Lindbergh Act, that he did not cross the State boundary? Have you given any thought to that? I realize that you wouldn't want to render a legal opinion on that.

MR. CLARK: Is this record going to be published?

MR. WILSON: No, this is merely for the information of the members of the Committee.

MR. CLARK: I would say in my thought about it -- and I have given considerable thought to it -- that we might attach federal responsibility there on the gound that this party was deprived of a trial, that he was deprived of the right of having a jury pass on his guilt or innocence. I am speaking now of the victim. Say that the victim is in jail and all of a sudden this mob comes and takes him out. Now as you say, very often there is connivance, yet very often we are unable to prove connivacne. Of course, the whole problem is eliminated if we can prove connivance. Then we can handle it under the present statutes. But we will assume that we can't prove connivance and the e is no question but what this mob has conspired to deprive this person of a trial which he was going to have. Say that he was in jail because he murdered somebody, or commited a rape. He is entitled under the Federal Constitution to a trial, and he is entitled to certain rights in that trial. I was hopeful that perhaps we might attach responsibility on that ground, and extend even the present statute, and I believe that we could certainly work out some verbiage that would amend that statute which would be helpful in the prosecution of that type of case.

What I would suggest, if it meets with your approval, is that I ask Mr. George Washington -- not the Father of Our Country, but one of his successors -- to collaborate with you on that. He is the Assistant Solicitor General. He and I have talked about this at length and he rather thinks that perhaps some type of statute could be evolved that would stand the test of constitutionality.

MR. DICKEY: It seems to me that if we are to get at this lynching question, or at least at the public desire which led to the establishment of this Committee, that we have got to do more than just spell out the situation which permits you to get at the State officer who acts under color of law. Perhaps we can't get at it but it does seem to me that we have got to try to get at it if we are to meet the public desire which led to this effort.

MR. CLARK: I think the Congress may possibly create a right there that would come under the present Constitutional guarantees, where you would not need a Constitutional amendment. I am sure that Mr. Washington would be glad to collaborate with you with a view of getting up the verbiage of such a proposal.

MR. DICKEY: Might I ask one further question in that connection? Do you feel that this committee is going to be able to render the best help on this particular aspect of the problem by getting right down to legislative language, or do you feel that we can operate more effectively by saying that we have considered the technical aspects of this problem and we recommend the consideration of legislation in such and such a direction?

MR. CLARK: I would say that you should suggest the general plan or the general yardstick, rather than try to suggest specific legislation.

MR. DICKEY: Thank you very much.

MRS. TILLY: May I ask a question? There are many of these lynchings that occur after a trial. What then?

MR. CLARK: You may be able to take care of that in the verbiage of your proposed statute. You mena where a person has been adjuged guilty and is either in jail or out, pending an appeal?

MRS. TILLEY: In such a case and also there are times when a man has been pronounced innocent, and is freed and then mobbed.

MR. CLARK: I think you will find that most of these happen before they are tried.

MR. TOBIAS: That is true.

MR. CLARK: We should use all the avenues, all the things we have, to bolster up our statute, and we would use them, of course.

MR. CAREY: What rights are accorded an American national traveling outside the boundaries of our country; what protection is

accorded him by the Federal Government?

MR. CLARK: The usual protections of international law. We would protest to the other government if anything happened to one of our nationals. We don't have any police powers in those other countries.

MR. CAREY: Could we hold that government responsible?

MR. CLARK: Yes.

MR. CAREY: Couldn't we develop something, along the lines that have been suggested, that citizens of this country should be accorded at least the same rights and privileges and protection, traveling or maintaining themselves in this country, that our Federal Government accords our nationals when they are traveling outside our boundaries?

MR. CLARK: Well, I think that is largely dependent upon diplomatic relations, and international law. For example, if I were traveling in England and murdered somebody, I expect I would get pretty summary punishment, assuming I was not the Attorney General.

MR. CAREY: I am thinking in terms of the tremendous national appeal that existed, say, in the recent shooting down of some of our fellows in Yugoslavia. There was more excitement over that and more action by the Federal Government than is indicated when citizens of this country are lynched right here within our own boundaries.

MR. CLARK: Of course, they were soldiers of the United States, and that is somewhat different.

MR. LUCKMAN: It puts them in a different classification.

MR. CLARK: Yes.

MR. CAREY: I think the difference runs the other way. One is a peaceful citizen and the other is part of the armed forces. I am just thinking of the political aspects of it. I think that we should have at least as much, or more interest in the human life right here at home. We should have more control and greater ability to protect a citizen here than we would elsewhere.

MR. CLARK: We do.

MR. CAREY: I am thinking in terms of the Federal Government providing adequate opportunity for a local administration to protect

its citizens, but failing to do so the Federal Government would have reason to expect some accounting for acts of violence against its citizens.

MR. CLARK: Don't you think that conditioned statutes are unsatisfactory? I wouldn't condition it on local action. I would just flatly say that anyone who engages in this type of activity is guilty of a federal offense. If the State wants to move in there, first, all right, let them do it. We have many statutes now that overlap, state and Federal. For example, in the case of gambling and things of that type, the State very often handles that, or sometimes we might handle it, for example on a federal reservation. Or, if we have a man who has been convicted and has received a shorter sentence than we think he possibly should have received, and he has committed some State offense and the State asks us to release him, we very often do that for State prosecution. But I believe you are going to place your statute in very grave doubts when you make it conditioned on the activity or inactivity of a State, because that is a question itself. Suppose the State moves in tomorrow morning and returns a "no bill" from a grand jury. That is what they will do. Then your whole federal statute is stricken down by these 16 men that are on this State grand jury, or 23 men, or whatever number they have on it -- most of them have 16.

So I think myself we ought to make it just an affirmative offense against the United States. Then you have got the human element of an Attorney General of the United States, and a District Attorney or Attorney General of a State -- and we usually get along fine, I don't know of any with whom I don't get along -- and if they move in diligently and sincerely -- we have got enough prosecutions, -- I would rather do it on a local lever because it would do more good on the local level than on the national basis. If you can get the local law enforcement officers to act quickly and diligently and sincerely, you can do much more good, and it builds up the community, and that is what I want to see done.

At the same time I wouldn't want to have my action depend upon some activity of a local officer because you are going to find that there is many a slip there, and it might look as if there was a lot of activity but there might not be any sincerity in it.

MR. SHISHKIN: Our subcommittee has been exploring the problem of the sources of support of some organizations that have been spreading hate and intolerance, and considering the problem of the possiblity of reaching at the sources of their operation, and I was just wondering what your reaction in general would be to the denial of tax exemption to organizations that are placed by statute into a category of that kind, however the category is defined?

MR. CLARK: Well, I hadn't thought about it, but as a general rule I don't believe in indirection, I believe in direction. You are trying to do something indirectly that you should do directly. I would like to go off the record.

(Discussion off the record.)

RABBI GITELSOHN: On that loyalty executive order there is some reason to feel that the civil rights of federal employees may be endangered by that order. Would you have any comments or suggestions to make as to how we can, on the one hand, protect the Government against disloyalty, and, on the other hand, not subject federal employees to that kind of witch hunt which would clearly a violation of their own civil rights?

MR. CLARK: There won't be any witch hunt. Certainly any power that I have will be used to prevent a witch hunt.

There are three things in the order, I think, that would protect that. One would be with reference to the organizations that an employee should not belong to, like the Communist Party or some such organization as that. The Attorney General is supposed to declare whether or not those organizations are subversive, and if they are that is a ground for the removal of the employee who belongs. There we have to use very careful discretion; we have to be certain that the organizations that we do declare subversive are acaually subversive, and we should use the same amount of proof in that regard as we would in a courthouse when we determine whether or not a man is guilty.

In the second place, with reference to your various Government documents that the Joint-Intelligence Staff has a right to designate as being secret or non-secret, I think they have to use a little more discretion than they did during the war when they just had a stamp that said confidential, or secret or super-secret, or something like that. But your protection would be in the head of the department. We don't take away, in this order, the responsibility or the authority of the head of the deaprtment. When the Congress passes an appropriations act appropriating to the Department of Justice $100,000,000 it is up to the Attorney General to see that that is properly expended, and that the Department is properly operated. Sp this order recognizes that and so, when it came up to him to determine whether a man was not loyal to the United States, he would consider these various factors -- just what organization the man belonged to, and if the Attorney General had determined it to be subversive. If it involved documents of the Government, the type of documents and just what they were. And then, on top of that, if he decides against the employee, the employee can go to the Civil

Service Board and get a recommendation from it. It still preserves, however, the authority and the responsibility -- that is the main thing -- of the head of the department. If you don't do that a man can't run his department. You have to give him authority and you have to place the responsibility on him.

I know that soon after I became Attorney General it was suggested to me that we admit error in a case down here that the Supreme Court decided some two weeks ago, with reference to a New York lawyer. And I said no, that I thought we ought to carry it on through just to see the pattern, see just what activity we could take, what the court would say about it. And we took it up and the Court of Appeals decided it here in the District, gave us a yardstick to go by.

So I don't think you need to worry about an witch hunts or any persecution under the order. I think, myself -- and I am quite sure that a number of you think -- that there has been perhaps a little too much hullabaloo about the Communists and subversive activities in Government. Frankly, the reports that I get -- and I get hundreds of them from the F.B.I. and other agencies, intelligence services -- indicate that in comparison to the number of employees in the Government there is a very, very small percentage that even have any subversive tendency, much less belong to Communistic or Fascist organizations.

(At this point Mr. Shishkin asked a question off the record, and the answer thereto, and the following discussion was also requested to be off the record.)

MR. WILSON: General, thank you very much; it has been tremendously helpful and a real pleasure to have you with us.

MR. CLARK:: I am glad to have been here and I hope you will feel free to call on me at any time that you feel I may be of assistance to you.

(Adjournment at 12:45 p. m. to 2:00 p.m. of the same day.)

2:00 p. m.

MR. WILSON: Ladies and gentlemen, we are very happy to have Professor Robert E. Cushman, Professor of Government at Cornell. We are delighted to have you come, Professor, and talk to us on this subject, which, as you know, we have been studying for some time; and we would be happy to have you make a statement and we would

like to have the privilege of asking you some questions at the conclusion of your statement.

STATEMENT OF PROFESSOR ROBERT E. CUSHMAN
Professor of Government, Cornell University

PROFESSOR CUSHMAN: Mr. Chairman and memgers of the Committee, as you know, I am a teacher by trade; so if my statement sounds like a classroom lecture, that is the result of an occupational diseqse, and you will have to overlook it.

I want to make five points or comment on five different things in connection with your program, about which I know something in a rather general way through my previous association with your secretary, Mr. Carr.

My first point is that it seems to me that one of the responsibilities and opportunities of a Committee like this is to clarify and emphasize the constitutional limits upon the power of the Federal Government to protect individual civil rights. I think there is a tremendous amount of confusion of mind on that point, evidenced by the steady stream of demands that Congress do things which it quite obviously does not have the constitutional authority to do.

Most of us, I think, tend a little to keep active in our thinking the old Theodore Roosevelt doctrine of new nationalism, that there ought to be a federal power adequate to deal with any purely national problem, whether the Constitution has put it there or not.

Well, unfortunately -- or fortunately, whichever way you happen to look at it -- that doesn't happen to be a good constitutional law; but most people are not aware of the fact that it isn't. They can't understand why these problems are not met by a head-on drive upon the part of the Federal Government.

I was impressed by that in reading the accounts of the F.B.I. investigation of this lynching down in Monroe County, Georgia, last summer. I suppose it would be fiar to say that nine out of ten people who read the accounts and read that the F.B.I. was investigating that lynching went on from there to the easy and somewhat natural assumption that if the culprits were caught, the Federal Government do something about it directly and expeditiously, having no clear idea of the narrow legal basis on which the Department of Justice has to proceed under Section 52 of the Code.

I think, to sum it up, it is of very great importance that we get as many people to understand that there is a division of labor

in our federal system of Goernment between the National Government and the States and that the National Government's powers in this are as limited as they are.

Point No. 2 -- I think that your Committee should propose and strongly defend improvements in and strengthening of the existing civil rights statutes dealing particularly with matters which are safely within the recognized area of federal power.

I gather from the President's Executive Order setting up the Committee that that was one of the rather specific things that it was supposed that the Committee would undertake to do. I don't see how this can be very seriously controversial. I have checked over the field to the extent to which I am familiar with it; the things that occur to me concretely are the improvements, supplementing Section 52 of the present Code, especially improvements which would eliminate the rather awkward limit on federal power which resulted from the court's emphasis in the Screws case on the element of a willful intent to abridge civil rights in the case of an indictment brought under Section 52.

There ought to be, I should suppose, an increase in the panalty attached to that statute; and perhaps a general clarification and amplification of it.

It seems to me in the second place, the second point at which improvement is indicated lies in the area of shaprneing and pointing up the statutes which deal with both private and official invasion of the right to vote, particularly in Federal elections, but in State elections in so far as Federal power extends into that field; and the principal implementation which seems to me to be needed there is to give the Department of Justice authority or power to go into court and get injunctive relief aganist invasion of the right to vote in advance, and possibly the right to proceed under the Federal declaratory judgment Act in suitable cases. Also some clarification of the status of primary elections is needed.

I have not been able to persuade myself as a student of constitutional law for many years, that much, if anything, in the way of concrete legislation can be made to hinge on the republican form of government guarantee in the Federal Constitution. Maybe some of the lawyers present would disagree with that, but I think that is a rather frail foundation for anything substantive.

Finally, I gather that the very rarely used section of the Code dealing with slavery needs some modernization to give it adequate coverage; but in that general area I should think there ought to be no serious difficulty in providing at least some furhter aid to the Deparmtnet of Justice in more effective enforcement of the laws that they now have at their disposal.

Point No. 3 birngs me to a whole series of highly controversial proposals for Federal legislation aiming to protect quite a wide range of civil rights. Here are the proposals with regard to lynching. Federal FEPC, a code of civil rights for the District of Columbia, anti-Jim Crow law affecting interstate transportation, and anti-poll tax law, and quite a variety of others that could be put into that category. Some of these seem to me to be controversial because of rather serious constitutional doubts as to the authority of Congress at present to legislate with respect to them in any very effectige and direct way.

A good many of them are politically highly controversial. They aren't as far as I am concerned. I think I am in favor of every one of them so far as the policy and content goes, although I do have a good deal of doubt about the constitutionality of one or two of them.

I hadn't planned to discuss those because it seemed to me that the extent to which a Committee of this kind is likely to get into the consideration of them is going to involve a number of problems of strategy with which an outsider can hardly be familiar. I don't mind saying that I am a good deal of a realist about these things.

I think that some of these things are politically impossible in any manageable period of time in the immediate future.

I am not sure that it wouldn't be my judgment that it would be unfortunate to propose in a definite and immediate way a good deal more than there was any chance of getting and thereby lose what seems to me to be pretty well within the reach of the Committee; but there again I feel that I am talking about things that one outside your circle is not equipped to discuss with any thoroughness.

The Fourth point, and in my judgment a point which I think is a vitally important point, is this: A Committee on Civil Rights set up by the President of the United States has a unique opportunity to focus the attention of the American people on the fundamental importance and value of our American rights and freedoms. I don't mean by that merely the little narrow list of t ings about which Congress can legislate, I mean the whole American tradition of civil liberty in all of its aspects.

The reason I feel so strongly about the importance of this particular aspect of the opportunity that seems to me to be yours is that I am convinced that there is an intimate and inescapable connection between the preservation of rights and freedoms in this country and an intelligent public opinion. If you don't have a community opinion which supports laws or the administration of laws devoted to the protection of civil liberty, in the long run civil liberty is not going to be adequately and satisfactorily protected.

On the other hand, if you don't have civil liberty, you aren't going to have any mechanism by which you can hope to get a public opinion which amounts to anything -- so that the two things are bound up together.

I have felt for a long time and continue to feel very strongly that those of us who are not members of minority groups and who, perhaps, have no special axes to grind, lose track of the fact that we have a tremendous social stake in the preservation of the American code of rights and freedom. We tend to associate civil liberties and civil rights, the very terms, with minority groups, with people who are being pushed around for some reason or other, and very often people with whom we ourselves do not agree and perhaps aren't particularly keen on bieng associated with.

Furthermore, we have left in the main to the minority groups and the crusading organizations as much of the job as has been done of educating the American people about American rights and freedom. We get very little of it on any other level.

I think there is a great distortion of judgment about the problem, which has resulted from that; which is why I feel so strongly the advantage of having the prestige of the United States Government somehow associated with a problem of this kind. I thought when the Civil Rights Section was set up in the Department of Justice that just the fact that it was set up was of great importance, irrespective of what it accomplished.

I thought when this Committee was created, that again was an item in the building up of prestige and the focusing of national attention upon problems that everybody ought to have an interest in. Your report will accomplish a great deal in that regard.

It is very interesting to observe that the Supreme Court in a series of decisions in the past seven or eight years has been moving along until it now occupies squarely the position that the civil liberties guaranteed by the first amendment to the Constitution of the United States -- freedom of religion, pres, speech, assembly -- are in a preferred position in our constitutional scheme of values, that they are of deeper and more vital importance than other clauses of the Constitution.

So that if a law is passed which appears on its face to abridge any of them, the presumption is no longer in favor of the validity of the law; the presumption is against the validity of the law until it can be shown that there is a clear and present danger which justifies it.

What it adds up to is that the Court, at least, has moved into this position of recognizing the very high importance of these rights and liberties which form part of the American tradition. I think just for purposes of pure propaganda in dealing with governments which are not democratic governments, as the Soviet Union, we can't possibly overemphasize the extent to which we are bound to defend the civil liberties which form the basis of democratic government in this country.

I think this Committee has an opportunity it certainly ought not to lose -- and I am pretty confident it won't lose -- in just registering its own conviction of the importance of this whole area.

That leads me to my final point, which is that I very much hope that out of your deliberations there may come a proposal for some sort of continuing organization on a national level to which would be confided, perhaps, a somewhat general responsibility as an advisory agency to keep attention focused on American rights and freedoms, to keep capitalizing the prestige of the Federal Government as being actively interested in seeing that the people

of this country understand what those rights and freedoms are and how important they are to the continuation of the democratic process.

I could conceive that a council or committee or some sort of organization, perhaps a civilian group operating through a paid staff, could keep going a set of interests and activities which would not subject them to criticism as taking sides in any particular controversy, but which would serve as a clearing house of information, an agency which might organize from time to time public conferences of leaders of thought in various fields connected with the general problem and which might conceivably carry on, perhaps, a certain amount of research either on its own or in connection with some of the research agencies here in Washington wheic are equipped to make studies on particular problems.

That is about the substance, Mr. Chairman, of what I have to say. It is not very impressive, but it summarizes my own immediate thoughts, at least, with regard to what I conceive to be your assignment and what you might possibly be trying to make out of it.

MR. WILSON: That is a very excellent exposition, Professor Cushman, and very helpful; and I am delighted that we have the record of it because I think it will be very helpful as we attempt to carry out this job which you have outlined.

I think, generally speaking, the Committee will fidn itself very much in agreement with what you had to say.

Now, have you questions for Professor Cushman?

MR. LUCKMAN: I have one, Professor Cushman, which I simply did not understand the meaning of. When you were listing the individual suggestions, I think under Point 3, you spoke of an anti-Jim Crow law affecting interstate commission?

PROF. CUSHMAN: Transportation. The follow-up of the Morgan Case.

MR. LUCKMAN: Yes.

RABBI GITTELSOHN: You mentioned the Supreme Court restriction by interpretation of what was probably the original intent of the post Civil War civil rights legislation.

Would you care to venture an opinion on what the prospects or chances would be of a more liberal Supremem Corut interpretation if new civil rights legislation of the type were written and, of course, eventually came before the Supreme Court for a test of

constitutionality? Do you think the change in the complexion of the Court in recent years would have any great effect on their interpretations of such laws?

PROF. CUSHMAN: I don't know that I have any clear opinion about that. The point was a technical one and I think there is some reason to believe that the opinion which the Court wrote in the Screws case, which injected this pretty unworkable element into the picture of insisting that a jury be charged that if Jones beat Smith over the head, if he is an officer of the law, he must have had in mind when he beat him that he was violating his civil liberties or civil rights instead of just trying to beat him.

That makes it pretty difficult to do any business there. Well, the impression that I have is that what you got out of that was something of a compromise among members of the Court, by which the Court avoided holding the statute inapplicable altogether.

The word "wilful" is in the statute. It would be easy to take it out and see what you had left if you went into court on it, and you probably wouldn't know until you did. There is a disposition on the part, I think, of some of the Justices to keep in mind all the while that penetration of Federal authority into an area traditionally occupied by the States, and particularly in the field of the enforcement by the States of State law, is something that should move pretty slowly. I don't think the orthodox judicial slant on that is very friendly.

Nevertheless, I would expect most of these specific changes which have been suggested in the present statutes to be upheld. The Court went pretty far in the Primary Cases, of course.

MR. TOBIAS: You spoke of what I think Cavour referred to as an enthusiasm for the possible. Take, for instance, the situation in the District of Columbia, the segregation policy here, which from some points of view would be politically impossible of readication; yet it is just that kind of thing that makes it impossible for us to refer with emphasis in the working of our system, particularly when we have in mind certain governments of different ideology -- I think it is important, and my whole enthusiasm for the work of this Committee is that it shall lift American prestige in the world, which these practices are making it impossible to do.

It will be a difficult thing to bring about a change for instance, in the segregated public school system of the District of Columbia, but it is a standing reflection on our American democracy that we have adopted in the nation's capital the least desirable patter of education. It seems to me that even though that might

be classified among the politically impossible t ings, that we ought to have an enthusiasm for it, anyhow.

PROF. CUSHMAN: I am not sure I wouldn't go along with you on that particular issue, partly because I don't think that it would have the same kind of ramifications that a frontal attack on a nation-wide scale might have. Of course, there is nothing that I resent so much in this whole field as the fact that this is a Jim Crow town. It just burns me up.

What I had in the back of my mind was that, as you say, -- you quote Cavour -- I usually quote Burke, who told the House of Commons once:

"I hope I shall never fail to do a proper thing because there is something else more proper which I am unable to do."

That is a reasonably sound practical bit of philosophy. In any event, I was merely drawing attention to the fact that it is possible for a set of proposals to get into a context where you just are going to have them scrapped.

I was a member of the staff of the Brownlow Committee, the President's Committee on Administrative Management back in 1936, when that job was done, I am firmly convinced that Congress would have passed most of that program. Very little of it was controversial on any serious basis. Mr. Hoover, Governor Lowden, Mr. Landon had all promised to come and testify before the appropriate committee. Two weeks later the President sent his Supreme Court proposal to Congress. When that fight was over, he couldn't have gotten the reorganization of the Nation Screw Thread Commission out of Congress. The whole thing was just wrecked by being associated with something else which had been resented.

Now, maybe that is a philosophy of timidity, and I am not expressing a judgment about it. Frankly, I don't know what I would do if I had responsibility in a matter of this kind. I don't think the Committee ought to ignore these issues. Whether it should would seem to me would be one of the most difficult problems you would have to deal with. To simply say this law ought to be passed right away -- maybe it should be.

RABBI GITTLESOHN: What are some of the things you feel are politically impossible on the list you gave us? You said some of them are politically impossible.

PROF. CUSHMAN: Maybe none of them are. I don't know whether

a national FEPC is or not. I think that is getting into the general field where it is within possible shooting distance of your getting a kind of support for it which you didn't previously have. Of course, I think the anti-poll tax legislation is questionable. I happen to be one of the constitutional lawyers that has very grave doubts about the constitutional power of Congress to legislate poll taxes out of existence. And the same about any thoroughgoing anti-lynching statute. I think you can go part way in dealing with lynching. You can improve the legislation with which you deal with conspiracies and mob violence, if you can draw in some officer

I don't think there is any sound footing for an anti-lynching statute which simply moves in and makes it a Federal crime to kill somebody by lynching him. That is my own opinion.

MR. SHISHKIN: As to the constitutional doubts, you feel that the anti-lynching and anti-poll tax statutes are the ones about which there might be doubt?

PROFESSOR CUSHMAN: Yes.

MR. SHISHKIN: I think it is important for our Committee to know the limitation.

PROFESSOR CUSHMAN: I don't think there can be any serious doubt about the constitutionality of a properly drawn FEPC statute based on the commerce clause. I mean if the Fair Labor Standards Act is good constitutional law. I don't see why the basis of objectionable employment conditions shouldn't be extended if Congress wishes to extend it. Certainly the Congress has full authroity over the District of Columbia. If Congress wishes to establish a policy of non-segregation on all interstate carriers, there can't be the slightest doubt about its authroity to do so. That would be my feeling.

Those two are, in mu judgment, dubious. I hasten to say that lawyers in whose judgment I have very great confidence disagree with me about that, so maybe it is worthwhile to try them out and see what you can get out of the Supreme Court in order to be sure.

MR. SHISHKIN: What is your feeling with respect to the proposal for a Federal law that would require private organizations whose activities might affect civil rights of citizens to disclose the sources of their financial backing?

PROFESSOR CUSHMAN: I am in favor of it. I am in favor in general of this general policy of disclosure all along the line.

My reason for feeling as I do is that if you think about the process of forming a public opinion in this country at the present time, you can no longer think of it in therms of Holme's epigram about truth competing against falsehood in the market place.

You have these propaganda organizations, and a good public relations man will tell you if you will pay him a certain amount of money, he will sell any idea to the American people that you want to buy and have presented to them.

In a context of that kind, how are you going to get any protection of the integrity of a public opinion emerging from the clash of highly charged prpaganda campaigns? Well, maybe the disclosure of who is paying for them and what is back of the organization that is putting the campaign across may not be too useful, but it is a little help. After all, if you do know who is paying for an onslaught on the public eye and ear and what sort of an organization it is, that at least helps you make up your mind as to whether it is a crowd you want to go along with or whether you don't.

I can't myself see any reason why one should seriously object to it. I realize that many organizations do, but on the whole I feel that we are bound to come to it sooner or later just in self-protection, just in order to know where these ideas come from which we know somebody is paying somebody else a lot of money to disseminate.

The American Civil Liberties Union, I gather -- I have had some correspondence with Roger Baldwin about that -- is divided on that point, but my own opinion is very firm on it.

MR. DICKEY: If you did have responsibility and you had to choose where you were going to throw your effort, where would you throw your effort in this whole field of civil rights?

PROFESSOR CUSHMAN: You mean from the standpoint of looking at it as a member of the Committee or just in general?

MR. DICKEY: Well, to make it easy, as a member of this Committee -- or to make it difficult, perhaps. I am very much impressed with what you say myself that we may have to choose here in emphasis as to what needs doing most first.

PROFESSOR CUSHMAN: Well, I think -- without repeating myself -- I think that certainly there couldn't be any question about the proposal of improvements in the existing legislation. I can't see that anybody could object to that.

DR. DICKEY: You mean attempting to meet the difficulties of the Screws case? That would be a pretty small mouse to turn this Commission loose on, would it not?

PROFESSOR CUSHMAN: Yes, maybe so, but certainly that much -- there wouldn't be any disagreement that that ought to be part of your program. At least, that would be my feeling about it.

I confess that I feel the educational potential in this is as important as anything you are likely to do. I mean if the thing could be implemented satisfactorily, it seems to me that the presentation of a report that focused attention on the whole broad field, whether you came out flatfootedly in favor of a particular statute or not, the emphasis on the general importance of broadening the information of the American people about these subjects and the intention of trying to see that that was kept going seems to me to have more possibility of paying dividends than almost anything else you can do.

I don't think Congress is going to pass an FEPC statute because your Committee commends it.

I have no objection to your recommending it, and I hope Congress will pass it, but my own feeling is that to get national attention focused on some of these problems is of very great importance.

DR. DICKEY: Do you think that a civil rights statute for the District of Columbia would stand as high as any other vehicle in importance that we might use to focus national attention on these questions?

PROFESSOR CUSHMAN: I think you are probably right. Yes, I think so.

DR. DICKEY: Of course, that leads you, I suppose, right into the suffrage issue, doesn't it?

PROFESSOR CUSHMAN: I am not sure that I know just what you have in mind there.

DR. DICKEY: I had in mind the suffrage problem in the District of Columbia primarily.

PROFESSOR CUSHMAN: Yes, yes, of course. I was thinking in terms of Negro suffrage in surrounding territory.

Of course, I have never been able to understand exactly why

the District of Columbia shouldn't have suffrage on some basis or other. I don't know why it shouldn't be a point that a Committee like this might well consider.

DR. DICKEY: We have been told by some that you won't get civil rights in the District until you get suffrage for everyone. Then, on the other hand, we are told by others that if you get suffrage for all, you can just put it down you are not going to get civil rights.

PROFESSOR CUSHMAN: I hadn't been thinking about that particular problem in this context at all. I think it probably belongs here, however.

RABBI GITTLESOHN: Dr. Cushman, I am very much interested personally in your suggestion that we try to make this a continuing effort rather than let it die with the expiration of this Committee. I think all of us are pretty well convinced by now that at best we will be able to touch only a small segment of the total problem.

Do you think the pattern of the White House Conference for Children, for example, might be fruitful for a continuation of this kind of work on a similar basis?

PROFESSOR CUSHMAN: I am not familiar with the detail of that, but something of that sort -- I hadn't really thought the thing through in my own mind.

It would seem to me it ought not to be a governmental enterprise such as another bureau or office. As soon as you give it that status, you would rob it of a very large part of any influence it might have.

RABBI GITTLESOHN: But it should have government sponsorship?

PROFESSOR CUSHMAN: Yes, by all means, but it ought to be composed of a representative group. There should be drawn into its planning and management, a representative group of distinguished citizens such as such a group as this, probably not as large as this if it were to be a continuous working agency.

Perhaps, the results would be a bit intangivle, but there are a lot of things that could be done. The lack of understanding in this area is really appalling, and we are tending to lose civil rights simply because people no longer appreciate that they have existed and are worth doing anything about. While I don't think the Governemtn can engage in pro aganda, it can engage in an

educational program on a dignified level, which would seem to me to produce results.

MR. SHISHKIN: Professor Cushman, there was one point that was brought out in some of our discussions with respect to restrictive covenants, particularly that pahse of it where the restrictive covenenat might be used as a device to support the price of the property or enhance the value of the property through conspiratorial methods. Perhaps there is a further limitation on the area we could reach by directing it to the point where the holdings might be large and might have interstate aspects, such as insurance companies or banks or other large holders; but starting at this easy point of that li ited application, do you think anything might be done by reaching it through the anti-trust laws techniques?

PROFESSOR CUSHMAN: I hadn't thought of it. I hadn't supposed that these covenants were of such scope that they could be brought within any spehere of interstate commerce.

MR. SHISHKIN: Only in so far as large holding were concerned, but there are situations which might be placed within the area of monopolistic practice involving real estate, and I was just wondering whether you thought that was beyond our reach completely or whether there might be some means of dealing with it federally.

PROFESSOR CUSHMAN: It is not a problem that I know anything particulary about. It doesn't offhand seem to me to be very promising, but there might be something in it that I don't see.

MR. CARR: One other matter that has come up again and again in the use of the taxing and spending powers to withhold subsidies or tax exemption privileges from organizations, public or private, which practice discrimination or in other ways threaten civil rights.

How promising an approach does that seem to you to be?

PROFESSOR CUSHMAN: Well, there is certainly a potential weapon there. We will know a littoe more about it, perhaps, in another year or so in New York. We have been having a battle up there for quite a little while, trying to get some legislation like that through the New York State legislature. I don't believe it passes.

MR. TOBIAS: No.

PROFESSOR CUSHMAN: I am not too convinced that a great deal is

likely to be accomplished by that method, for it is very difficult to enforce, as the New York experience seems to indicate.

Of course, theoretically we have a statute in New York which would seem to be adquate to deal with that problem, but when it comes to picking out the institutions in New York that receive tax exemptions and are discriminating on the basis of race or creed, nobody seems to be able to pin anything on anybody in particular. That is the general impression.

If you tried to do that on a national level -- there is unquestionably a weapon there. I am not sure it isn't a backhanded way of coming at the problem, but it might be useful to experiment with it.

MR. WILSON: If it could be made to work, it would be a truly effective way.

PROFESSOR CUSHMAN: Yes.

MR. WILSON: Because it would cover so much ground.

PROFESSOR CUSHMAN: Yes.

MR. WILSON: The use of Federal funds or Federal fundw withheld.

DR. DICKEY: The New York legislation that you refer to -- does that relate to withholding of State funds?

PROFESSOR CUSHMAN: Tax exemption. I think it is a fairly old statute.

DR. DICKEY: Property or income? Income tax?

PROFESSOR CUSHMAN: Property. I don't think these institutions would pay any income tax.

DR. DICKEY: I was thinking of contributions by an individual to the institution.

PROFESSOR CUSHMAN: Merely an assessment on the real estate.

RABBI GITTLESOHN: That is right.

MR. WILSON: In New York State, if I am not mistaken, in institutions - - we will just call it an orphanage as an example-- if it is going to get State funds, it cannot discriminate, as I

understand it. And recently there has been an attempt made, I believe, to make that stand up. And institutions that formerly did discriminate on the grounds of race or creed have had to change their practices.

PROFESSOR CUSHMAN: Yes.

MR. WILSON: I do know there are institutions in New York State that have had to right about face on the subject of discrimination. I happen to know one of them.

MR. TOBIAS: The proposed bill was to make that applicable to private institutions as well.

MR. WILSON: This has to do with any private institution or semi-private institution receiving State funds, and nearly all of them do receive a certain amount of State funds, as I understand it.

MR. TOBIAS: Tax exemption would be that in antoer form.

MR. WISLON: That is right, just another form of it, but somewhere along the line -- and I think we ought to find out about it in New York State -- teeth must have been put into that situation the last few years because there has been a considerable change. It may be a lever that we could use to the desired end.

MRS. TILLY: Does the New York law take into account deductions of income for gifts to these institutions?

MR. WILSON:: So far as I know it does not. It is simply the receipt of State funds. If they receive State funds, at all, then they must not discriminate.

PROFESSOR CUSHMAN: There was an action -- you probably noticed accounts of it in the press -- an action started against Columbia on that basis. They didn't succeed, apparently, in proving discrimination on Columbia University. What I gathered was at stake was the exemption of the Columbia University property from taxation.

MR. WILSON: I think in Columbia's case that was the threat. Have you any other questions for Professor Cushman?

If now, we will excuse you, sir, and thank you most heartily because I think you have been tremendously helpful to us and stimulating in your suggestions.

PROFESSOR CUSHMAN: Thank you very much for the opportunity. I enjoyed it a great deal.

MR. WILSON: Ladies and gentlemen, this is Mr. Victor W. Rotnem, who was the former Chief of the Civil Rights Section, and is now a practicing attorney here in Washington. We are delighted to have your views on this subject, which we know is one close to your heart, sir, as it is to ours; and we would be glad to have you, if you will, give us the benefit of any statement that you care to make on the subject, and then we would like the privilege of asking you some questions when you finish.

STATEMENT OF VICTOR W. ROTNEM,

FORMER CHIEF, CIVIL RIGHTS SECTION,

WASHINGTON, D. C.

MR. ROTNEM: I am quite impressed to find a group like this meeting on these problems. I know that you have, I am sure, hundreds of thousands of people interested inseeing to it that something real by way of a future program comes from your deliberations.

I have wondered much how I could be most helpful, having seen the work of the Section during the full war period. It is hard to make clear what we tried to do, unless we orient ourselves into the field of criminal law because we, of course, were a functioning unit of the Criminal Division.

The Criminal Division in Justice certainly has a large share of the toughest dirtiest problems that come before the Government. After all, it is their job -- a goup of specialists -- to fill the Federal prisons. When you came to look at the criminal law, as it affected civil rights, you, of course, found great differences of opinion among the United States Attorneys, as to what was and was not a good criminal case.

The appraisal of a criminal case, I am sure, is as difficult a job as any civil servants in government have to do. The judgments that must be made as to whether or not this is a case, whether or not these people merit the punishments that are provided in the criminal statutes, are very hard to make.

Now, I am sure you have had explained to you the history of why in the criminal field of civil rights there was almost from the beginning of the Section a control at the chief's desk as to investigations -- that is, the direction of them -- the direction of the case as it proceeded to the grand jury and from there to trial. Looking at the process that goes on in relation to an estimate of a case, you have a bunch of mail, first, that comes in to you, or people come to see you with complaints. From that you must decide which matters merit FBI investigation.

Some of the best cases originally came on a penny card -- usually from the South -- but a penny card annonymous. Great mistakes were made and can easily be made in sometimes investigating a matter which didn't merit investigation.

I am sure all of you have had some experience some way or other with the Federal Bureau of Investigation.

If you haven't, imagine yourself in a small town and agents come to investigate a problem such as a typical civil rights problem, or suppose you are the town banker and they are looking into some phase of your income tax. Does that investigation get around the town in a few days? It certainly does, The better investigations were always those where we had the benefit of not too much publicity, not too much fanfare, not too much overconcern about when we had started investigating; so that we might through agents obtain those fundamental pieces of evidence that are required for conviction in a criminal case.

One of the greatest difficulties we had was that a civil rights case was usually so interesting, concerned so many people, that well-meaning folk would run stories in the press, would come to see us, run to the newspapers after they had seen us, petitioning us, urging us to investigate. Many a time it was wisdom to pretend that we were still considering investigation and to let it be known that we had started to investigate about three weeks after we had begun, so that we might have that advantage of peration before souvenir hunters, and what not, were in the field poking around. Many times have best-meaning amateurs gone into a southern area meaning to help and actually hindered more than they knew.

One job that we never did satisfactorily do was to explain to the public the difference between the ordinary procedure of a grand jury in a State process as opposed to the preferable Federal system. The Federal grand jury, especially in our cases, was rarely a good vehicle for investigative purposes. How anyone could expect 24 average people sitting in a rood to suddenly be learned in the art of investigation -- it just doesn't work that way. Accordingly the best criminal cases -- certainly it was true of every one of ours that came to indictment and trial -- were so throughly prepared by investigation before we went into the grand jury room that we could have tried them the very next day.

Any criminal case is best, if as we say, it doesn't get too old and have whiskers on it. Take the first lynching indictment in Mississippi during the war, which was a surprise to almost all of us. That grand jury would never have indicted had they met the second day. They met, the heard this terrible sotry, they took a

vote, and they voted the right way. Had they gone home and re t again the next day, there would have been no indictment.

The only exception I know of where there was a long drawn out process was in Detroit in the Sojourner Case. There we did slave for weeks with the grand jury, and an indictment was returned finally. That was an exception. There was quite an affair during the war. I don't know if you all remember it, but it was in New Iberia, Louisiana, a terrible situation. A book was written about it later. Several prominent Negro professional men had to leave town overnight. I don't know whether any of them have dared come back even now.

It was so involved and we did deliberately try to supplement the FBI investigation with several days of grand jury. Maybe the result was good. The report they issued, or the stories that came out -- I am inclined to think, however, we would have done better had we used the process of Mississippi -- had we not been so much the sociologists as the criminal lawyers and pushed for that indictment, indicted, and put the defendant to trial. When you do that, I assure you you can't always be too fair. Any criminal prosecutor who has much success in the arts of getting indictments and getting convictions, I imagine as you look at him, talk to him, every once in a while you sort of conclude that part of the reason this man has su success in his field is somewhere or other in his make-up there is a slight touch of the gutter. He can't be too concerned always if he is looking for results.

I know that is very dangerous, and yet I am trying to give you that picture of the necessity of sometimes, if you want convictions, of using the artifices, using the things that, of course, well-trained criminal lawyers use just as the defense lawyers; and we have to admit when we get into this field that we are in the arena with one side bringing forth their best and the other side doing the same.

If you are going to use the criminal process in this field and if you want success, you have to bow to giving the criminal prosecutor a certain leeway. You can't hold him to too strict a standard, in other words.

Now, an interesting thing occurs when, as in civil rights cases, quite often you select a case because you see in it an excellent opportunity to test a question of law in the Supreme Court. Now, how is that done? In the criminal case if there is an indictment and then the defense demurs, it is possible to have a direct appeal to the Supreme Court on a constitutional issue. It is one place where the Gevernemtnt, so to speak, gets a break in the process.

The other way, of course, is that the defendant loses and appeals and it gets there as in Screws. Now, the average lawyer for the defendant is entirely too smart to demur and let us go to the Sypreme Court because he knows that the chances are five to one that if he will put us to trial, he will win an aquittal. But I guess there are many lawyers, however, who are magnetized by the opportunity themselves to go to the Supreme Court on an issue. It was surprising how many of these cases did by this process go to the Supreme Court.

Then, however, you have a very interesting debate with yourself sometimes because in a cifil rights case you may have the finest opportunity to get this test of law, as, for instance, in the Classic Case, which the Criminal Division had been working for 20 years to have an opportunity to shoot at.

Now, the Classic Case was not a strong case. Really if you knew its facts, you would not be unreasonable if you were to say it was ridiculous to indict in that case; and yet by indicting, you had this issue, which went to the Supreme Court, and you had one of the great cases of the Twentieth Century.

So as the lawyer directing such a case -- and your superiors who let you go with such a case -- you have to make that delicate judgment whether in spite of thsi being a weak case you are justified in going with it because of the importance of the question. That is a hard question to seetle if you appreciate what a criminal indictment does to a man's record for the rest of his life. Poor Patrick Classic, I suppose, wherever he goes has this indictment staring him in the face and he will have to explain it between now and his death and after him, his children.

The other field where tests come into the Supreme Court, where the Section assisted, was in briefs amicus where in a civil case, usually a damage case, usually brought by one of the great groups, the Civil Liberties Union or NAACO -- in the final appeal, if the Solicitor General approfed, the Government would file a brief and assist in the strategy of the case.

In htat regard in the Department the number of briefs amicus that go to court entirely depend on the policy of the Solicitor General. Mr. Fahey was very helpful in my work when I was in the Department. You could always talk to him about any case. However, he was not in favor of too many briefs of this type. His policy was very few. That, of course, the Section can't do much about. I think we petitioned for eight and received one while I was there. And yet I couldn't feel hurt about the negative decision of any one of them. There was a real difference of opinion.

For instance, one that I worked hardest to get was the Jehovah's Witness Flag Salute Case. It wouldn't have made any difference if a biref had been in there or not. We thought so at the time, but when it was argued and all the briefs were in, I must admit they had covered every point very well. But we would have liked to have felt we were in there doing something.

One other method that the Section could use, was the writing of law review arricles on points of law that came up. We did much of that, and that work is continuing. I think to the lawyers in such a section there should be a constant encouragement toward such kind of work, that it should be as much of a feather in their hats as a conviction would be.

Convictions in civil rights cases in the South -- and practically every case was in the South, of course -- were had after we developed a group of southern trial lawyers. I never sat in a southern court room while any of our cases were being tried. If I had, as chief of section, it would have been a story and they would have been trying me. I would have hurt the case.

I did a few times sit back in the United States Attorney's office and try to keep my presence in the city quiet. I think the average prosecutor from Washington in a civil rights case is much wiser to conduct himself in that way unless he can becmme part of that community. Maynard Smith was one of the most effective trial men I ever saw in that field. He is not with the Section any more, but is practicing. He came from the adjoining county, almost, in the Screws case.

There you had the perfect trial lawyer. The selection and training of a group of southern trial lawyers, who know how to work with United States Attorneys, has been essential in such a program as this.

Almost always when the more important cases were developing the United States Attorney was invited to come to Washington, sometimes by our Section, sometimes by the Attorney General, sometimes by the Solicitor General, and he then received the background of why this case fitted into the whole program. His cooperation with the grand jury is so vitally important that if you do not take the time to let him know the background, you are apt to have no succeess at all.

I mentioned earlier the Mojourner Case. It was an exception where you had a length of time. The reason we obtained the indictment was, I believe, that the United States Attorney, with the Washington men staying out of the room, talked to the grand jury

man to man. He had lived with them.

You never bring these cases to the grand jury until the United States Attorney has had a chance to work with them inmany cases. Sometimes the United States Attorney would say, "Don't bring this case to this grand jury. Wait until we get a new one." And about the middle of the next session he would call and say, "All right, boys, let's go!" That is the ABC's of this kind of stuff.

The whole Criminal Division, when you look at it as a whole, has in it many specialized groups. One group of men works on indictments. There is the Appellate Section, which does the brief work. You have agroup of trial men and a group of generally well-trained lawyers.

Now the division is having its difficulties because of war-time cuts, but when we didn't have them, it was a pleasure often to be able to sit and actually make a selection from, perhaps, 50 men, as to who in Washington in the group were the best one to send on this case and find that almost always they were glad to jump in and help, even though it wasn't their field.

So I point out that a great deal of help comes to the section such as the Civil Rights Section from the other parts of the Criminal Division, and, of course, the Solicitor General's office in the Attorney General's office itself.

A great number of these cases are of such importance nationally that the Attorney General just simply quite often has to take the file home and read up the facts and know it as intimately as the men down the line, and the Attorneys General do that. Every one I have known. And so with the Assistant Attorneys General.

Time after time, Tom Clark, as our boss in the Criminal Division, came in and took a file home Friday night and went over it. I do now know how he could cram the stuff in the way he did and come in on Monday morning and ask us the questions he was able to ask. He is an excellently equipped criminal trial lawyer.

Growing up in a division like that you had an informal method of trying a case in the office, trying it out just before we were ready to go. Three of us would take one side and three of us would take another and we would bat it out and spend an afternoon. We might conclude at the end of it that in spite of all these pressures that wasn't a case to go ahead with. None of that came the public see or know of.

Now, moving over into the field of speech making, going about

and making speeches and addresses to groups, I think a great deal more of that could be done than has been done.

Such speeches should be thoroughly prepared in advance. A good part is the later distribution of those speeches. They should follow a program that you are developing so that at the end of a year you have a series of 18 or 20 addresses which almost merit publication.

I am sure you have all heard of the great amount of time that the Section spent with crack-pots. Somethimes they are totally crazy people who either write letters or come in person. And entirely too much time has to be spent on that problem by men who are so well equipped that they shouldn't be burdened with it, but God knows how else you could do it. Many times the Chief of the Section has to take on a couple of hours a day listening to one or two of them. In the case of some of them, if you called up the District Building and guided them over there, they would be at St. Elizabeth by 6 o'clock.

It would be nice if something could be done about that in the Department to save the time of these men and women who are wasting it there.

By the same token, you can't answer every peice of mail that comes to you because you have to become an expert in picking out the "nut" mail. If you answered everything, it would come and come and come. There are still people who continue to send in communications even though they are not answered.

And then, of course, you see the pressure groups and their methods, how they wire, write, and cut coupons and papers — a ridiculous waste of money and effort.

I am trying to jump to different things now, trying to think of things as they strike me now. Another pahse of this work, in the viewpoint of government men, is the problem of the press and the pressure groups who are interested in specialized fields of civil rights.

Naturally, your labor union groups will be so interested if it is a civil rights case involving a labor union, but try and interest some tough labor leader in a problem involving Jehovah's Witnesses and he thinks you are a little off the beam.

Many men who have an interest in this field have just a hobby interest, a very sincere one, in one small segment of the field; and, of course, sometimes their hobby leads them into an enthusiasm

which I guess the discipline of government has to calm down a bit. You couldn't go along with them as much as you might like to. Pressure groups are very often unfair on the men in the Section, by asking the impossible.

Many of the leaders of such groups could do much self-education and much study as to the possible areas where we may operate as a civil rights group. They should know those limitations better than the men in the Government themselves.

On the other ahdd, the very groups that I am criticizing, however, in another way are the most helpful of all groups to the Section. They keep it on its toes. They bring the problems to it and assist in a hundred different ways. Large groups always come in after some terrific episode such as a lynching or some special case that gets worked on like the boy's case down in Virginia where he was about to be hung the next morning. In those cases large groups come in.

Thurgood Marshall, General Counsel of the NAACP, would almost always be in such a group, and he would sit sometimes a couple of chairs away and would himself do the kind of work that I think leaders should do more of and tell hispeople what this was all about, bringing them down to earth as they would make these wild statements; and, of course, it was twenty times better that he tell them than that I tell them. That kind of responsibility groups should take.caThey should take it more. I suppose sometimes they are doing this disciplinary checking over of a case before they ever come to Washington. Of course, much of it is stopped that way. However, they have a responsibility to not bring in things which are frankly just junk cases.

I haven't any special group in mind when I say that. It is just that in the five years there were an awful lot of them.

MR. WILSON: Would you like to suggest or could you or will you suggest any spsical line of approach to this general subject from this vast experience that you had in the Section that you think we should apply ourselves to specifically, and particularly to be helpful to the Department of Justice?

MR. ROTHEM: It is difficult to answer that without saying, of course, so much depends in the Department on who the Attorney General is. As long as you have a Tom Clark as Attorney General, you know that the criminal work involved in the Criminal Division, including the Civil Rights Section, gets every help it could have.

MR. WILSON: Except that we have been under the impression

that there may be things that we could suggest — procedures, changes, and so on — things we could suggest that would uphold their hands a bit.

MR. ROTNEM: First of all, you have to appreicate that so much depends on the Attorney General and his policies in relation to this type of work, where you have these 96 United States Attorneys that, after all, are bound to follow the leadership of the Attorney General. They are responsible to him, and if they know he is interested in one of these cases, gearally they are interested in this case, even though otherwise they might tend not to be. I don't suppose there is any answer to an insurance that future Attorneys General have this interest in this subject, and yet it is your biggest difficulty always.

An Attorney General of the right sort will always see to it that this Section functions much as I have tried to give you a picture of it.

MR. WILSON: Are there any questions that you would like to ask Mr. Rotnem on the general subject?

MR. LUCKMAN: I would like to ask whether during the time you had this responsibility there was any occasion for prosecution of cases involving restrictive covenents.

MR. ROTNEM: Such cases were considered in the brief amicus stage a couple of times. I do not remember any set of facts where we could go with a criminal case of felt we could.

MR. LUCKMAN: There were no acutal prosec tions?

MR. ROTNEM: No.

MR. LUCKMAN: Were there any investigations?

MR. ROTNEM: One, I believe, in Mississippi.

MR. LUCKMAN: Were there very many complaints received by the Department in regard to restrictive covenants?

MR. ROTNEM: Not a great deal. It is interesting that there weren't more. It was not a field that people wrote letters about. The cases that were discussed as a rule were brought to us by counsel, who discussed them. Invariably on that question we couldn't come in with a brief.

RABBI GITTELSOHN: Mr. Rotnem, I would like to have your views,

if I may, on a question we have already addressed to several people, but which you might, because you are an ex-chief of the Section, be able to voice an opinion more freely than they. Do you feel from the point of view of both prestige and possiblities of accomplishment anything would be gained if the Civil Rights Section were to become a division in its own right, rather than a section under the Criminal Division?

MR. ROTHEM: I have thought about this a great deal. I have heard it debated a hundred times, different ways. My conclusion, after my experience, is it would be a very bad thing to remove the criminal work from the Criminal Division. The judgments that you need to be made — as you remember, the Appellate Section, the men who handle the indictments, the other trial men, the Assistant Attorney General — working with the other divisions, especially the assistance you get right in the criminal shop, you would never get that kind of assistance if you had a separate division. That is the way government is. In this set-up the whole division feels like you are part of it, and you are.

It is one of the nicest government shops I ever was in, and I have been in many. They are exceptionally well trained men and nice to work with. I am afraid you would lose much more than you would gain.

I also think this; If you set up a division or a bureau, you would have to go into a great number of fields beyond the criminal field. Maybe that is the reason you should do it, but if that does seem necessary, I would certainly say leave this criminal work right where it is, or you are going to do something basically ridiculous.

But what are the other things you would have this bureau do? Unless you have a lot more legislation than you have, if you set up a bureau apart from the criminal field, or have it with it, you will create a magnet for a vast number of complaints that you will have to answer, and without more legislation all you will be doing is to encourage a vast correspondence unit, which will have to, in a thousand different ways, learn how to say "No, we are sorry, but we can't do anything about this."

I will be darned if I think it is good for our government to have to say no to citizens when they write to them, and to deliberately set up something where what will be asked will require negative answers. When you set up any division such as this, you automatically spur groups to activity, to come and see you, to write you. Good p- if you are ready to give them something.

I would like to say something off the record, if I may.

(Discussion off the record.)

MR. WILSON: Are there any other phases of this you would like to discuss with Mr. Rotnem?

If there are none, I want to thank you very much for the time you have given us and your courtesy in coming before us and giving us this fine exposition of your own work there, which is helpful to us. We appreciate it very much, sir.

(Whereupon, at 4:00 p. m., the Committee adjourned.)

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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:)

Interim Report of Subcommittee No. 1 on Legislation
to the President's Committee on Civil Rights
April 17, 1947.

Subcommittee No. 1 has been authorized "to consider and determine the adequacy of existing federal legislation and to recommend proposed new legislation" in the civil rights area.

I. The Situation as to Existing Legislation:

The Committee has given careful attention to the present federal civil rights laws and has come to the conclusion that this legislation is inadequate in a number of respects.

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A. Sections 51 and 52 of Title 18, U. S. Code, are the chief civil rights statutes. Securing more vigorous enforcement of these laws the primary reason for the creation of the Civil Rights Section of the Department of Justice in 1939. Most of the work of the Section has been concerned with the administration of these two laws. The chief uses to which they have been put have been two:

1. The prosecution of persons in police brutality and lynching cases.

2. The prosecution of persons in elections and suffrage cases.

While the Civil Rights Section has some notable accomplishments to its record in the use of this legislation, these ancient laws have been found to have serious technical and policy inadequacies.

B. Section 444 of Title 18, the Anti-Peonage Act, has been used as a basis for prosecutions in involuntary servitude cases. While several convictions have been obtained under this statute, it, too, has serious deficiencies.

II. Proposed New Legislation:

A. The subcommittee recommends that Section 51 and Section 52 be supplemented with new legislation.

1. The subcommittee is inclined to recommend that Sections 51 and 52, themselves, be left unchanged. These laws are actually on the Nation's statute books and it is perhaps wise not to risk their being weakened or repealed by inviting their amendment.

2. A new statute for use in police brutality and lynching cases should be enacted. The proposal, however, should not be labeled as an "anti-lynching bill" for its usefulness would be much broader than this. The statute should be worded so as to reach private individuals as well as public officers, within the limits of the Constitution. The subcommittee believes that it is possible under the existing Constitution to go a considerable distance in this direction. It believes the final Report should indicate the Constitutional basis for such legislation.

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3. A new statute for use in elections and suffrage cases should be enacted. This statute should provide a firm basis for the prosecution of persons interfering with the right of qualified voters to participate in federal primaries and elections, and also, within constitutional limits, in state and local elections.

4. The subcommittee has received advice from several persons that a new statute is needed which would enumerate the specific federal civil rights which are protected by law against interference as a result of public or private action. The subcommittee is not yet prepared to make a recommendation on this point.

B. The subcommittee recommends that Section 444 be supplemented with new legislation.

1. It will be a simple matter to enact a new law correcting the deficiencies of the Anti-Peonage Act, and the subcommittee strongly recommends that this be done.

C. The subcommittee has considered the enactment of civil rights legislation for the District of Columbia. There is at the present time no federal civil rights legislation designed specifically for the District. A suit has recently been filed against the National Theater to test the possibility that the Civil Rights Act of 1875 is still operative in the District. It is extremely unlikely the Courts will rule that it is. Absence of a quorum at its April 16th meeting has prevented the subcommittee from making a definite recommendation, but it is the chairman's opinion that the subcommittee regards the present civil right situation in the nation's capital as intolerable and that it is prepared to recommend that steps be taken toward the ultimate goal of a civil rights situation in the District which may serve as a model to the rest of the nation, and a symbol of American freedom and democracy to the rest of the world. Final recommendations of the subcommittee on this point may well include:

1. A statute outlawing discrimination in places of public accommodation. This latter phrase should be defined broadly to include theaters, hotels, restaurants, stores, schools, common carriers, etc.

2. A statute outlawing restrictive covenants.

3. A statute (or Constitutional Amendment) granting the right of suffrage to residents, and Congressional representation.

D. The subcommittee recommends the enactment of a statute forbidding discrimination in interstate transportation. The Supreme Court has recently ruled that state laws requiring segregation in interstate transportation are unconstitutional. But a federal statute is needed to reach that segregation which is voluntarily enforced by interstate carriers, and to provide a criminal sanction for use against persons responsible for segregation.

E. The nature of the Constitutional problem: The subcommittee believes that there is widespread popular misunderstanding as to the extent of federal legislative power under the Constitution. It feels that there should be included in the final report educational material designed to acquaint the American people with the complex constitutional side of the civil rights problem and the extent to which the federal government shares power and responsibility with the states in safeguarding civil liberties.

F. Sanctions to enforce the above legislation: The subcommittee believes that it is sound to employ criminal sanctions to enforce civil rights standards. It may be true that you cannot legislate a change in human nature, but experience proves that antisocial human conduct can be curbed and controlled by criminal laws. However, the subcommittee believes that the further use of civil sanctions, both by the government and by private suit, in civil rights cases should be considered and recommended.

III. Legislative Proposals Which the Subcommittee Is not Yet Prepared to Recommend:

A. An Anti-poll Tax Law. It is possible that the poll tax evil in the South can be corrected by court attack, or by a more generally worded Election Statute such as is recommended above. The subcommittee is not certain that a specific anti-poll tax law is needed and believes that it is unnecessary.

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B. Amendment of the Naturalization Act so as to remove barriers to naturalization based upon race or nationality. The subcommittee has not had time to give this matter careful consideration. It is inclined to believe that the subjecting of aliens already in the country to racial and nationality discrimination in the granting of citizenship is indefensible and cannot be reconciled with sound civil rights principles.

C. The following proposals have not been considered: amendment of the Espionage, Sedition and Registration Acts so as to remove provisions, if any, which endanger civil rights; recommendation to the states for the enactment of civil rights legislation outlawing discrimination in places of public accommodation, and supplementing Sections 51 and 52 (and similar federal laws) at the state and local levels; recommendation to the states looking toward the repeal of discriminatory alien land laws.

IV. Recommendations for the Improvement of the Administration of Federal Civil Rights Legislation:

A. The subcommittee has come to the conclusion as the result of its investigations that the present enforcement machinery in the civil rights area is inadequate. In general the Civil Rights Section seems to receive satisfactory assistance from the United States Attorneys, the FBI and the Criminal Division, but it is clear that the Section's own staff and facilities need to be strengthened. The proposal has been made that the Section should be raised to the status of a Division within the Department of Justice. Expert opinion is divided, and the subcommittee is not yet prepared to make a recommendation.

B. If the President's Committee ultimately recommends the creation of a permanent commission, governmental or private, to conduct a continuous research and educational program in the civil rights field, Subcommittee No. 1 believes that such an undertaking should be carefully distinguished from the law enforcement program. The administration of federal civil rights laws, particularly those that carry criminal sanctions, should remain the responsibility of the Department of Justice.

V. Report on Procedure Followed by Subcommittee No. 1.

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A. The subcommittee has held several consultations with officials in the Civil Rights Section and in the Criminal Division. At the subcommittee's request, these officials have drafted experimental bills of many types.

B. The subcommittee has invited a number of outstanding lawyers to serve as an advisory panel. The bills mentioned above have been submitted to this panel and very valuable assistance is being rendered to the subcommittee by these lawyers.

C. While the subcommittee has given its attention to experimental bills, it is inclined to believe that in the ultimate report of the President's Committee, recommendations of civil rights legislation should not be accompanied by drafts of bills. Legislative proposals should be spelled out in some detail, but it would be unwise for the Committee to recommend the exact language that laws should take.

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

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thing 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 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 accepted by the committee.

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.

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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 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.

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.

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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, 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: I think you might read that, as the report

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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

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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 by someone.

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.

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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?

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

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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 Line.

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

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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.

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 express 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

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, 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.

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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 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 paradox of massing an army in World War II to fight for the Four Freedoms, and in engaging in that work they segregated people on the basis of race, not only individually but 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 non-discriminatory policy in all aspects of this peacetime military training that they are now beginning at Fort Knox.

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

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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 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.

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 is sufficient. I think we ought to call for putting an end to discrimination.

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.

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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 SHERRILL: 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 I could stand behind all of the details of these individual cases. 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 illustrated volume be an exhibit rather than the report itself. I think 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 is pretty questionable. 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 here, 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

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with the activities of private organizations that influence public opinion, and mainly through the enactments 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 committee as 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 power of the Government but the force of public opinion could be brought to bear more effectively, 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 we are taking.

We have had as consultants, and held hearings, and otherwise conferred with the general counsel of the Treasury Department, the Director of the Bureau of the Budget, 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.

In connection with the disclosure problem, our subcommittee conducted hearings the day before yesterday with four consultants. One of them was Jesse McKnight, 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 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

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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 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 launched 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 committee will have to come to grips is this, and that is 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.

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. 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.

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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 and to present a report by June 1st, in terms of general recommendations.

If we are to frame 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.

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 much the same thing. 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".

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, because that 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.

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 enforcement 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 to that general formula.

MR. CARR: As I understood it, the decision that was made womewhat earlier was that 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. Subcommittee 3 was not expected to

undertake a substantive investigation of the extent of discrimination or the nature of the problem - and you people have 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.

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. Wilson, Mr. Luckman, and all of us. I have got a new position which is tremendously exacting at the moment. I came here yesterday and there wasn't anybody on the subcommittee 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?

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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 subcommittee 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. 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 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 secretaries, and that time schedule seems to be very acceptable to them. They like the notion that October 1st be regarded as the point at which the committee's report would probably be released to the public. 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

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when everybody can 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.)

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 if 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 over-all 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

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quorum present to place its stamp of approval upon what the sub-committees 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 three sub-committees 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 we have 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.

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 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.

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 the light 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.

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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 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 people to 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.

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 to the meetings.

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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 the oath on the ground that since you don't receive compensation there is a 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.)

BISHOP SHERRILL: 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 strategems and justifications would not be as important as an opinion I would have

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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 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 experiences in the Urban League are identical. When we work to improve employment, housing and health conditions among the Negro population, 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

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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 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 have passed anti-job discrimination laws -- New York, New Jersey and Massachusetts -- depends upon a personal judgment frequently colored by whim, prejudice or superstition 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

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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 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.

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 blatently 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,

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Office of Army Security in the War Department and State Department."

Allegations against these departments were made by the United Public Workers of America, 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 employment of Negroes practiced in many local post offices in violation of the national 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. 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 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 Negro community 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

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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 somewhere, and that Negroes and whites can live side by side in the same cities and frequently in the same neighborhoods.

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. And 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 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.

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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 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 postwar 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. 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 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 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 from a 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

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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 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 it -- 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 peacetime period are equally false.

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-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 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.

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.

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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 practice s and doesn't need to be included; and 2, a matter of politics as being the easiest way of getting a bill passed.

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 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 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 had already come on earth or should there 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.

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

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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 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.

Is that as direct an answer as you want?

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 shall 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

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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 to increase greatly 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. KERNS: 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 covenants? You have it in housing on page six.

MR. GRANGER: That is a legal problem, and the Urban League is not armed with legazl 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.

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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 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."

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 practitioner; 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.

MRS. ALEXANDER: After the Negro doctor finishes his internship, 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.

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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 practitioner 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 like 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 ways 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 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 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 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

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and sober up and then I will be glad to discuss it"; the man replied in inebriated language, "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 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. Rilley's and my state.

We have seen it in the acquittal of men who lunched 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.

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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.

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 then 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 Nesei, 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 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 increasd financial and economic prosperity has come not only to Negroes and other minorities but to the country as a whole.

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

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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 bilibusters 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 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 Senate 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.

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, 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.

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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.

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 discussed more ably than I could the question of restrictive covenants and the attitude of the 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 Negros, but we need it 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 civil rights legislation. There are a number 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.

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 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. 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. 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 SHERRILL: 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.

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

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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 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 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 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,

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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 thwarded 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.

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 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 Negro, 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 separate 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 this fact, slowly began to assert itself as a government of all the people of the United States. Whatever reservations one may 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 tenents 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 correctness 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 degredation. They are handicapped

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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 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 Practices, 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 os 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

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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, 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 affecting this question. In contract 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 Negro on a lower and inferior caste status. The remaining States have not spoken on the question. There is no reason to believe that the ranks of the 18 States having civil rights laws 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 minorities 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

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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 responsibility 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 constantly faced with the lack of a clear statement from Congress opposing discrimination, and this lack of a clear statement of 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, administration 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 adequate 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 accommodations. There are several drafts of civil rights bills for the District of Columbia which are available to the Committee.

The need for this type of legislation is apparent because 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, has 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. 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 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.

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 certainly creates greater difficulties for the Department of Justice. On the other hand, as stated previously, the right to vote for the 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.

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South Carolina repealed all of its primary laws after the Texas white primary decision, 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 cannot 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. 8 to me;" or "Quote Article 1 to me."

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 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.

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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 Federal 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 of Columbia and machinery in the Federal Government to eliminate racial discrimination in Federal employment. Finally, the penalties under Sections 51 and 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 grounded 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

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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 "Willfully" 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 word "Willfully", the statute is unsound constitutionally.

So it is the most difficult problem 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.

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. 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 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 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.

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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 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 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, 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.

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.

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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.

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 --

MR. MARSHALL: There is a group that takes the position 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 faced the 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

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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 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 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.

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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 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 issues 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 he is going to investigate what he has already determined not to be a crime -- that man should have been removed then and there.

United States Attorney La Fargue 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.

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; 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. The problems that this approach presents are many.

However, one stands out, and that is whether or not any such approach through the use of the mailing privileges in case of mass mailing, of disclosure of the source of that mailing, or its backing, is valid. If it is appropriate, should it be applied generally to any organization that may influence public opinion, or should it 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. 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 artifically whipped up right here in Washington. They are much concerned about the so-called 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.

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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. 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, notnot among the bad states -- that is, if there is a degree of badness in segregation and discrimination. Mississippi, Arkansas, and South Carolina are fighting for 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.

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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 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 cannot 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 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

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the 14th Amendment, and made that broad statement of policy.

I think if we applied those principles here, in the absence of statutory authority the Federal Government has no power to segregate. All we are asking is that we believe it is the policy of this Government not to segregate.

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 of the committee's 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 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 them 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 speech 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.

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 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 at the hearing spokesmen 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 Real Estate Boards, 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.

MR. GRANGER: I withdraw my point.

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

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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 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 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 Talmadge's organization in Georgia -- the Association for Protection of

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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. 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 in 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 at the earliest possible opportunity any recommendations on such points as might be troublesome or raise special problems for our consideration.

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 of criminal sanctions. Do you feel that we don't get convictions because penalties are too severe?

MR. MARSHALL: Unfortunately, I am afraid that I subscribe to the theory that the 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

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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 the Federal Government will move in criminally.

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 penalized for it. So, we have no objection to proceeding civilly on that case.

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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?

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 afraid 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 the trains going south are already segregated when they leave Pennsylvania Station.

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

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