MEMORANDUM

1. Remembering what happened to Part III of the Eisenhower bill of 1957, it would be sensible to submit the attached bill to legal counsel that would be antagonistic to its principles. If somebody like Senator Russell is going to tear it to shreds, it is better to know that fact in advance of an Administration commitment.

2. A careful reading of the bill leaves some doubt as to the legislative jurisdiction. It could -- as a matter of curbstone opinion -- go either to Judiciary or Commerce. Both committees could, conceivably, claim jurisdiction. It would be well to check this question out with the Parliamentarian and the legislative leadership in advance of submission.

3. A few immediate points are apparent in the preamble to the section on public accommodation.

a. On page 9, paragraphs 2 and 3 should be combined. As they now stand, they give the impression that this whole thing is just a manner of tourists and not a serious moral problem.

b. Also on page 9, paragraph 4 places the emphasis on the wrong end of the stick. It appears that we are passing this bill for the economic benefit of theater owners who would otherwise be deprived of Negro customers. This is not a very impressive argument. The real point is that a theater is a public accommodation and to the extent that its use is restricted, it places a burden upon the free movement and the free choice of people.

c. On page 10, paragraph 5 appears to say that we are passing this bill for the economic benefit of department store owners who might otherwise lose Negro patrons. The real point is that such discrimination interferes with the free flow of goods interstate and the right of people to make a free choice as to where they will move and live as American citizens entitled to full rights and privileges.

d. On page 10, more thought should be given to paragraph 6. The fact that discrimination prevents some private organizations from holding conventions in certain cities seems to be frivolous and this paragraph could subject the whole measure to ridicule.

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e. On page 10, paragraph 7 should be "beefed up" and moved forward. The fact that segregated facilities hamper both workers and employers in exercising a free choice is very potent.

4. The attached draft of the bill enumerates the facilities which would be integrated. This would be a mistake. However, it is understood that this will be amended to place all facilities that could substantially burden commerce under the terms of the measure -- leaving the determination of exceptions to the courts. Without specific language, it is impossible to comment on this section. But the general principle is correct.

5. There are probably other questions involved in this legislation. But time does not permit a full analysis. This bill should be submitted to people like Abe Fortas, Dean Acheson, Ben Cohen, Senator Pastore, and others experienced in the intricacies of legislative drafting.

# # #

COPY

MEMORANDUM

June 3, 1963

TO : The Vice President
FROM : George Reedy

1. It is not within my competence to analyze the attached bill from a legal standpoint. It is safe to assume that it has been drafted by able men who know the law. However, remembering what happened to Part III of the Eisenhower bill of 1957, it would be sensible to submit it to legal counsel that would be antagonistic to its principles. If somebody like Senator Russell is going to tear it to shreds, we are better off knowing that fact in advance of an Administration commitment.

2. A careful reading of the bill leaves some doubt as to the legislative jurisdiction. It could -- as a matter of curbstone opinion -- go either to Judiciary or Commerce. Both Committees could, conceivably, claim jurisdiction. It would be well to check this question out with the Parliamentarian and the legislative leadership in advance of submission.

3. From the standpoint of legislative acceptance, the bill is unusually well drafted. However, it would be well to check it out with a subtle mind like Senator Russell. He, of course, would be opposed to it altogether. But his reactions would indicate the points at which unusual care would need to be exercised in language. Meanwhile, a few minor points are evident:

a. On page 10, paragrpah 7 should be "beefed up" and moved forward. The fact that segrated facilities hamper both workers and employers in exercising a free choice is very potent.

b. Also on page 10, more thought should be given to paragraph 6. The fact that discrimination prevents some private organizations from holding conventions in certain cities seems to be frivolous and this paragraph could subject the whole measure to ridicule.

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4. The attached draft of the bill enumerates the facilities which would be integrated. This would be a mistake. However, it is understood that this will be amended to place <u>all</u> facilities that could substantially burden commerce under the terms of the measure -- leaving the determination of exceptions to the courts. Without specific language, it is impossible to comment on this section. But the general principle is correct.

5. There are probably other questions involved in this legislation. But time does not permit a full analysis. It is unfortunate that this bill cannot be submitted to people like Ave Fortas, Dean Acheson, Ben Cohen, Senator Pastore, and others experienced in the intricacies of legislative drafting.

# # #

CONFIDENTIAL

MAY 24, 1963

MEMORANDUM

1. It is obvious that this country is undergoing one of its most serious internal clashes since the Civil War itself. Race riots are nothing new and have occurred on many occasions during the past 100 years. But there is an intensity to the events in Birmingham, Greensboro, Durham, Oxford, Albany and other Southern cities that is without parallel. It is obvious that this turmoil will not go away if we just shut our eyes.

2. It is much less obvious what can be done about this situation from the standpoint of the Federal government. Most of the proposals advanced thus far are either inadequate or inappropriate. There is a sense of floundering on the part of those who are seeking some measure of stability and some way to restore peace. This is largely due to the fact that two basic factors have not been correctly gauged:

a. The depth and the breadth of Negro determination to gain their goals.

b. The foundation upon which Southern resistance rests.

3. In terms of the Negroes, it must be realized that they have now resolved to gain their full rights without equivocation; without modification; and without gradualism. Their feeling is that they have been patient long enough and that they are not going to temporize any further. The best evidence of this feeling lies in the demonstrations themselves. The demonstrators are not chanting specific slogans concerning schools, jobs, swimming pools, public parks or public restrooms. The one common thing that binds them all together is the constant chant of "I want freedom." When the demonstrators do become specific, it is always in terms of some white personality who represents all of the oppression of the white world -- such as Bull Connor of Birmingham. It is obvious that while the Negroes

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want jobs, lunch counters, swimming pools, restaurants, public parks, the right to vote, no one of these things or no combination is going to satisfy them. They will negotiate for specifics because obviously their victories can only be gauged in terms of specifics. But the tensions that have been created are not going to die down until there has been something dramatic in the form of desegregation.

4. From the standpoint of the Federal government, this compounds the situation. If the Negroes wanted something specific, the Federal government might be able to find specific remedies. But the Negro revolt is not directed against the Federal government. It is directed against the white governments that they know -- right in their own communities. Nobody can do anything about it except the local whites themselves. There can be no peace until the local communities "give." And this is something that the Federal government cannot do for the local communities. The Federal government can apply sufficient force to safeguard the Negro demonstrators. But it cannot achieve the goals which must be achieved if harmony is to prevail.

5. There have been some proposals for Congressional legislation. As far as the immediate situation is concerned, these proposals are futile. It is doubtful whether anything would satisfy the Negroes short of the famous "Part III." This is dangerous legislation at best, granting far too much power to the Federal government. Furthermore, it could not possibly pass Congress and a massive failure in trying to pass such legislation through Congress would only inflame the Negro and white communities further. Conceivably, lesser legislation -- such as FEPC -- might pass. But it is far too late for any such steps to have an effect upon Negro tempers. James Baldwin, who seems to be the spokesman for the Negro activities, has said: "I don't want to marry your daughter -- I just want to get you off my back." Anything less than Part III would appeal to the average Negro as being a law that would permit him to "marry your daughter," and this is not really what he wants. He wants freedom.

5. On the other hand, the "lily whites" among the Southerners are operating under a curious misconception. They have somehow picked up the idea that the whole integration program is illegal and that if they just resist long enough, the essential "rightness" of their position will

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prevail. They buttress this position with arguments that a Supreme Court decision is not the supreme law of the land; that the 14th Amendment is illegal; that the whole drive for political and economic equality is merely a temporary bid to gain some votes in New York City, and that stout resistance will repulse this drive. They completely reject the concept that the whole moral force of the United States has been cast behind the Supreme Court decisions and that no administration of either political party -- or of any political party that could conceivably come to power -- can do anything other than to back up the courts.

7. The course which has been followed thus far tends to strengthen the white supremacists in this position and even to add to their ranks other Southern whites of more moderate views. Sending in troops with bayonets merely recalls the Reconstruction period. It is necessary to send in the troops because the United States government cannot afford to allow court decisions to be defied. But unless further action is taken, this could end logically in military occupation of the South. This was tried from 1865 to 1875 and whatever may have been the truth about Reconstruction, it was demonstrated conclusively that in a country such as ours military occupation is not practical for any extended period of time. Force is essential, apparently, in such instances as Oxford, Mississippi, and may become essential in Alabama. But all it can accomplish is to prevent rioters from defying the United States. It will not solve the problem.

8. This is a common denominator to the thinking of both the Negroes and the white supremacists. It is a belief that the United States -- in the person of the President himself -- has not made a real moral commitment to the cause of equal rights and equal opportunity. Both sides realize that the courts are on the Negroes' side and that the President is prepared to use force to make the court orders effective. But the emphasis has been on compliance with the law as stated by the courts and the inference is that the President would take a different stand if the courts ruled differently. Therefore, the Negroes are uncertain that the moral force of the Presidency is on their side and the whites believe that the President is acting out of political expediency.

9. The current racial tensions are not going to be eased until this misconception has been laid to rest. The Negroes are going to be satisfied with nothing less than a convincing demonstration that the President is on their side. The backbone of white resistance is not going to be broken

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until the segregationists realize that the total moral force of the United States is arrayed against them. Proposing legislation to Congress is not going to do the trick. The Negroes are rightfully skeptical of the ability or the will of the Congress to act. The whites consider Congress to be merely a political body and are not disposed to abide by its decisions. Furthermore, there is a very widespread feeling among people everywhere that civil rights battles in Congress are pure sham. If the President does nothing else but send legislative proposals to the Congress, it would have the effect of convincing both sides that he is evading the issue.

10. This feeling that the President himself must enter the fray has been expressed most graphically in the various proposals that he personally lead the Negroes into the two Alabama schools. This proposal has been dismissed on the ground that it would lead to nothing more than a scuffle between the President and the Alabama Governor. But the underlying motives for the proposal are not -- and should not -- be dismissed so easily. The point is that the Negroes want a total commitment from the President and this is really what they were saying.

11. This is one situation where a speech by the President to the nation might have more effect than any law that could be passed. Very serious consideration should be given to a direct television appeal by the President to the whole country. The appeal would fall of its purpose if it merely asked people to abide by the decisions of the courts and observe law and order. It will have an effect only if the emphasis is on the issue itself -- the issue of human dignity and the determination of the President to stand with the Negroes in their drive for full equality. Even the remotest sign of equivocation or gradualism on this point would be fatal. The segregationists would be encouraged to greater efforts and the Negroes would conclude that they have to "go it alone" -- possibly via the Black Muslim route.

12. The political dangers of such a total commitment are readily apparent. It would probably mean the loss of a number of States in the 1964 election. It would subject the President to charges that he had "taken sides" in an argument between American citizens. It would probably be followed by more demonstrations in the South and the President would be accused of inflaming emotions. But on the other hand, those States will be lost anyway through the steps that the Federal government must necessarily take to enforce the court orders. Furthermore, it is quite possible that a number of key Northern States will be lost if the Negroes decide that this

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Administration is not on their side. And finally, even though such an appeal could well be followed by further demonstrations, they will probably be of shorter duration and more likely to lead to abiding decisions that people can live with. The basic element of the present situation is that people are floundering and decisiveness has become an urgent necessity.

13. The fact that legislation would not solve the immediate situation does not mean thatlegislation efforts should be abandoned altogether. But it does mean that legislative proposals should be made in a constructive mood and without any effort whatsoever to obtain political advantage or calm the current tempest. When the situation is examined objectively, it becomes apparent that there are only two things -- aside from a moral commitment -- that the Federal government can really do:

a. Protect people against force and violence.

b. Offer technical assistance so that local communities can work out the problems themselves.

14. On this basis, a few suggestions for legislative action would be:

a. Stronger voting rights protections.

b. A community relations service that could maintain contact between the white and Negro leaders in local communities.

c. Realistic education legislation which would recognize the fact that extraordinary effort is needed to make up for the opportunities that Negroes havelost through unequal education legislation.

d. Federal machinery to help not only Negroes but all people to find out where the jobs are and how to get them.

e. A massive effort (even if it only amounts to a gigantic leaf-raking project) to put on payrolls the millions of Negroes who have been dispossessed from farming over the last decade and who are literally untrainable in the skills of urban living.

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15. Finally, it must be stressed again that this problem is not going to be solved by piecemeal efforts. The current Negro uprising has as its goal the attainment of dignity. It is not going to be satisfied with anything short of that objective. The Negro is tired of being pushed around and the result is that he is going to be irascible, unreasonable, irritating and tenacious. The day of gradualism is over and even the NAACP has suddenly found itself in the position of the Right Wing. There is no solution until every American -- regardless of which side of the fence he occupies -- is convinced that the government means business.

***

IEMORANDUM

1. Even though the wisdom of the proposed march on Washington is open to serious question, it is obvious at this point that it cannot be called off. No one is going to make any such request.

2. But it is in line to ask what the conditions of this march will be and whether adequate thought has been given to all of the problems involved. These problems are not only the impact that such a demonstration will have upon Congress (and it must be realized that it cannot possibly improve the chances of passing the bill), but the physical wellbeing of the people who will come from other parts of the country.

3. The first question to be raised is whether any thought has been given to the desirability of cutting down the number of people that will come to Washington and concentrating instead on large demonstrations in other cities throughout the country on the same day. The best that can be hoped out of a demonstration in Washington is a headline: "Negroes Converge 300,000 Strong on Washington." (The more likely headline will be: "Negroes Fail to Amass their Promised 300,000 Demonstration.") If the concentration were on cities throughout the country, the headline might be: "[illegible] million Negroes Throughout the United States March for Freedom." This could be accompanied by a relatively small demonstration in Washington with a delegation of leaders calling upon the Congressional leadership. This type of action might have some favorable effects upon the bill and at the same time would avoid some staggering logistical problems.

4. Entirely aside from the possibilities of violence breaking out, the logistical problems of assembling 300,000 people in Washington are tremendous:

a. Where are they going to sleep?

b. Where are they going to eat?

c. What are they going to use for toilet facilities?

d. How are they going to be moved from one part of Washington to another part?

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e. How are their health needs going to be taken care of?

f. What is going to be done with them during the period they are in Washington when they are not actually demonstrating?

5. Perhaps one of the most important questions is that of moving them from one part of Washington to another. Obviously, no demonstrations can be permitted on Capitol Hill. But if 5,000 or 10,000 of them merely respond to the normal desire of a tourist to see the Nation's Capitol and start converging on Capitol Hill, it is going to look like a demonstration because of the sheer numbers. What arrangements have been made to separate normal tourists from people who are here as part of the Freedom March?

6. Again, it is not possible to keep control over the situation unless contacts have been made with the local authorities. What contacts have been made with the local authorities and what coordination will there be to keep the demonstrations orderly?

7. Above all, it must be recognized that there will be a major disaster to the civil rights cause if the March on Washington gets out of hand. That is why it is best to have clear understandings now.

# # #

MEMORANDUM

1. The Negro demonstrations in this country today have as their goal the achievement of the full rights of American citizenship, to which they are entitled. They are not pushing for just swimming pools, schools, libraries, lunch counters, parks, or jobs. They want all of these things but they want something more -- human dignity -- and they will not settle for less. The greatest tragedy that could befall our country would be an inadequate response to their humanitarian appeal.

2. The traditional reaction to such a situation is to "introduce a bill" in Congress. In the past, this served to pacify minority groups who were pressing for advancement. But those days are behind us and never will return. The Negroes have seen two significant bills on civil rights become law. From here on out, they will regard any measure which does not pass as a cynical gesture. They are quite likely to turn against the sponsors of such legislation. Unless the way is carefully prepared -- unless the "homework" is done -- any legislative proposal runs the risk of falling between two stools: too little to satisfy the Negroes and too much for the whites to swallow.

3. It must be realized that the proper groundwork has not been laid for legislation in Congress. Negroes are not convinced that the Administration is really on their side. Southern whites still believe that the turmoil is a combination of "ward politics" and "outside agitators." Republicans believe that the issue is a matter of partisanship. And men of good will find themselves confronted with a "black or white" choice that does not represent their true feelings.

4. If legislation is submitted to Congress before the moral issue is clearly drawn, the result will be disaster. The country will be exposed to several weeks of divisive and inflammatory debate. The debate is likely to come to no conclusion -- thus disillusioning the Negroes and strengthening the bigots in their conclusion that the country is "really with" them. The Republicans will have a field day. And in addition to the civil rights cause, the President's whole program will go down the drain.

5. Only the President -- who speaks for the whole nation -- can make the kind of moral commitment that will rescue the situation and restore unity. To pave the way for legislation, he should consider:

a. Calling in former Presidents Hoover, Truman, and Eisenhower to explain the situation to them and to secure their united support.

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b. Calling in the Negro leaders and stating the problems frankly but also giving them a firm moral commitment that he is on their side because they are right and he is going to keep Congress here until it acts.

c. Calling in the Republican leaders of Congress and securing their support on a step-by-step basis where they are apprised in advance of the steps that are contemplated.

d. Calling in the Southern leaders and speaking to them frankly -- knowing in advance that their support cannot be secured but treating them as honorable men who do not have to be tricked or "surprised."

e. Making a nationwide television address in which the moral issues are clearly stated in simple, unmistakable -- though not punitive -- terms.

f. Going into the South itself and speaking face to face to the people themselves -- not as their antagonist, but as their President -- on the simple rights and wrongs of the situation with which we are confronted.

6. With this ground work, legislation is possible. Measures even more extensive than those now considered can be passed. It is a course fraught with difficulties. But the alternatives can be disaster.

# # #

THE WHITE HOUSE

WASHINGTON

June 21, 1963

Memorandum

To the President

Attached is the report that you requested from Secretary Wirtz at the Cabinet meeting on the lack of education and motivation as it affects the employment of Negroes.

I am planning to send copies of this report to each Cabinet member.

T. J. Reardon, Jr.

U S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

June 21, 1963

MEMORANDUM FOR THE PRESIDENT

At Cabinet Meeting on Wednesday, you inquired about available evidence of the effect of motivation and education factors on present Negro unemployment.

A review of the immediately available information confirms the tentative view I expressed that the reasons for this unemployment are, in this order: (1) lack of adequate job opportunities in the economy; (2) inadequate education, training, and motivation; (3) present prejudices and discriminatory practices.

It is an important part of this summary analysis that the best evidence we have supports the conviction that the "motivation" factors are all the result of previous discrimination and lack of educational opportunity (with lack of motivation also representing, in a different sense, part of the reason for a failure by Negroes to use their educational opportunities to the fullest possible extent).

I am attaching a fairly detailed report on the information we have available in this area. These are the highlights:

1. Unemployment Statistics

-- The nonwhite accounts for about one in 10 of our workers, 2 in 10 of our unemployed, 3 in 10 of our long-term unemployed.

-- In 1947, the nonwhite unemployment rate was 64% higher than the white's; in 1962 it was 124% higher.

-- Only 17% of nonwhite workers are employed in the growing white-collar occupations; the corresponding proportion is 47% for white workers.

-- Nonwhite teenage workers are at an enormous disadvantage: 21% of the boys, 28% of the girls are jobless.

2. Relationship to over-all Job Availability Situation

-- "For every one percentage point decline in the general unemployment rate there tends to be a two percentage point reduction in Negro unemployment." (Message on Civil Rights, June 1963; based on significant CEA data and analysis.)

3. Relevant Educational Attainment Information:

-- One-tenth of our population is nonwhite; one-third of our illiterate population is nonwhite.

-- Twenty-five percent of the entire nonwhite adult population (25 years and older) are functionally illiterate, i.e., they have less than 5 years of schooling.

-- In one out of every 4 States, nonwhites average less than a grade school education.

-- Only 3 percent of all the persons reported as apprentices are nonwhites.

-- In connection with Selective Service procedures, the disqualification rate on the Armed Forces Qualification Test (designed to evaluate the man's educational attainment and ability to absorb military training) is 6 times as high for Negroes as for Whites.

4. I am assembling additional "motivation" evidence, but it is at best sketchy. This will be forwarded to you.

I note in the meantime that under the special projects being carried out under the Manpower Development and Training Act of 1962, there has been an almost startling reversal in motivation among Negro youth. With special guidance, counseling, testing -- and the provision of concrete job opportunities at the end of training -- Negro youth previously intractably against further schooling because of continued rebuffs in the labor market, have successfully performed in training and on the job.

W. Willard Wirtz

W. Willard Wirtz

I. EDUCATION AND TRAINING

A. Illiteracy and Functional Illiteracy

One out of every ten persons in the Nation's population is non-white (90 percent of whom are Negroes), but:

Of the approximately 3 million adults in the United States in 1960 who were illiterates, i.e., could not read or write, more than one million, or one-third, were non-whites.

"Functional illiterates" are those who have completed fewer than five years of schooling. In 1960, there were about 8.3 million "functional illiterates" 25 years of age and over. Six million were whites, representing just short of 7 percent of the white adult population; 2.3 million were non-white, representing 25 percent of the non-white adult population.

Counties which had the highest rate of functional illiteracy in 1962 were primarily concentrated in the Southern States (see map) which have heavy concentrations of the non-white population.

B. Educational Attainment of the Adult Population

Almost one-half of the non-white adult population 25 years and over in 1960 had not completed grade school (see table). The comparable figure for whites was about 20 percent.

A high school diploma has become a minimum educational requirement for an increasing number of jobs. Almost half of the whites had completed a high school education, but only one-fifth of the non-whites had the high school diploma.

A college education is a prerequisite for the major growth occupations. Only 8 percent of the non-white adults have more than a high school education; the corresponding proportion among whites is 17 percent.

C. Education in Selected States

The average educational attainment of adults (25 years or over) in the United States was 10.6 years in 1960. For non-whites, the years of education were 8.2 years as compared with about 11 years for whites.

But, non-whites had completed less than 8 years of schooling in 1 out of every 4 States in the Nation. In these 13 States, the median years of education completion ranged from less than 6 (South Carolina) to 7.5 years in Tennessee (see table). In these same States the range for whites was from 9 years in Tennessee to 12.4 in Alaska.

Non-whites, 25 Years and Over, in Thirteen States
Had Completed 8 Years of Schooling, on the Average in 1960
(Median School Years Completed by Persons 25 years and Over: 1960)

STATE	MEDIAN YEARS OF SCHOOL COMPLETED	
	Non-whites	Whites
Alabama	6.5	10.2
Alaska	6.6	12.4
Arizona	7.0	11.7
Arkansas	6.5	9.5
Florida	7.0	11.6
Georgia	6.1	10.3
Louisiana	6.0	10.5
Mississippi	6.0	11.0
New Mexico	7.1	11.5
North Carolina	7.0	9.8
South Carolina	5.9	10.3
Tennessee	7.5	9.0
Virginia	7.2	10.8

Source: Office of Education, Digest of Educational Statistics

The majority of Negroes in this country still live and are educated in the South. The South, therefore, is the key to the educational achievement of the Negro in the U. S.

In none of the Southern States does current expenditure per Negro pupil equal that for white pupils. For example, in 1956-57, current expenditures per Negro pupil was 57% of that for white pupils in the State of Mississippi and 80% in South Carolina.

D. Educational Attainment of Non-Whites Past Middle Age

In the age group 40-44 years, non-white males have completed, on the average, a grade school education (8.3 years),a level which at best qualifies them for jobs as unskilled laborers or farm workers (see table). Their white counterparts have, on the average, a high school diploma, which equips them for the jobs where growth is occurring.

Non-whites in the rest of the older age groups have average educational levels which limit their employment to menial jobs. For example, between the ages of 50-54, the average non-white male has completed 6.8 years of school; 55-59 age group 6.0 years; 60-64 only 5.5 years. Should unemployment overtake him, the average older non-white male finds himself competing for unskilled jobs which are declining.

MEDIAN SCHOOL YEARS COMPLETED (1960)

Age Groups	Total	Male	Female	WHITE		NON-WHITE	
				Male	Female	Male	Female
25 - 29 Years	12.3	12.3	12.3	12.4	12.3	10.5	11.1
30 - 34 "	12.2	12.1	12.2	12.2	12.3	9.7	10.5
35 - 39 "	12.1	12.1	12.2	12.2	12.2	8.9	9.7
40 - 44 "	11.8	11.6	12.0	12.0	12.1	8.3	8.7
45 - 49 "	10.6	10.3	10.8	10.7	11.2	7.4	8.1
50 - 54 "	9.7	9.4	10.1	9.8	10.4	6.8	7.6
55 - 59 "	8.8	8.7	9.0	8.8	9.2	6.0	6.9
60 - 64 "	8.6	8.5	8.7	8.6	8.8	5.5	6.4
65 - 69 "	8.4	8.3	8.5	8.4	8.6	4.7	5.6
70 - 74 "	8.3	8.1	8.4	8.2	8.5	4.4	5.2
75 years and over	8.2	8.0	8.3	8.1	8.4	3.9	4.5

Source: 1960 Census of Population, Supplementary Reports PC(S1)-37, Dec. 27, 1962. Table 173. U. S. Department of Commerce, Bureau of the Census.

E. Apprenticeship Training

Only 3 percent (2,647) of the persons reported as apprentices in the 1960 census were non-whites. Therefore, Negroes must seek to acquire training opportunities outside of formal apprenticeship training programs. These programs do not provide them with the all-around preparation needed for the rising skill requirements in craft jobs.

As a result of their lack of apprenticeship training, only 6 percent (474,000) of the employed non-whites in 1962 were skilled as compared with about 14 percent (8.3 million) of the employed white workers.

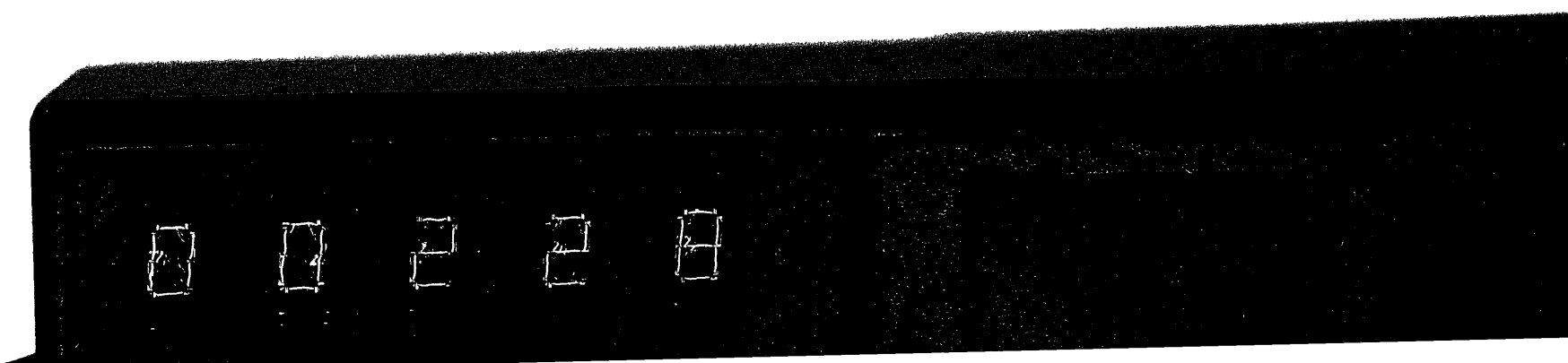
F. Vocational Education Training

In segregated vocational educational schools, programs available to whites and non-whites are markedly different. The training for Negroes in some Southern States is for "jobs traditionally open to them". These are usually the most menial jobs, requiring the lowest level of skills.

Vocational schools for whites in some Southern cities offer training in many of the skills for which there is an increasing demand for workers. In Atlanta, for example, white students may take courses in electronics, tool and die design. No such technical courses are available for Negroes.

G. Military Rejection Rates by Race

The results of inadequate education and cultural deprivation are highlighted by comparing how white persons and Negroes fare when they take the Armed Forces qualification test - a test designed to evaluate the examinees' ability to absorb military training, and their educational attainment. The disqualification rate on this test for Negroes who are examined for military service is 6 times as high as it is for white persons.



EDUCATIONAL ATTAINMENT OF THE ADULT POPULATION, 1960

	Total	Fewer than 5 years of education	Fewer than 8 years of education	Fewer than 9 years of education	Fewer than 12 years of education	Fewer than 13 years of education
(NUMBER)						
25 and over	99,438,088	8,302,582	22,056,409	39,499,342	58,615,257	83,070,745
White	89,581,182	5,988,729	17,439,639	33,618,785	50,892,761	73,992,401
Nonwhite	9,856,906	2,313,853	4,616,770	5,880,557	7,722,496	9,078,344
(PERCENT)						
25 and over	100.0	8.3	22.2	39.7	59.0	83.6
White	100.0	6.7	19.5	37.5	56.8	82.6
Nonwhite	100.0	23.5	46.8	59.7	78.3	92.1

Source: 1960 Census of Population

II. EMPLOYMENT AND UNEMPLOYMENT

A. Education of the Labor Force

Almost one out of every three nonwhite workers in the labor force has not completed elementary school, compared with one out of every ten white workers.

About one-fifth of nonwhite workers had completed a high school education compared with one-third of white workers.

B. Unemployment

During the past several years unemployment has been twice as high for nonwhite persons as it has been for whites. Last year (which was fairly typical), nonwhites totaled 11 percent of the civilian labor force, but 22 percent of the unemployed. On average, there were about 900,000 nonwhite workers without jobs in 1962.

The differential in unemployment rates between whites and nonwhites has been even greater among married men with family responsibilities; the unemployment rate for nonwhite family heads was nearly 8 percent last year compared with slightly over 3 percent for the white group.

The Negro has steadily fallen behind in terms of unemployment. In 1947, the nonwhite unemployment rate was 64 percent higher than the whites; in 1952, it was 92 percent higher; in 1957, it was 105 percent higher; in 1962, it was 124 percent higher.

Unemployment is not only more frequent but also tends to be of longer duration among nonwhite workers. Nonwhite workers, who represented 11 percent of the labor force and 22 percent of the un-

employed, accounted for 28 percent of these very longterm unemployed.

Moreover, nonwhite workers have been increasingly subject to involuntary part-time work in recent years. Some 10 percent of nonwhite workers in nonfarm industries are employed part-time because of slack work and other economic reasons -- more than triple the rate for white workers. Significantly, this economic underemployment has been rising steadily for nonwhites during the past six years; for white workers the rate has remained virtually unchanged.

In part, the differentials in unemployment between white and nonwhite workers reflect the heavy concentration of Negroes in unskilled and semiskilled occupations which are particularly susceptible to unemployment. It is estimated that about half the difference in unemployment rates between whites and nonwhites is due to this factor alone.

However, within each broad occupational group, unemployment is significantly higher among nonwhite than among white workers. Thus, in 1962, the unemployment rate for nonwhite, semiskilled workers was 12.0 percent as compared to 6.9 percent for white persons in comparable occupations; among skilled workers the unemployment rate was 9.7 percent for nonwhites and 4.8 percent for whites; and among clerical workers 7.1 percent for nonwhites, and 3.8 percent for whites. (See Chart)

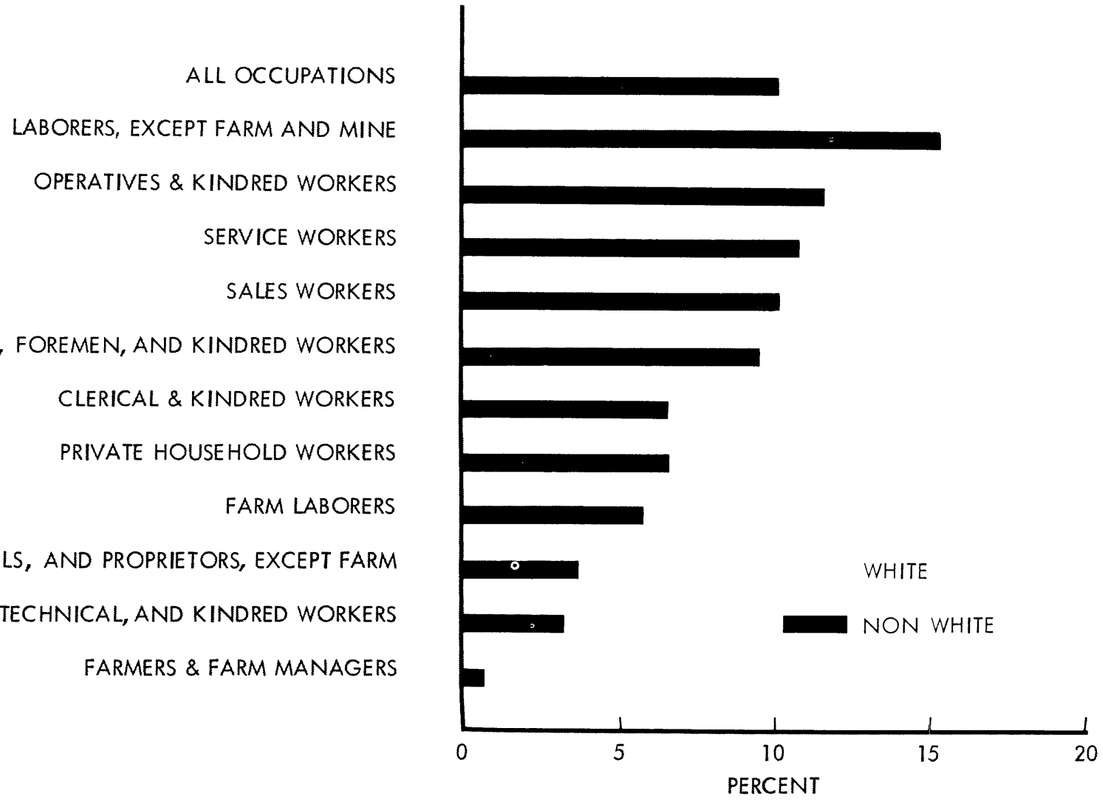
C. Employment

The concentration of Negro employment in relatively unskilled occupations and low-paying industries is undoubtedly directly related to lack of basic education and vocational training. In significant part,

CHART 1

UNEMPLOYMENT RATES ARE HIGHER FOR NONWHITE WORKERS, REGARDLESS OF OCCUPATION

UNEMPLOYMENT RATES, BY COLOR AND OCCUPATION, 1962



however, it also measures the degree of discrimination against the Negro in hiring, in acceptance into apprenticeship and other training programs and in upgrading within occupations.

The increase in Negro employment in nonfarm occupations and the upgrading of their skills that occurred during World War II shows that the arbitrary barriers to their employment break down at times of severe labor shortage.

However, since the war, there has been no substantial improvement in the employment of Negroes in skilled and semiskilled manual occupations in recent years. Nonwhite workers have entered professional, clerical and managerial jobs in increasing numbers since 1955, but only 17 percent were employed in white-collar occupations in 1962 as compared with 47 percent of white workers.

In professional and technical occupations where many of the Nation's critical manpower shortages exist, nonwhite workers comprised only 5 percent of the total employment in 1962. Only one-half of 1 percent of all professional engineers are Negroes. There are no more than 3 percent of male Negroes employed in each of the 19 of the 26 standard professional occupations for which we have statistics (e.g., accountants, architects, chemists, pharmacists, lawyers). The numbers employed in these occupations are depressingly small. There were only about 2,300 employed male Negro accountants in 1960; 2,000 dentists; 1,500 pharmacists and an equal number of chemists; and only 230 male Negro architects; the largest number in any of the 19 professions was about 4,500 for doctors.

Employed Persons, by Occupational Group and Color, 1948 and 1962

(Percent distribution)

Major Occupational Group	White		Nonwhite	
	1948	1962	1948	1962
Total	100.0	100.0	100.0	100.0
White-collar workers	39.1	47.3	9.0	16.7
Professional and technical	7.2	12.6	2.4	5.3
Managers, officials, and proprietors	11.6	11.9	2.3	2.6
Clerical workers	13.6	15.8	3.3	7.2
Sales workers	6.7	7.0	1.1	1.6
Blue-collar workers	40.5	35.4	39.7	39.5
Craftsmen and foremen	14.6	13.6	5.3	6.0
Operatives	21.0	17.5	20.1	19.9
Nonfarm laborers	4.9	4.3	14.3	13.6
Service workers	7.9	10.6	30.3	32.8
Private household	1.5	2.1	15.6	14.7
All other	6.4	8.5	14.7	18.1
Farm workers	12.4	6.8	21.0	11.0
Farmers	7.8	4.0	8.5	2.7
Laborers	4.6	2.8	12.5	8.3

D. Negro Youth

The results of inadequate education, lack of training, and discrimination in training and employment opportunities are seen most graphically among nonwhite youth in the labor force. All youngsters in the United States have high unemployment rates. But nonwhite teen-agers have among the highest unemployment rates of any age group in the labor force. In 1962, the unemployment rate for nonwhite boys under 20 years of age stood at 21 percent; for girls, at 28 percent. The comparable figure for white boys and for white girls was 12 percent. (See Table).

Nonwhite youths, both graduates of high school and dropouts, areprimarily employed in low-paying service occupations and in farm labor jobs. (See Chart). However, even when nonwhite youths have high school diplomas, their unemployment rate is about double that for white graduates.

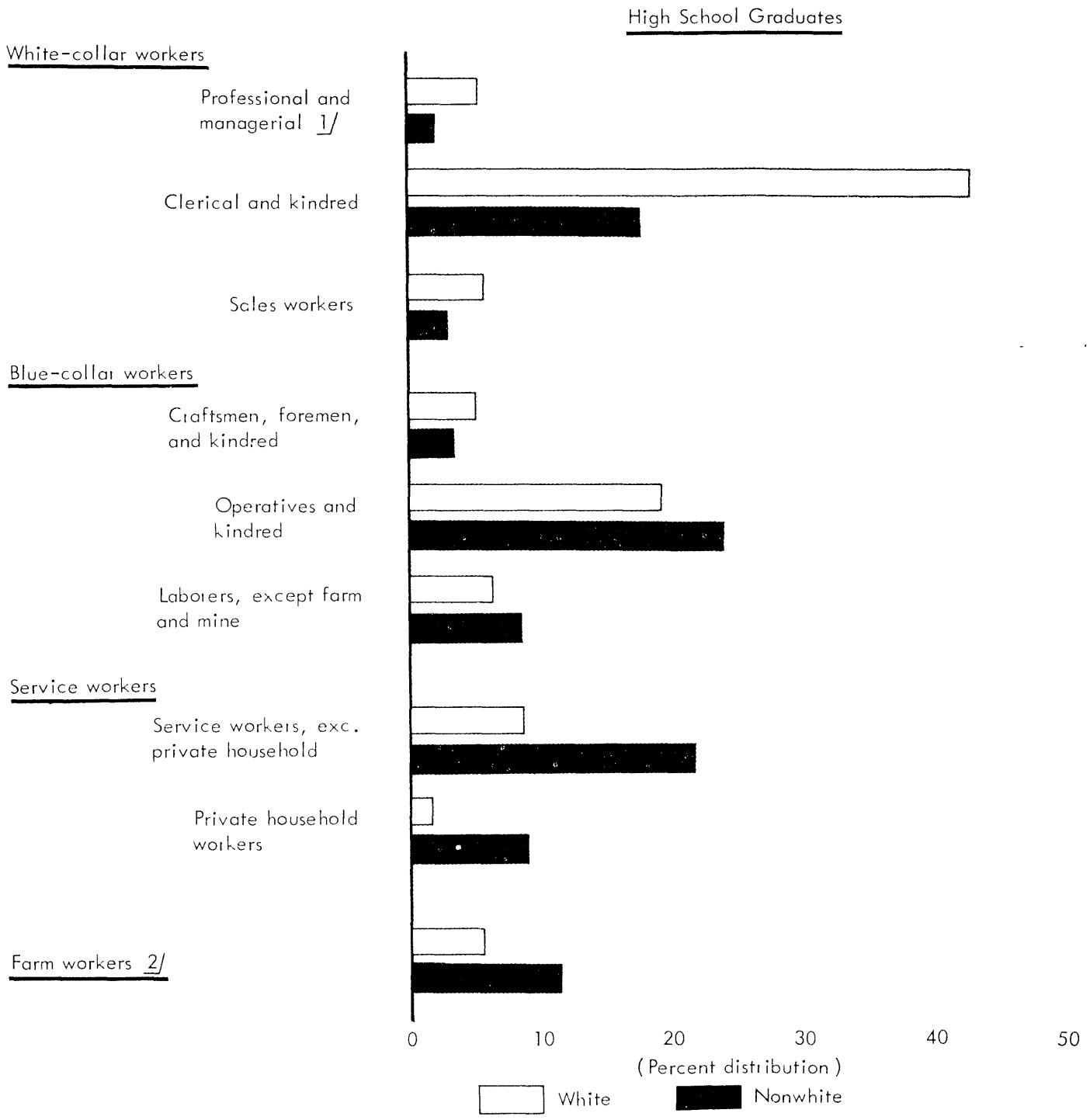
Unemployment Rates, by Color, Age and Sex, 1962

Characteristics	1962 White	1962 Nonwhite
Age and Sex		
Total	4.9	11.0
Male	4.6	11.0
14 to 19 years	12.3	20.7
20 to 24 years	8.0	14.6
25 years and over	3.6	9.4
Female	5.5	11.1
14 to 19 years	11.5	28.2
20 to 24 years	7.7	18.2
25 years and over	4.3	4.8

Chart 2

ONLY ABOUT ONE-FIFTH OF NONWHITE YOUNG PERSONS WHO GRADUATE FROM HIGH SCHOOL HAVE WHITE-COLLAR JOBS

MORE THAN 50 PERCENT OF THE WHITE YOUNG PERSONS HAVE WHITE-COLLAR JOBS.



Based on a survey of high school graduates (not enrolled in college) and school dropouts between the years 1959-61 who were ages 16-24 at the time the survey was made in October 1961.

1/ Includes professional, technical, and kindred workers, and managers, officials, and proprietors, except farm.

2/ Includes farmers and farm managers, and farm laborers and foremen.

Source Employment of High School Graduates and Dropouts in 1961, Special Labor Force Report, No. 21, U.S. Department of Labor, Bureau of Labor Statistics

Percent of the civilian population in the labor force, by color, age, and sex, annual averages 1962

Age	Male		Female	
	White	Nonwhite	White	Nonwhite
	1962	1962	1962	1962
Total, 14 and over	78.6	76.4	35.6	45.6
14-19	40.8	38.4	29.7	24.0
20-24	86.5	89.3	47.1	48.6
25-34	97.4	95.3	34.1	52.0
35-44	97.9	94.5	42.2	59.7
45-54	96.0	92.2	48.9	60.5
55-64	86.7	81.5	38.0	46.1
65 and over	30.6	27.2	9.8	12.2

E. Labor Force

The effects of discouragement resulting from inability to find work as well as concentration in lower-skilled, more hazardous, occupations are shown by differences in the proportion of white and nonwhite population not in the labor force. Only 2 percent of the white males in the primary working ages of 35-44 years were not in the labor force in 1962 compared with 5 percent of the nonwhite males. This difference becomes even more striking in the age group 55-64. In this age group 13 percent of white males are no longer in the work force compared with 18 percent of the nonwhite males.

Additional evidence of the effects of discrimination on family life is shown by labor force data for nonwhite women. Sixty percent of nonwhite women 45-54 are in the labor force as compared with 49 percent among white women in the same age group. There is clear evidence that high unemployment rates and low income of husbands and a higher incidence of broken families among nonwhites are major considerations in this difference. The higher labor force rate for nonwhite women does not, however, reflect more easily available job opportunities since unemployment rates for nonwhite women are about twice as high as they are for white women -- 11 percent compared with $5\frac{1}{2}$ percent.

F. Income

The economic and social disadvantages besetting Negroes which have their genesis in a lack of training and education are compounded by the denial of opportunity for employment. They are further reflected

in significantly lower levels of income for Negroes than for whites even when earnings in the same occupation groups are compared.

The income of nonwhite men averaged about $2,300 in 1961, compared with $4,400 for whites. This difference was due largely to the concentration of nonwhites in unskilled and semiskilled jobs. But even in the relatively few cases when Negro men have achieved employment in professional, technical, clerical, and skilled occupations, their earnings are substantially lower than for whites, despite equal education and training. For example:

> Among mechanics and repairmen who are high school graduates, median earnings in 1959 for white workers were $5,400, as compared to $4,300 for nonwhite workers.
>
> Sales workers (high school graduates) white $5,800, nonwhite $4,200.
>
> Clerical workers (high school graduates), white $5,400, nonwhite $4,600.
>
> Elementary and high school teachers (college graduates) white $5,900, nonwhite $4,600.
>
> Physicians and surgeons, white $16,100, nonwhite $6,200.

Put another way, because of the denial of full opportunity in the labor market, education returns less to the nonwhite in terms of income than to the white person. Thus, a nonwhite semiskilled worker with a high school education earns on the average only as much as a white worker who never graduated from elementary school; skilled nonwhite workers with one to three years of college earn on average no more than do white workers who never finished elementary school.

As was the case with employment, nonwhites made substantial gains in income during World War II, but have not significantly further closed the gap in earnings between them and white workers in recent years.

III. MOTIVATION

Low motivation which retards advancement is an elusive factor to trace. Sometimes it is best revealed by studying what happens to people's achievement when opportunities for employment and advancement are offered.

Most minority group workers have never seen fellow Negroes or Puerto Ricans in positions of authority or in high skilled or craft jobs. They could better assess their own capabilities and interests if they were able to come to know a broader range of employment opportunities through direct exposure to a range of jobs and skills. Vocational testing and counseling programs are often based on an assumption that such exposure already exists and thus they fail to evaluate adequately the vocational potential of such persons.

To a large degree, the instruments of success--schools, training, counseling--are increasingly the exclusive prerogatives of those who are already successful. Apprenticeship programs require high educational levels and vocational schools take pride in the number of youths they reject each year. Counseling, which has among its objectives the raising of motivation levels, tends to be available to those already sufficiently aggressive to seek it. For these reasons, these institutions have little knowledge of or experience with low motivation. By definition, the poorly motivated do not seek out these facilities. By necessity, therefore, vocational programs must seek out the unmotivated where they are.

Drop-out records give evidence of lack of motivation among Negro youth. Thus, Connecticut records a drop-out rate for Negroes more than one and one-half times that of white students. In Louisiana, only 22.9%

of the Negro students who entered grade one completed high school, while 54.8% of the white students finished. While many factors may be assumed to have influenced these facts, certainly low motivation derived from poverty of opportunity must be considered significant.

In special programs designed and conducted under the Manpower Development and Training Act, specific examples of changes in motivation were achieved when confidence based on the realities of successful placement after training were seen.

In one special project, a potential trainee turned down an opportunity to learn a skill because, in his words, "no matter what skill a Negro learns, industry around here won't take him in. No matter how good a craftsman, the unions will keep him out." He is now performing successfully after being given the opportunity to demonstrate proficiency on the job through retraining.

The results of a New York City "Demonstration Guidance Project" demonstrate the effect of increased motivation on the performance and goals of culturally deprived junior high school pupils. The project centered around increased personal and family guidance combined with cultural opportunity and stimulation which would not normally be provided in the low socio-economic environment of these pupils. The school supervised such activities as use of the school library, music and art appreciation programs, remedial classes in English, mathematics, and foreign languages, trips to colleges, visits to museums, concerts, galleries, and Broadway plays.

Among the 105 pupils in this program, the median verbal IQ jumped from 93.5 to 102.0 after three years. Gains in reading ability were significantly above those expected for average progress. Almost three-quarters of those questioned responded that the project had raised their ambitions, improved their ability to evaluate themselves, and encouraged them to think about attending college.

RATE OF FUNCTIONAL ILLITERACY
BY COUNTY, 1962

PERSONS 25 YEARS AND OVER

KEY RATE OF ILLITERACY

- UNDER 10.0%
- 10.0%--19.9
- 20.0%--29.9
- 30.0% & OVER

NOTE A FUNCTIONAL ILLITERATE IS DEFINED AS ONE WHO HAS COMPLETED FEWER THAN FIVE YEARS OF SCHOOL

SOURCE

COUNTY AND CITY DATA BOOK 1962

SCALE 1 MILES

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

MEMORANDUM

1. The greatest tragedy in the current civil rights debate is that on one of the main important issues, Negroes and whites are talking about two different things. The issue is the impact of the equal accommodations bill.

2. Whites who are opposed to civil rights think of this as almost entirely a question of prestige. They assume that the Negro wants to eat in posh restaurants, sleep in plush hotels, share toilet facilities solely as a social matter, and live in "exclusive" residential districts. They do not equate the question with a more elementary matter of economic survival.

3. The Negro, on the other hand, probably has very little interest in invading exclusively "white" accommodations. He does not want to be told that these things are denied to him--and who does? But above and beyond the question of social prestige is the very elementary issue of how a man makes a living for himself and his children.

4. The most important element in making a living in the modern world is mobility. A man who can not move from one place to another in search of the best job available is a man who is handicapped. No one can deny that under the present circumstances, a Negro can not move from one place to another with the same ease as a white man. He can not find motels in which to sleep as he drives along the highway. He must spend hours driving out of his way if his children are hungary and need a hamburger. And when it comes to sanitary facilities about all the Negro can find for his wife is a bush by the side of the road. Any Negro living on the East coast who hears that jobs might be open on the West coast is in a very difficult set of circumstances unless he can afford air transportation or train transportation.

5. The question of facilities, however, does not stop merely with the matter of travel. There is also the question of where a man is going to live once he arrives at his destination. The fact that a job may be open to him means little he he can not house his family near that job. And ~~even the~~ housing thing may be meaningless if his wife can not afford to shop at the big stores where prices are cheaper or if she is in the downtown section and can not stop in for a cup of coffee when she is tired. And even beyond that, a man is

going to be very reluctant to move if he has to go into an area where his children can not get adequate education.

6. Under all these circumstances, people should rethink this question of public accommodations. In the first place, it is difficult to find any good moral ground for denying people the right to use accommodations that are open to others. In the second place, it is difficult to insist that there is something wrong with a law that forces people to serve all well-behaved customers when so many areas have accepted without protest laws which forbid businessmen to accept some customers because of their race, creed, color, or national origin. But in the third place, when we deny a man the right to public accommodations, we not only humiliate him but we also interfere with one of the most basic rights of the free enterprise system--the right to seek the best job available.

SEC. 204 (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action, which may include an application for a permanent or temporary injunction, restraining order, or other order, may be instituted, (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States.

(b) In any such action by the person aggrieved, he shall, upon proof of violation, be entitled to recover damages as in the case of slander or libel, together with exemplary damages which shall not be less than $1,000 nor more than $100,000: Provided, however, that if the Court shall find that the violation was inadvertent or that it occurred despite a bona fide effort of the defendant to effect compliance with section 203, exemplary damages shall not be assessed.

(c) The Attorney General shall not institute any action under this section unless he has first served or caused to be served upon the prospective defendant a Notice of Probable Violation in such form as the Attorney General shall

prescribe which shall provide a period of 15 days within which the prospective defendant may furnish to the Attorney General proof that it has complied and is complying with section 203: Provided, however, that the aforesaid shall not be required if the Attorney General shall file with the Court a certificate that the circumstances are such that the delay consequent upon this procedure would adversely affect the interests of the United States, or that, in the particular case, the procedure would be fruitless.

(d) In case of any complaint or probable violation of section 203 coming to the notice of the Attorney General in any jurisdiction where state or local laws or regulations appear to the Attorney General to forbid the practice involved, the Attorney General, unless in his discretion he shall conclude that the national interest precludes such notice, shall notify the appropriate state and local officials and upon request shall afford them a reasonable time to act under the state and local laws before instituting federal action. In any injunctive order issued in an action brought by the Attorney General under this section, the Court shall enjoin the defendant not only with respect to the

particular violation, but also from any violation whatsoever of section 203 unless the Court shall find that the violation was inadvertent or that it occurred despite a bona fide effort of the defendant to comply with section 203, or that the defendant, after receiving notice of the particular violation, complied and has continued to comply with all of the provisions of section 203.

MEMORANDUM

July 1, 1963

To: Mr. George Reedy,
Assistant to the Vice President

Re: S. 1732

I shall not comment on this bill since you have asked only for an alternative formula. Apart from suggestions as to details ("whereas" clauses, coverage, etc.), my thought is that the bill might be recast so that its basic structure is as follows:

1. The Attorney General may bring an action for injunctive relief in the right of the United States -- not, as this bill provides, as an alternate for a private person, but to correct the violation of law. He should be able to bring the action without reference to any complaint, although there may be a complaint procedure. He should be able to obtain relief not with respect to an isolated or single violation, but only as to a course of conduct by the defendant. This would be assured by the provisions described in paragraph 2 of this memorandum.

2. He should not be able to bring the action (absent an emergency) unless he has first sought and failed to obtain voluntary compliance and unless the state and local authorities after notice and a specified period (say, fifteen days) have failed to correct the situation. Proof that the defendant has brought his practices and procedures into compliance shall be a defense to the action -- even though the Attorney General proves that a violation did in fact take place.

(Please note that this procedure -- civil injunctive remedy against an "unlawful" act, on suit by the United States is somewhat analogous to the Clayton Act procedure).

3. The private remedy in equity might be eliminated without sacrificing anything important (it is exacerbating, while, at the same time, it is not likely to result in broad, injunctive relief). A private action for damages as a result of the single, individual act (not requiring proof of a course

of conduct as in the case of action by the Attorney General (actual and exemplary or punitive) might be added or substituted.

----o----

The above, I think, would be at least as effective as the present bill and I suspect it would reduce the irritation.

As I described to you, if the above formula were to be adopted, there might be a possibility of obtaining the support of retail and hotel groups. This would, of course, best be done in advance of introduction of the bill.

Abe Fortas

11/3/64

MEMORANDUM

1. It is unfortunate that the current turmoil over the civil rights issue has been so dramatic that the specific issues themselves have been obscured by sweeping generalities. One thing is certain. There will be no solution until the responsible organs of public information bring home clearly to the American people what the shouting and the furor is all about.

2. The Negroes are presenting the issue in terms of "freedom now." Because, with a few exceptions, Negroes have less education than the public at large, they are also inarticulate. This means that they do not know how to present their case in slogans that reach the white community. Therefore, the white community is left with a sense of unimagined horrors right around the corner.

3. The "whites" on the other hand believe that what is involved is a question of enforced association--the right to marry somebody's daughter; the right to enter someone's home as an uninvited guest; the right to inflect an unwelcom presence upon people engaging in social activities. This presentation is widely accepted and its result is to inflame the whites and infuriate the Negroes.

4. Strangely enough when white and Negro leaders sit down and talk to each other, the specifications are far less dramatic and, in fact, are rather dull and pedestrian. In many instances, the sole Negro demand has been the establishment of a biracial committee in which Negroes and whites can sit down together and talk things over. When the issue is broadened out on a national scene again it becomes apparent that in terms of specifications most of the turmoil could be settled easily and that the deep divisions within our society today arise from the fact that the Negroes and the whites are talking about totally different things and are virtually using a different language.

5. The outstanding example is probably the question of public accommodations. To the white, this means that the Negro has a desire to eat in the gourmet restaurants; to sleep in elaborate hotels; and to enjoy the social prestige of using the same toilet facilities used by whites. To the Negro, on the other hand, public accommodations simply means the question of being able to move around the country

in search of a job without having intolerable burdens placed upon his right of movement. There are very few Negroes that are imbued with a burning desire to eat at Antoines In New Orleans or the Old Southern Tea Room in Vicksburg, Mississippi. But there are hundreds of thousands of Negroes who desire the right to go into the Howard Johnsons and get a hamburger or a hot dog when they are driving from one place to another. Looked at from this standpoint, the question of public accommodations should not be insuperable.

6. Another example of a deep division which, to a great extent, is a question of a breakdown in understanding, is the issue of integration itself. To the white, the word "integration" means enforced association on the way to miscenegation. This invokes nightmares of mulatto children; wild sex orgies; and the inability to spend a quiet evening at home with a few friends. To the Negro, on the other hand, integration really means access to public institutions which are essential to economic survival in modern competitive life. As an example, the question of school integration is now academic because it has been decided, but if the segregated had truly been equal (and no one can argue with a straight face that they were) the present conflict would probably never have arisen. To the Negro integration means the right to buy what he wants at the same place that white people buy what they want--simply because an integrated store serving all of the community is always, under any circumstances, going to be cheaper than a segregated store serving only a part of the community. To the Negro, integration means that when his wife becomes tired in the middle of the day's shopping she can go to the nearest place and get a cup of coffee and buy her child a Coke. To the Negro, integration means that when he is in a bus he can take the most convenient seat available and not be crowded toward the rear where he may have to stand while seats are empty in the front. Placed on this basis, the word integration loses many of its terrors and becomes a manageable problem which sensible men can solve.

7. Another example is that of Equal Employment Opportunity. The white looks upon the Negro's drive as an effort to take jobs away from him and give them to somebody else. The Negro looks upon the question as one of having the right to compete for jobs and not be denied the opportunity to do whatever his qualifications permit him to do. Placed in this context, the problem again becomes one of manageable proportions.

8. The unfortunate aspect is that unless these issues become articulated in reasonable times in the very near future, the divisions themselves will eventually pass the stage of reason. The white will become more and more convinced that he has no alternative other than to repress the aspirations of the Negro. The Negro will become more and more convinced that he has no future unless he can somehow smash the white.

9. The responsibility for articulation rests basically upon our political leadership. But our political leaders can articulate effectively only if the organs of public information accept their responsibility--because our people gain their knowledge through the press, radio, and television. It is to be hoped that this responsibility will be met by all.

MEMORANDUM

MAJOR ACCOMPLISHMENTS OF THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. In one year, Negroes in top government jobs (from $9,500 - $20,000) were increased by 35% while total job increases in this bracket were only 10%.

2. In one year, Negroes in middle level government jobs ($4,500 - $9,500) increased 20% while total increases in this bracket were 6%.

3. Under the compliance machinery, 1,610 complaints alleging discrimination have been received from workers on government contracts and the resolution rate is running 72% in favor of complainant.

4. The compliance machinery has received 2,156 complaints alleging discrimination from government employees and the resolution rate is running close to 40% in favor of the complainant.

5. Among 75 of the nation's top employers involved in the program, 25% of all new jobs over the six month period ending last December were non-white -- with a decline in non-white servicemen and laborers among these firms.

6. Previously "all-white" jobs have been opened to Negroes in a number of areas, including petro-chemical plants in Texas and Louisiana; steel-fabricating plants in West Virginia, Alabama, and Texas; shipbuilding plants in California and Mississippi; and food processing plants in Georgia.

7. In Los Angeles, a "pilot plant" operation brought together local industry, the local school system, and the Federal government to train 100 young people taken off the relief rolls for jobs in expanding employment fields. The initial project was so successful, it is now being expanded to 2,500 youths.

8. "Plans for Fair Practices" were signed with 118 international and 338 directly affiliated local unions of the AFL-CIO to abolish segregated locals, segregated lines of seniority, and segregated apprenticeship programs. The program is in its initial stages, but already nine international unions have integrated 18 segregated locals and nine other international unions are well on their way to the same goal.

9. The President's Committee has launched regional and company-wide surveys affecting about 200 companies to determine the extent

to which major industry is complying with the Equal Opportunity Program.

10. High ranking Federal officials examined the employment files of Federal employees, grades 1 through 5, to determine whether any had been unfairly passed over for promotion. As a result, 1,060 "non-white" employees were upgraded and 600 were reassigned to positions which afforded broader opportunities.

PERSONAL & CONFIDENTIAL

June 7, 1963

MEMORANDUM TO THE VICE PRESIDENT

From: George E. Reedy

Ramsey Clark has two proposals:

a. A community relations service similar to the one that you have proposed. The amazing part of this to me is that Ramsey, on the basis of one trip to Birmingham, returned thinking precisely along the same lines that you have been thinking for a number of years -- that conciliators could perform a world of good in this situation.

b. A "Wagner Act" in the race relations service. This would enable the Federal government to set the terms and conditions of demonstrations and to actually arbitrate racial disputes. Personally, I do not think this is a practical proposal.

Ramsey's complete views are set forth in the attached memo.

Form No. LN-1a
(Ed. 5-22-61)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO	
NAME	BUILDING AND ROOM
1. Mr. Readey	
2. Room 2T-14	
3. The Capitol	
4.	
5.	

- ☐ SIGNATURE
- ☐ APPROVAL
- ☐ SEE ME
- ☐ RECOMMENDATION
- ☐ COMMENT
- ☐ NECESSARY ACTION
- ☐ NOTE AND RETURN
- ☐ CALL ME
- ☐ PER CONVERSATION
- ☐ AS REQUESTED
- ☐ NOTE AND FILE
- ☐ YOUR INFORMATION
- ☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____
- ☐ PREPARE REPLY FOR THE SIGNATURE OF _____

REMARKS

George,

Pursuant to your request, a copy of my memo to the A.G. re Race Relations Conciliation Service is on the last 3 pages.

Ramsey

FROM		
NAME	BUILDING, ROOM, EXT.	DATE
ASSISTANT ATTORNEY GENERAL Lands Division		6-6-63

RC:jm

Mr. Robert F. Kennedy, Attorney General — May 15, 1963

Ramsey Clark, Assistant Attorney General,
Lands Division

Race Relations.

My background in Civil Rights is not adequate to permit a well rounded analysis. I have a strong feeling that drastic Federal action is essential and offer these thoughts.

We cannot continue a City by City battle without intolerable risks.

We must endeavor to establish the following conditions:

1. Human dignity for Negroes with equal opportunity in all areas of conduct and equal liberty including rights of peaceful assembly, free speech, etc.

2. The rule of law providing orderly, expeditious and peaceful change.

Ordinarily we should look first to the people and private institutions to provide the major impetus: churches, schools, civic groups, service clubs, professional associations, individual. These must be given organized support and encouragement, but I cannot see that they have the purpose, the will, the capability, or the time to resolve the issues.

Second, we should ordinarily look to local and State governments. These must be encouraged and supported, but I cannot see that they have the desire or intention, generally, to do more than they are forced to do. In few notable instances they will attempt to capitalize on doing nothing other than provoking the situation.

Even in areas where the most has been accomplished the results to date are token and I would include the University of Texas and City of Dallas.

The four critical areas where opportunity must be equalized are:

1. Political power: the right to vote which is the foundation of a democracy.

2. Employment: without property, liberty cannot be exercised and opportunity is severely limited.

3. Education: the opportunity to develop the talents of each individual.

4. Enjoyment of the benefits of our technology, industry, imagination, and resources: the right to use all commercial facilities open to the public: stores, theatres, travel, and recreation facilities, etc.

Attached are outline proposals in areas 2, 3 and 4. They are rough suggestions and raise many questions of policy, law, and Constitution.

Basically, I think we must have strong Federal executive power and leadership and drastic action. We will see whether a free people within the framework of our Constitution can effect a major social transformation of a problem that no civilization has mastered at a time when it must be mastered for both the domestic and international welfare under the rule of law.

Recommendation. Designate a group or groups; 1. to make an intensive review of legislative possibilities. 2. to make a comprehensive review of method to broaden encouragement and support of private groups, local and State governments in accomplishing peaceful integration with deliberate speed.

I. EQUAL EDUCATION OPPORTUNITY ACT.

1. Office of Equal Education Opportunity, HEW.

A. Authorized to make comprehensive study of, and report on, implementation of United States Supreme Court order in Brown v. School Board. Establish studies into public institutions of higher education: State-wide studies on District by District basis in elementary and secondary education. Publish findings on plans and degree of integration.

B. Authorized to make comprehensive plans for integration of school systems to effect orderly integration with deliberate speed. Endeavor to secure agreement to plans by interested officials and groups.

C. Power to issue subpoenas for witnesses and documents, to cite for contempt.

D. Authorized to refer matters to the Department of Justice for legal action where good faith effort, or deliberate speed is not being made.

E. Department of Justice authorized to file school integration suits.

II. Authorize Bureau of Labor statistics in cooperation with President's Committee on Equal Employment Opportunity to investigate, and report statistics on discrimination in employment by companies engaged in commerce. Powers necessary to secure data.

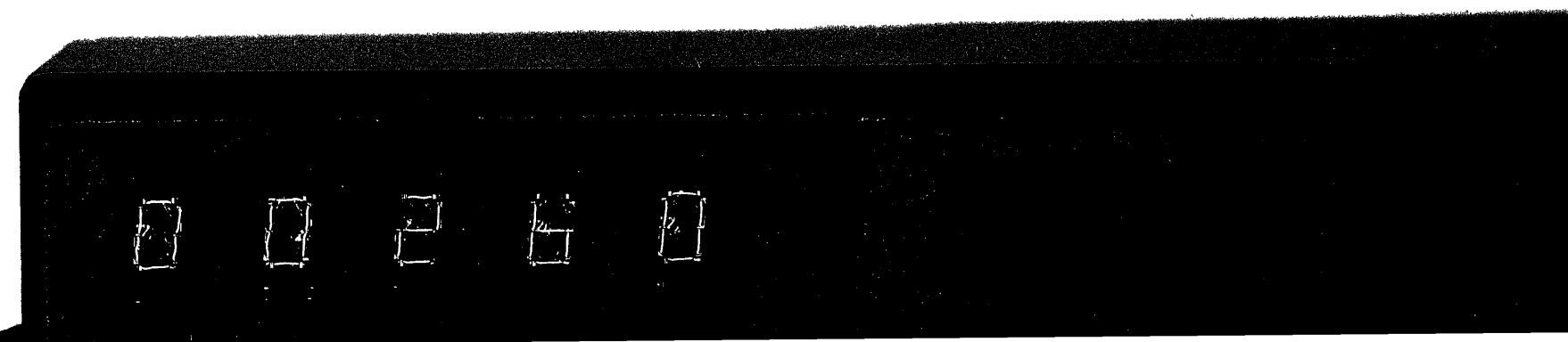
X III. RACE RELATIONS CONCILIATION ACT.

1. Unlawful arrests and Assembly.

A. Federal offense to arrest any person in violation of Constitutional Rights of free speech and peaceful assembly.

B. Federal offense for more than (25) people to assemble in a public area without the approval of local authority, or for more than (5) people to refuse to leave a commercial establishment open to the public upon request of owner or proprietor in connection with a racial protest except as approved by Race Relations Conciliation Service.

Simple. Give to appoint people from communities. 12



C. Federal offense for anyone to contumaciously refuse to obey order of RRCS.

2. Race Relations Conciliation Service.

A. Create as an office within the Department of Labor under an Assistant Secretary for Race Relations Conciliation with Executive Branch Conciliation Officers. Empower the Secretary to make rules and regulations, hold hearings, enter orders, designate representation committees where agreement cannot be reached, subpoena witnesses and documents, cite for violations.

B. On selection of representative committees which shall fairly represent public interests and formal designation of members, conciliation officer shall enter an order fixing a moratorium for up to (90) days on demonstrations, assemblies and other activities, except as shall be reasonably necessary and safe. Order published in newspaper shall be constructive notice to all persons. During moratorium, hearing officer shall endeavor to seek agreement between the committees on all matters in dispute. If an agreement is reached, it shall be reduced to writing, signed by the committees and incorporated into an order which shall be published in a local newspaper and constitute constructive notice. Such order shall be binding for one year during which period demonstrations, etc., shall be limited as prescribed by the conciliation officer, and as authorized by local law. Increases in integration may be placed in effect during such period as approved by the conciliation officer.

C. Appeals. If circumstances require, or where representative committees cannot be agreed to, or if either committee fails, or refuses to conciliate, conciliation officer may enter such orders as may be necessary to present violation of constitutional rights or violence which increase, or decrease the size or amount of assemblies, picketing or other free speech: if local law enforcement officials appear unable, or fail to agree, to preserve order and demonstrate ability to maintain the peace, the conciliation officer shall request a federal police force to enforce his order and preserve the peace.

3. Either committee by majority vote, or if no committee has been approved, any citizen approved by the U.S. ~~District~~ Circuit Judge to

act in a representative capacity may appeal from a final order of a conciliation officer within 20 days after entry of such order.

PERSONAL & CONFIDENTIAL

June 10, 1963

MEMORANDUM TO THE VICE PRESIDENT

From: George Reedy

Because we got off on the question of HEW, I did not get a chance to talk to you fully about Bill Wirtz. Wirtz feels as follows:

1. Existing programs are not adequate.

2. Pending proposals do not fill the gaps adequately.

3. Additional authority is needed.

4. He is not certain about a full-blown "crash" program but has asked his staff people to work up some recommendations that would have those elements in it.

5. He was uncertain about whether he would like to recommend that his ideas be included in the supplemental civil rights message because he does not know what the message itself would contain. I suggested to him that this might be an opportunity to do something constructive and he said he will phrase the memo in such a way that it can be included in the civil rights message.

The difficulty is that Wirtz has not seen the staff recommendations yet himself.

MEMORANDUM

June 3, 1963

TO : The Vice President
FROM : George Reedy

1. It is not within my competence to analyze the attached bill from a legal standpoint. It is safe to assume that it has been drafted by able men who know the law. However, remembering what happened to Part III of the Eisenhower bill of 1957, it would be sensible to submit it to legal counsel that would be antagonistic to its principles. If somebody like Senator Russell is going to tear it to shreds, we are better off knowing that fact in advance of an Administration commitment.

2. A careful reading of the bill leaves some doubt as to the legislative jurisdiction. It could -- as a matter of curbstone opinion -- go either to Judiciary or Commerce. Both Committees could, conceivably, claim jurisdiction. It would be well to check this question out with the parliamentarian and the legislative leadership in advance of submission.

3. From the standpoint of legislative acceptance, the bill is unusually well drafted. However, it would be well to check it out with a subtle mind like Senator Russell. He, of course, would be opposed to it altogether. But his reactions would indicate the points at which unusual care would need to be exercised in language. Meanwhile, a few minor points are evident:

a. On page 10, paragraph 7 should be "beefed up" and moved forward. The fact that segregated facilities hamper both workers and employers in exercising free choice is very potent.

b. Also on page 10, more thought should be given to paragraph 6. The fact that discrimination prevents some private organizations from holding conventions in certain cities seems to be frivolous and this paragraph could subject the whole measure to ridicule.

c. On page 9, paragraphs 2 and 3 should be combined. As they now stand, they give the impression that this whole thing is just a matter of tourists and not a serious moral problem.

d. Also on page 9, paragraph 4 places the emphasis on the wrong end of the stick. It appears that we are passing this bill for the economic benefit of theater owners who would otherwise be deprived of Negro customers. This is not a very impressive argument. The real point is that a theater is a public accommodation and to the extent that its use is restricted, it places a burden upon the free movement and the free choice of people.

e. Back to page 10, paragraph 5 also appears to say that we are passing this bill for the economic benefit of department store owners who might otherwise lose Negro patrons. Again, the real point is that such discrimination interferes with the free flow of goods interstate and the right of people to make a free choice as to where they will move and live as American citizens entitled to full rights and privileges.

4. The attached draft of the bill enumerates the facilities which would be integrated. This would be a mistake. However, it is understood that this will be amended to place all facilities that could substantially burden commerce under the terms of the measure -- leaving the determination of exceptions to the courts. Without specific language, it is impossible to comment on this section. But the general principle is correct.

5. There are probably other questions involved in this legislation. But time does not permit a full analysis. It is unfortunate that this bill cannot be submitted to people like Abe Fortas, Dean Acheson, Ben Cohen, Senator Pastore, and to others experienced in the intricacies of legislative drafting.

# # # # #

PERSONAL & ~~CONFIDENTIAL~~

June 10, 1963

MEMORANDUM TO THE VICE PRESIDENT

From: George Reedy

1. Abe Fortas has drafted the attached as a substitute for Section 204 of the Administration's bill. This is the heart of the public accommodations measure, as it is the enforcement section.

2. What Abe's proposal would do would be:

a. Give private individuals an opportunity to clean up their own department stores and restaurants without Federal action -- but at the same time retaining the full right of the Attorney General to act at any time.

b. Give States and municipalities an opportunity to clean up their own house, while at the same time giving the Attorney General the full power to act in the event that the States will not do so.

c. Clearly spelling out the right of the Federal government to enjoin discriminatory practices in general against a department store or other public accommodation.

d. Give the individual, aggrieved Negro an opportunity to recover damages on the same basis that damages could be recovered for slander or libel (in other words, if a department store should refuse to give a Negro the opportunity to try on clothes, this could be construed as a libel against that Negro's character).

3. Abe finds many other things wrong with the bill. But he is afraid to offer too many suggestions because this might get too many backs up and make any progress impossible. Overall, he feels the entire bill could be and should be drafted in about 2 pages and made so simple and clear that anybody could understand it and nobody could misunderstand it.

(more)

4. The worst part of the Administration's bill (the findings of fact on pages 8, 9, 10 and 11) Abe does not touch. He thinks it is so childish that some lawyer is bound to knock these provisions out before the bill gets to Congress, and an argument over them at this point would merely complicate matters without achieving any results.

# # #

A BILL

To enforce the constitutional right to vote, to confer jurisdiction upon the District Courts of the United States to provide injunctive relief against discrimination in interstate public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to extend for four years the Commission on Civil Rights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1963."

TITLE I - VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall--

"(A) in determining whether any individual is qualified under State law to vote in any Federal election apply any standard, practice, or procedure different from the standards, practices, or procedures

applied to individuals similarly situated who have been found by State officials to be qualified to vote.

"(B) deny the right of any individual to vote in any Federal election because of an error or omission of such individual on any record or paper relating to any application, registration, payment of poll tax, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual wholly in writing and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his written request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Act of May 6, 1960 (74 Stat. 88).

"(3) For purposes of this subsection--

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the words 'Federal election' shall have the same meaning as in subsection (f) of this section; and

"(C) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact it shall be presumed that any person who has not been adjudged an incompetent and who has completed the sixth grade in public school accredited by any State or territory or the District of Columbia ~~where instruction is carried on predominantly in the English language,~~ possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election as defined in subsection (f) of this section."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)":

"(f) Whenever in any proceeding instituted pursuant to subsection (c) the complaint requests a finding of a pattern or practice pursuant to subsection (e), and such complaint, or a motion filed within twenty days after the effective date of this Act in the case of any proceeding which is pending before a district court on such effective date, (1) is signed by the Attorney General (or in his absence the Acting Attorney General), and (2) alleges that in the affected area fewer than 15 per centum of the total number of voting age persons of the

same race as the persons alleged in the complaint to have been discriminated against are registered (or otherwise recorded as qualified to vote), any person resident within the affected area who is of the same race as the persons alleged to have been discriminated against shall be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since the filing of the proceeding under subsection (c) been (A) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (B) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any Federal or State election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote: Provided, That in the event it is determined upon final disposition of the proceeding, including any review, that no pattern or practice of deprivation of any right secured by subsection (a) exists, the order shall thereafter no longer qualify the applicant to vote in any subsequent election.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote

as provided herein. The Attorney General shall cause to be transmitted certified copies of any order declaring a person qualified to vote to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so qualified to vote to vote at an appropriate election shall constitute contempt of court.

"An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

"The court may appoint one or more persons, to be known as temporary voting referees, to receive applications pursuant to this subsection and to take evidence and report to the court findings as to whether at any election or elections (1) any applicant entitled under this subsection to apply for an order declaring him qualified to vote is qualified under State law to vote, and (2) he has since the filing of the proceeding under subsection (c) been (A) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (B) found not qualified to vote by any person acting under color of law. The procedure for processing applications under this subsection and for the entry of orders shall be the same as that provided for in the fourth and fifth paragraphs of subsection (e).

"In appointing a temporary voting referee the court shall make its selection from a panel provided by the Judicial Conference of the circuit. Any temporary voting referee shall be a resident and a qualified voter of the State in which he is to serve. He shall subscribe to the oath of office required by Revised Statutes, section 1757 (5 U.S.C. 16), and shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed any persons appointed by the district court pursuant to this subsection shall be fixed by the court and shall be payable by the United States. In the event that the district court shall appoint a retired officer or employee of the United States to serve as a temporary voting referee, such officer or employee shall continue to receive, in addition to any compensation for services rendered pursuant to this subsection, all retirement benefits to which he may otherwise be entitled.

"The court or temporary voting referee shall entertain applications and the court shall issue orders pursuant to this subsection until final disposition of the proceeding under subsection (c), including any review, or until the finding of a pattern or practice pursuant to subsection (e), whichever shall first occur. Applications pursuant to this subsection shall be determined expeditiously, and this subsection shall in no way be construed as a limitation upon the existing powers of the court.

"When used in this subsection, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives; the words 'State election' shall mean any other general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for public office; the words 'affected area' shall mean that county, parish, or similar subdivision of the State in which the laws of the State relating to voting are or have been administered by a person who is a defendant in the proceeding instituted under subsection (c) on the date the original complaint is filed; and the words 'voting age persons' shall mean those persons who meet the age requirements of State law for voting."

(d) Add the following subsection "(h)":

"(h) In any civil action brought in any district court of the United States under section 2004 of the Revised Statutes, as amended, and title III of the Act of May 6, 1960 (74 Stat. 88), wherein the United States is plaintiff, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in

the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

TITLE II - INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN INTERSTATE PUBLIC ACCOMMODATIONS

FINDINGS AND POLICY

SEC. 201. (a) Findings.

(1) The American people have become increasingly mobile during the last generation, and millions of American citizens travel each year from State to State by rail, air, bus, automobile, and other means. A substantial number of such travelers are members of minority racial and religious groups. These citizens, particularly Negroes, are subjected in many places to discrimination and segregation, and they are frequently unable to obtain the goods and services available to other interstate travelers.

(2) Negroes and members of other minority groups who travel interstate are frequently unable to obtain adequate lodging accommodations during their travels, with the result that they may be compelled to stay at hotels or motels of poor and inferior quality, travel great distances from their normal routes to find adequate accommodations, or make detailed arrangements for lodging far in advance of scheduled interstate travel.

(3) Negroes and members of other minority groups who travel interstate are frequently unable to obtain adequate food service at convenient places along their routes, with the result that many are dissuaded from traveling interstate, while others must travel considerable distances from their intended routes in order to obtain adequate food service.

(4) Goods, services, and persons in the amusement and entertainment industries commonly move in interstate commerce, and the entire American people benefit from the increased cultural and recreational opportunities afforded thereby. Practices of audience discrimination and segregation artificially restrict the number of persons to whom the interstate amusement and entertainment industries may offer their goods and

services. The burdens imposed on interstate commerce by such practices and the obstructions to the free flow of commerce which result therefrom are serious and substantial.

(5) Retail establishments in all States of the Union purchase a wide variety and a large volume of goods from business concerns located in other States and in foreign nations. Discriminatory practices in such establishments, which in some instances have led to the withholding of patronage by those affected by such practices, inhibit and restrict the normal distribution of goods in the interstate market. In this regard, the impact of discrimination in the large establishments included under this title is especially pronounced.

(6) Fraternal, religious, scientific, and other organizations engaged in interstate operations are frequently dissuaded from holding conventions in cities which they would otherwise select because the public facilities in such cities are either not open at all to members of racial or religious minority groups or are available only on a segregated basis.

(7) Business organizations which seek to avoid subjecting their employees to discrimination ~~based~~ on ~~race, creed, color, or national origin~~ in ~~restaurants,~~

~~retail stores~~, and places of amusement, and to avoid the strife resulting ~~from such discrimination~~ are restricted in the choice of location for their offices and plants. ~~Such restrictions prevent~~ the most effective allocation of national resources, including the interstate movement of industries, particularly in some of the areas of the nation most in need of industrial and commercial expansion and development.

(8) The aforementioned burdens on commerce and obstructions to commerce can best be removed by prohibiting racial and religious discrimination in certain public establishments.

(b) Policy.

It is hereby declared to be the policy of the United States to prevent discrimination on account of race, color, religion, or national origin in places of public accommodation, to eliminate the causes of certain substantial obstructions to the free flow of commerce caused by such discrimination, and to require business enterprises serving the public in interstate commerce to render such service without regard to race, color, religion, or national origin.

RIGHT TO NON-DISCRIMINATION IN INTERSTATE COMMERCE

SEC. 202 (a) All persons shall be entitled, without discrimination or segregation on account of race, color, religion, or national origin, to the full and equal enjoyment of the services, facilities, privileges, advantages, and accommodations of the following public establishments:

(1) any hotel, motel, or other public place engaged in furnishing lodging to transient guests, including guests from other States or traveling in interstate commerce, unless (i) it is owned by a natural person and occupied by him, and (ii) five rooms or less are held out for rent or hire;

(2) any motion picture house, theatre, sports arena, stadium, exhibition hall, or other public place of amusement or entertainment which customarily presents motion pictures, performing groups, athletic teams, exhibitions, or other sources of entertainment which move in interstate commerce;

(3) any retail shop, department store, market, drug store, gasoline station, or other public place which keeps goods for sale, which sells or obtains goods, directly or indirectly, in interstate commerce, and which has an annual volume of sales or a projected annual volume of sales of more than $150,000; and

(4) any restaurant, lunch room, lunch counter, soda fountain, or other public place engaged in selling food for consumption on the premises, which

(i) is an integral part of an establishment included under (1), (2), or (3) above, or

(ii) is located on or along a highway as described in sections 103(b) or (d) of title 23,

United States Code, or customarily serves travelers on such highway, except an establishment which is owned by a natural person and has a seating capacity of not more than twenty persons.

For the purpose of this subsection, the term "integral part" means physically located on the premises occupied by an establishment, or located contiguous to such premises and owned, operated, or controlled, directly or indirectly, by or for the benefit of, or leased from the persons or business entities which own, operate, or control an establishment.

(b) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment included in subsection (a).

PROHIBITION AGAINST DENIAL OF OR INTERFERENCE WITH THE RIGHT TO NON-DISCRIMINATION

SEC. 203. No person, whether acting under color of law or otherwise, shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 202, or (b) interfere or attempt to interfere with any right or privilege secured

by section 202, or (c) intimidate, threaten, or coerce any person with a purpose of interfering with any right or privilege secured by section 202, or (d) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 202, or (e) incite or aid or abet any person to do any of the foregoing.

CIVIL ACTION FOR PREVENTIVE RELIEF

SEC. 204. Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted (1) by the person aggrieved, or (2) by the Attorney General for or in the name of the United States if he is satisfied that the purposes of this title will be materially furthered by the filing of an action.

JURISDICTION

SEC. 205. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) This title shall not preclude any individual or any State or local agency from pursuing any remedy that may be available under any federal or State law, including any State statute or ordinance requiring non-discrimination in public establishments or accommodations.

TITLE III -- DESEGREGATION OF PUBLIC EDUCATION

DEFINITIONS

SEC. 301. As used in this title--

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

ASSISTANCE TO FACILITATE DESEGREGATION

SEC. 302. The Commissioner shall conduct investigations and make a report to the President and the Congress, within two years of the enactment of this title, upon the extent to which equal educational opportunities are denied to individuals by reason of race, color, religion or national origin in public educational institutions at all

levels in the United States, its territories and possessions, and the District of Columbia.

SEC. 303. (a) The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit, to render technical assistance in the preparation, adoption, and implementation of plans for the desegregation of public schools or other plans designed to deal with problems arising from racial imbalance in public school systems. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation or racial imbalance, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

(b) The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation or measures to adjust racial imbalance in public school systems. Individuals who attend such an institute may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in

regulations, including allowances for dependents and including allowances for travel to attend such institute.

SEC. 304. (a) A school board which has failed to achieve desegregation in all public schools within its jurisdiction, or a school board which is confronted with problems arising from racial imbalance in the public schools within its jurisdiction, may apply to the Commissioner, either directly or through another governmental unit, for a grant or loan, as hereinafter provided, for the purpose of aiding such school board in carrying out desegregation or in dealing with problems of racial imbalance.

(b) The Commissioner may make a grant under this section, upon application therefor, for--

(1) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation or racial imbalance in public schools; and

(2) the cost of employing specialists in problems incident to desegregation or racial imbalance and of providing other assistance to develop understanding of these problems by parents, schoolchildren, and the general public.

(c) Each application made for a grant under this section shall provide such detailed information and be in such form as the Commissioner may require. Each grant under this section shall be made in such amounts and on such terms and conditions as the Commissioner shall

prescribe, which may include a condition that the applicant expend certain of its own funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation or racial imbalance, and such other factors as he finds relevant.

(d) The Commissioner may make a loan under this section, upon application, to any school board or to any local government within the jurisdiction of which any school board operates if the Commissioner finds that--

(1) part or all of the funds which would otherwise be available to any such school board, either directly or through the local government within whose jurisdiction it operates, have been withheld or withdrawn by State or local governmental action because of the actual or prospective desegregation, in whole or in part, of one or more schools under the jurisdiction of such school board;

(2) such school board has authority to receive and expend, or such local government

has authority to receive and make available for the use of such board, the proceeds of such loan; and

(3) the proceeds of such load will be used for the same purposes for which the funds withheld or withdrawn would otherwise have been used.

(e) Each application made for a load under this section shall provide such detailed information and be in such form as the Commissioner may require. Any loan under this section shall be made upon such terms and conditions as the Commissioner shall prescribe. Any such loan shall be repaid within such time as the Commissioner prescribes after the funds withheld or withdrawn are restored to the school board or local government concerned, or after funds become available to such school board or local government by borrowing from private sources.

(f) The Commissioner may suspend or terminate assistance under this section to any school board which, in his judgment, is failing to comply in good faith with the terms and conditions upon which the assistance was extended.

SEC. 305. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, and on such conditions, as the Commissioner may determine.

SEC. 306. The Commissioner shall prescribe rules and regulations to carry out the provisions of sections 301 through 305 of this title.

SUITS BY THE ATTORNEY GENERAL

SEC. 307. (a) Whenever the Attorney General receives a complaint--

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived of the equal protection of the laws by reason of the failure of a school board to achieve desegregation, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion or national origin,

and the Attorney General certifies that in his judgment the signer or signers of such complaint are unable to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further ~~achievement of the equal~~ protection of the laws, in the field of ~~public education,~~ the Attorney General is authorized to institute for or in the name of the United States a civil action in a district court of the United States against such parties and for such relief as may be appropriate, and such court

shall have jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) A person or persons shall be deemed unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are financially unable to bear the expense of the litigation or when there is reason to believe that such person or persons are unable to obtain effective legal representation or that the institution of such litigation would jeopardize the employment or economic standing of, or might result in injury or economic damage to, such person or persons, their families, or their property.

(c) Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws by reason of the failure of a school board to achieve desegregation, or of a public college to admit or permit the continued attendance of an individual, the Attorney General for or in the name of the United States may intervene in such action if he certifies that, in his judgment, the plaintiffs are unable to maintain the action for any of the reasons set forth in subsection (b) of this section, and that such intervention will materially further ~~achievement of the equal protection of the laws in the field of public education~~. In such an action the United States shall be entitled to the same relief as if it had instituted the

action under subsection (a) of this section.

(d) The term "parent" as used in this section includes other legal representatives.

SEC. 308. Nothing in this title shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States under existing law to institute or intervene in any action or proceeding.

SEC. 309. In any section or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 310. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

TITLE IV--COMMISSION ON CIVIL RIGHTS

SEC. 401. Section 102 of the Civil Rights Act of 1957 (42 U.S.C. 1975a; 71 Stat. 634) is amended to read as follows:

"RULES OF PROCEDURE OF THE COMMISSION, HEARINGS

"SEC. 102. (a) The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

"(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony or summary of such evidence or testimony in executive session; and in the event the Commission determines that such evidence or testimony shall be given at a public session, then it shall (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpena additional witnesses.

"(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole

judge of the pertinency of testimony and evidence adduced at its hearings.

"(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

"(j) A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the

attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process."

SEC. 402. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 634) is amended to read as follows:

"Sec. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $75 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2)."

SEC. 403. Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b); 71 Stat. 634) is amended to read as follows:

"(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions

of the Travel Expense Act of 1949, as amended (5 U.S.C. 835-42)."

SEC. 404. Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975; 71 Stat. 634), as amended, is further amended to read as follows:

"DUTIES OF THE COMMISSION

"SEC. 104. (a) The Commission shall--

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

"(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution; and

"(4) serve as a national clearinghouse for information, and provide advice and technical assistance to Government agencies, communities, industries, organizations, or individuals in respect to equal protection of the laws, including but not limited to the fields of voting,

education, housing, employment, the use of public facilities, transportation, and the administration of justice.

The Commission may, for such periods as it deems necessary, concentrate the performance of its duties on those specified in either paragraph (1), (2), (3), or (4) and may further concentrate the performance of its duties under any of such paragraphs on one or more aspects of the duties imposed therein.

"(b) The Commission shall submit interim reports to the President and to the Congress at such times as either the Commission or the President shall deem desirable, and shall submit to the President and to the Congress a final and comprehensive report of its activities, findings, and recommendations not later than September 30, 1967.

"(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist."

SEC. 405. (a) Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975(a); 71 Stat. 634) is amended by striking out in the last sentence thereof "$50 per diem" and inserting in lieu thereof "$75 per diem."

SEC. 406. Section 105(g) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(g); 71 Stat. 634) is amended to read as follows:

"(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the

United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

SEC. 407. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 634), as amended by section 401 of the Civil Rights Act of 1960 (42 U.S.C. 1975d(h); 74 Stat. 86), is further amended by adding a new subsection at the end to read as follows:

"(i) The Commission shall have the power to make such rules and regulations as it deems necessary to carry out the purposes of this Act."

TITLE V--MISCELLANEOUS

SEC. 501. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 502. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances shall not be affected thereby.

PERSONAL & ~~CONFIDENTIAL~~

June 7, 1963

MEMORANDUM TO THE VICE PRESIDENT

From: George Reedy

After Abe Fortas read the Administration's bill his comment was that "it must have been written by children." He said it is impossible to conceive of a measure less likely to pass and at one point, when he was reading the "findings of fact" that I mentioned to you (the resort conventions and the theater and department store patronage) Abe remarked: "This is embarrassing. It makes me cringe to think that my government could produce a document like this."

From the legal standpoint, Abe says that the people who have drafted the measure think they have said things that they haven't. For example, he thinks the drafters believe that they could get "class" injunctions under their measure -- in other words, that they could enjoin department stores, motels, lunchrooms, etc. to treat all people equally. Abe says they haven't gotten anywhere near that point and the way the bill is now drafted, each individual case will have to be handled on its own merits. This means the Federal courts would be clogged with cases of individual Negro women who were refused the right to try on a brassiere or some other garment in a department store. Abe thinks that a good lawyer like Dick Russell could tear the measure to pieces without even getting mad about it.

All of his comments are directed to the public accommodations section of the measure. The balance he considers to be mere language that was thrown in to make it a bigger bill.

Abe is working on a draft of his own, which he will have tomorrow morning. He says that at the very least the bill should have "some nobility of purpose in it" rather than the childish document that has been produced.