BURKE MARSHALL PAPERS

SUBJECT FILE

Commission on Civil Rights
JANUARY - JULY 1963

OFFICE OF THE ATTORNEY GENERAL

Washington, D. C.

December 15, 1962

Dr. John A. Hannah
Chairman
United States Commission
on Civil Rights
726 Jackson Place, N. W.
Washington, D. C.

Dear Dr. Hannah:

In accordance with the very satisfactory cooperation which exists between the Commission staff and the Civil Rights Division, I have been informed through Mr. Berl Bernhard of the Commission's intention to hold public hearings in Mississippi at the end of January.

I understand that the Commission intends to hold hearings on a broad scale, covering a range of subjects including discrimination in voting rights, economic reprisals against Negroes, discrimination in the educational system in Mississippi, the impact of the various federal programs in the state and other matters.

I fully recognize the reasons for the Commission's desire to hold public hearings in Mississippi. I also understand why the Commission does not feel that the activity of the Department of Justice in the state relieves the Commission of its separate responsibility to determine the facts for itself, and to report on them to the President and the Congress.

Nevertheless, I have a responsibility to advise the Commission that it is my judgment that the work of the Department of Justice might be severely hampered by hearings held by the Commission in Mississippi at this time. As the Commission knows, we are still engaged in very far-reaching and important litigation against the state and public officials of Mississippi. The most important of these pending matters is the criminal contempt citations which we have been instructed by the Court of Appeals to bring against Governor Barnett and Lt. Governor Johnson. But these are not the only matters. Our Chief Marshal, James P. McShane, has been indicted by a Mississippi grand jury for inciting a riot on the campus of the University. A member of the Armed Forces has also been indicted for action taken in the course of his duties in preserving order on the campus. Both Mr. McShane and Deputy Attorney General Katzenbach have been named as defendants in civil litigation involving some of these same matters.

While there has been no public announcement, the Commission should know that we have felt it necessary, because of my personal involvement and that of my aides in the events leading up the the riot at the University on September 30 and October 1, to retain special counsel to present the contempt proceedings against Governor Barnett and the Lieutenant Governor.

It is my strong feeling that the work of the Department in meeting its responsibilities, and particularly in prosecuting the criminal contempt case against the Governor, might well be prejudiced by public hearings now in the area of race relations by any federal agency in the State of Mississippi. For example, counsel for Governor Barnett and Lt. Governor Johnson will unquestionably demand a jury trial. While there is doubt that the court will hold trial by jury to be necessary, it may be that the court will order this action. If it does, I am confident that the claim will be made that the Civil Rights Commission is working with the Department of Justice publicly to prejudice the State of Mississippi and its officials in the minds of the jury. The charge would probably be made in any event that the hearings would prejudice the court, and the court might well be embarrassed itself, regardless of what charges were made, at contempo-

raneous hearings. While there would obviously be no substance to such charges, I think that in a matter of this great national importance, involving as it does the governor of one of the states on a question of criminal responsibility, even the appearance of impropriety or questionable ethical conduct by the federal government should be avoided.

I am sorry that I cannot at this time give the Commission any firm guess as to when the pending court matters will be resolved. I think that it is probable that in the criminal contempt case, the Court of Appeals will hold a pre-trial session sometime in January. At that time the question of a jury trial, and the question of hearing dates and procedures should be answered.

In the meantime, it seems to me that, at least on all questions concerning federal programs, the work of the Commission staff could continue, and a report could be prepared, without any need for public hearings in the state. In this connection, I am informed that in a number of instances the material to be covered by the Commission's hearings in other areas (such as voting, economic reprisals, etc.) does in fact overlap with work being done here in the Department. For example, I understand that when Mr. Clyde Ferguson gave us the names of the three counties in which voting problems were to be explored, it developed that we had two complaints prepared in one of the counties, had been conducting active and continuing negotiations over a considerable period of time in the second, and had commenced preliminary inquiries in the third. In addition, several of the instances of specific denials of the right to vote, or of reprisals, are covered by pending suits. I realize that this is not a complete reason for the Commission to refrain from making its own investigation. On the other hand, it does seem to me to be relevant in balancing the needs of the federal government at the moment.

I would be most happy, if the Commission wishes, to meet with it to discuss this matter of great importance.

Sincerely,

/s/ Robert F. Kennedy

Attorney General

COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C.

January 2, 1963

Dear Mr. Attorney General:

The Commission is appreciative of the candid expression of your views in your letter of December 15, 1962. The arguments you advance against the Commission's plans to conduct a public hearing in Mississippi in January 1963 are cogent ones. The Department's responsibility is formidable and the Commission has no wish to add to your burden. At the same time, the Commission appreciates your recognition of the fact that we have responsibilities which we cannot ignore.

In formulating plans to meet its responsibilities, the Commission has made every effort to avoid complicating the Department's task. The problems in Mississippi are grave ones for the Nation and they pose special difficulties for the simultaneous discharge of our respective duties. You suggest that the dual presence in Mississippi of the Department and the Commission might lead to complaints of harassment by the Federal Government, however groundless such complaints might be. More important, of course, is your concern that our presence in the State might prejudice or give the appearance of prejudicing the outcome of your litigation. Faced with the possibility of such damage to our common cause, the Commission would be remiss not to yield to your request to forego, for the time being, its scheduled public hearing.

We must state in all candor that this decision is difficult for us, since our preliminary investigations indicate the existence of a situation in Mississippi which urgently demands the fact-finding activities the Commission is uniquely able to provide.

As you know, Congress created the Commission expressly to investigate denials of equal protection wherever and however they exist in our Nation. Almost since its inception, the Commission has been receiving complaints alleging racial discrimination in Mississippi. Staff investigators have been active in the State since 1959. Evidence produced over a period of several years impelled the Commission to schedule a public hearing in Mississippi in October 1962. This hearing was postponed at the Department's request due to events surrounding the

The Honorable Robert F. Kennedy
Attorney General
Department of Justice
Washington 25, D. C.

then pending admission of Mr. Meredith to the University of Mississippi. The hearing was re-scheduled for December 1962 and then postponed again until January 1963 to avoid complicating the task of the Department. While recognizing the need for those postponements, the Commission feels that neither the delay nor the events in Mississippi which precipitated it relieves the Commission of its responsibilities.

While the Department has the power to prosecute and is the Executive agency with prime responsibility for taking action to eliminate specific deprivations of constitutional rights, the Commission also has statutory obligations it must discharge. Additionally, we feel that our public hearings conducted in many States have served to acquaint both Federal and State officials and the local public with relevant facts which can lead to correction at all levels.

It has been our conclusion that the scheduled hearing would isolate the facts and circumstances responsible for civil rights denials in Mississippi, and would produce the evidence necessary to fulfillment of our statutory duty, including the formulation of appropriate recommendations to the President and to the Congress. In addition, it would serve to acquaint citizens of Mississippi with many conditions which by and large may be unknown to them.

The evidence at hand suggests that the few persons in Mississippi who have spoken out for law and order have been subjected to increasing harassment and intimidation. This has certainly been the case with the courageous members of our Mississippi Advisory Committee, who have consistently urged us to hold hearings in the State. This Committee, composed of both white and Negro native Mississippians, has shown great courage in the discharge of its authorized function in the face of unusual difficulties, and we cannot dismiss lightly our obligation to support them and other Advisory Committees in like circumstances.

These factors have compelled the Commission to conclude that it has a vital service to perform in Mississippi and that we would be remiss in our duties if we did not continue our investigations. But in view of your opinion, the Commission will again postpone its scheduled hearing in Mississippi to avoid embarrassment to the Department or the judiciary. We will, of course, press our current investigations vigorously to the end that our reports to the President and to the Congress will be soundly conceived and thoroughly documented.

Your offer to meet with the Commission to discuss this matter of great public importance is appreciated deeply. While such a meeting does not seem necessary at this time, it is essential that we continue to receive the assistance and cooperation of the Department of Justice as we carry out our fact-finding activities in Mississippi.

Sincerely,

/s/ John A. Hannah

John A. Hannah
Chairman

alpha

MAR 26 1963

Dr. John A. Hannah
Chairman
United States Commission
on Civil Rights
726 Jackson Place, Northwest
Washington, D. C.

Dear Dr. Hannah:

In view of the question asked the President in his news conference last week, I have been asked through Mr. Berl Bernhard whether there has been any change in the situation which affects my views as to the propriety of the Commission holding public hearings in Mississippi at this time.

In my view, the reasons against such a step which are set forth in my letter of December 15 to you on this subject are still valid. Preliminary motions in the contempt case before the Court of Appeals have been argued. One of the major matters under submission to the Court now is the question whether or not a jury trial will be necessary. Although the Department expressed its view to the Court that trial by jury is not necessary, the Court has thus far given no indication of what its views are on this question.

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While this case is pending, I continue to hold the view that a public hearing in Mississippi by the Civil Rights Commission would not be appropriate.

In the meantime, I hope that the work of the Commission staff can continue as in the past on the question of the operation of federal programs in Mississippi as elsewhere.

If the Commission wishes to meet with me or my representatives concerning any of the work of the Department of Justice in Mississippi, in connection with voting matters or otherwise, I would be glad to arrange that at your request.

Sincerely,

Attorney General

Commission file

COPY

April 1, 1963

Honorable Sam J. Ervin, Jr., Chairman
Subcommittee on Constitutional Rights
Committee on the Judiciary
United States Senate
Washington 25, D. C.

Dear Mr. Chairman:

S. 1117, a bill which thirty of our colleagues and I recently introduced, has now been referred to the Subcommittee on Constitutional Rights.

There are compelling reasons, I believe, why the very excellent work undertaken by the dedicated members and staff of the Civil Rights Commission should be continued and expanded.

It would be my hope that your Subcommittee could schedule hearings on S. 1117 in the very near future.

With every best wish,

Sincerely,

/s/ Philip A. Hart

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON 25, D.C.

STAFF DIRECTOR

April 3, 1963

Honorable Edwin O. Guthman
Director of Public Information
Department of Justice
Washington 25, D.C.

Dear Ed:

This is the matter which leaves you with such enthusiasm. It will not be released for a few days. It is greatly toned down from the original which we discussed the other day.

Sincerely yours,

Berl I. Bernhard

Enclosure

(14)

RESOLUTION OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights has become increasingly alarmed at the steady deterioration of constitutional guarantees in Mississippi. Since October, open and flagrant violation of the Constitution has reached the point of crisis. Each week brings fresh evidence of the breakdown of law and order.

Citizens of the United States have been shot, set upon by vicious dogs, beaten and otherwise terrorized because they sought to vote. Since the postponement of the Commission's October hearing, students have been fired upon, ministers have been assaulted and the home of the Vice Chairman of the State Advisory Committee to this Commission has been bombed. Another member and his wife were jailed on trumped up charges after his home had been defiled. Even children, at the brink of starvation, have been deprived of assistance by the callous and discriminatory acts of Mississippi officials administering Federal funds.

All this affronts the conscience of the Nation.

The Commission's scheduled October 1962 hearing in that State was first postponed at the request of the Attorney General of the United States, and finally cancelled. On March 26, the Attorney General, after referring to the Barnett case, stated that:

> While this case is pending, I continue to hold the view that a public hearing in Mississippi by the Civil Rights Commission would not be appropriate. In the meantime, I hope that the work of the Commission staff can continue as in the past on the question of the operation of federal programs in Mississippi as elsewhere.

Since October the Commission has received more than 100 complaints from Mississippi alleging denials of constitutional rights. Investigation of these complaints, reports of our State Advisory Committee and other evidence confirm the conclusion of the Commission that urgent and drastic action is now required.

Recognizing its inability to arrest the subversion of the Constitution in Mississippi, the Commission at its Indianapolis meeting on March 30, 1963, concluded unanimously that only forthright Presidential action can correct this deplorable condition.

The Commission, therefore, appeals to the President of the United States to employ the moral and legal powers of his office to do what he can to assure that American citizenship will not continue to be degraded in Mississippi. We urgently request that the President:

1) Formally request and direct all persons in the State of Mississippi engaged in wilful violation of the laws of the United States to cease and desist therefrom;

2) Do what he can to suppress the existing lawlessness and provide Federal protection to citizens in the exercise of their basic constitutional rights;

3) Give serious consideration to the withholding of Federal funds from the State of Mississippi, until the State of Mississippi demonstrates its compliance with the Constitution and laws of the United States.

It is indicated to us that the Federal Government contributes over $154 million dollars in grants-in-aid each year to the State of Mississippi for expenditure in that State.

In addition, the U.S. Government expends the following substantial sums in Mississippi annually:

Military prime contracts (FY 62)	100,000,000	
U.S. Engineering construction contracts (FY 61)	180,274,000	
Federal civilian employment (FY 61) (16,856)	91,000,000	(payroll)
Federal military employment (6/30/62) (29,518)	129,900,000	(payroll)
Area Redevelopment Industrial loans (10/2/62)	1,161,000	
Area Redevelopment Public Facility Loans (11/15/62)	188,000	
Small Business Loans (7/61 - 12/61)	3,301,752	
Accelerated Public Works projects (3/8/63)	8,409,000	

Nor has this massive assistance to Mississippi abated since the State placed itself in direct defiance of the Constitution and Federal court orders. The Federal Aviation Agency is granting $2,180,000 for the construction of a jet airport to serve Jackson, Mississippi, despite the fact that separate eating and restroom facilities in the terminal are planned in violation of Federal law. At the same time, the National Aeronautics and Space Agency is proceeding with plans to build a

Burke checking

$400 million moon rocket engine test center in Pearl River and Hancock Counties, Mississippi. Last year, the Federal Government contributed $3,805,000 in cash and food to Mississippi for school lunches. In Greenwood, for example, whites, who made up only one-half the school population, received four times as many free school lunches as did Negroes.

Federal contributions to Mississippi are financed from the taxes paid by all the State's citizens--Negroes as well as whites. Since Mississippi receives far more in Federal benefits than it pays to the Federal Government in taxes, these programs are, in fact, paid for by all American citizens throughout the Nation.

Dated: March 30, 1963
Indianapolis, Indiana

John A. Hannah, Chairman

Robert G. Storey, Vice Chairman
Erwin N. Griswold
Rev. Theodore M. Hesburgh, C.S.C.
Robert S. Rankin
Spottswood W. Robinson, III

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON 25, D.C.

STAFF DIRECTOR

April 3, 1963

Honorable Burke Marshall
Assistant Attorney General
Department of Justice
Washington 25, D.C.

Dear Burke:

Here is the Commission statement that we have discussed. It was sent to the White House today, but will not be released for a few days.

Lee and Dr. Hannah are in accord that any meeting with the President would be helpful.

Sincerely yours,

Berl I. Bernhard

Enclosure

FOR IMMEDIATE RELEASE

April 19, 1963

Office of the White House Press Secretary

THE WHITE HOUSE

TEXT OF LETTER FROM THE PRESIDENT TO THE CHAIRMAN, UNITED STATES COMMISSION ON CIVIL RIGHTS, DR. JOHN A. HANNAH, APRIL 19, 1963

Dear Dr. Hannah:

I have your letter transmitting the Interim Report of the Civil Rights Commission dated April 16 concerning the serious problems that have developed in the State of Mississippi. The deeply held views of the members of the Commission are fully appreciated, and, along with most Americans, I share the Commission's stated goal of assuring for all citizens of the United States the full enjoyment of the rights guaranteed by the Constitution.

The record of the Justice Department in promptly investigating any allegation of violation of Federal law and in prosecuting in those cases where there are violations is, I believe, outstanding. With regard to the incidents referred to in the Commission's report, I am advised that every case, but one, has been successfully resolved. In that one case involving an unsolved bombing of the home of the Vice Chairman of the Mississippi Advisory Committee to the Civil Rights Commission, in which there was no personal injury, efforts to apprehend the guilty party or parties have been unsuccessful. The Justice Department is preparing a memorandum detailing its activities in Mississippi which will be available shortly. The Executive Branch of the Federal Government will continue to enforce the laws of the United States as vigorously and effectively as possible.

As I am sure you are aware, the Justice Department has filed an action in the Federal courts in Mississippi seeking injunctive relief against any denial of Constitutional rights, and particularly in connection with efforts to register for voting. The Administration will take every appropriate and possible action to suppress violation of Federal statues and provide Federal protection to citizens in the exercise of their basic Constitutional rights.

And determination by the courts that there is a denial of Constitutional rights and violation of United States laws should be respected by all citizens, and I sincerely hope that will be the case in Mississippi. All Mississippians -- and indeed all Americans -- should join in protecting the rights guaranteed by the Constitution and comply with the laws of the United States.

The Commission's suggestion that Congress and the Executive Branch study the propriety and desirability of legislation authorizing Federal funds to be withheld from any state which fails to comply with the Constitution and the laws of the United States raises difficult and far-reaching considerations. As the report recognizes, the Executive Branch is limited in the discretion it possesses in implementing Federal programs. At the outset, various statutory requirements for distribution of program benefits, competitive bidding statues, and statutory criteria for participation, as in the case of small business loans. In addition, many major projects, especially water resource projects, once initiated, require continuity. Illustrative is the Jackson Airport grant referred to in the report -- the construction grant to this Airport, a participant in the national Airport plan since 1950,

MORE

is for one of the concluding phases of construction initially commenced in 1957, and involves such safety features for the operation of the Airport as runways, Air Traffic Control, fire and rescue facilities. No Federal aid has been used for terminal facilities at the Airport but steps are being taken to assure that they will be operated on a nondiscriminatory basis. Criteria for locating large Federal installations, such as the NASA facility mentioned in your report, reflect national needs, not state interests. Another difficulty is that in many instances the withholding of funds would serve to further disadvantage those that I know the Commission would want to aid. For example, hundreds of thousands of Negroes in Mississippi receive Social Security, veterans, welfare, school lunch and other benefits from Federal programs -- any elimination or reduction of such programs obviously would fall alike on all within the State and in some programs perhaps even more heavily upon Negroes. In any event, I can assure you that the proposal will be promptly and carefully reviewed within the Executive Branch.

We cannot afford to be complacent while any individual's rights are denied or abused. I know that the Commission, like so many other organizations and individuals, feels deeply the need to take positive action in order to correct and prevent abuses in Mississippi and elsewhere that have been brought to public notice. As I have indicated, every possible approach is being considered and those which are appropriate and contain prospects for improving the situation will be employed to the end that the rights guaranteed to all Americans by the Constitution of the United States will be assured.

Sincerely,

(s)

John F. Kennedy

Dr. John A. Hannah
Chairman
United States Commission on Civil Rights
Washington 25, D.C.

May 15, 1963

MEMORANDUM

TO: Honorable Theodore Sorensen
Special Counsel to the President

Honorable Lee C. White
Assistant Special Counsel to the President

FROM: Berl I. Bernhard

SUBJECT: Beyond Birmingham

Absent alternatives to mass demonstrations for securing constitutional rights, explosive situations such as Birmingham may be repeated elsewhere.

One alternative is peaceful confrontations between local Negro and white civic and business leaders in major communities. These men, in an atmosphere of calm, might draft a schedule of affirmative steps looking toward equal opportunity for Negroes and whites in their community.

The polarization of Negro and white, the rupture of already strained channels of communication, can be overcome but will require Presidential leadership. To this end the President might sponsor local off-the-record conferences or other activities in such cities as: Raleigh and Charlotte, North Carolina; Columbia, South Carolina; Houston, Texas; Little Rock, Arkansas; Louisville, Kentucky; Nashville and Memphis, Tennessee; New Orleans, Louisiana; Richmond, Virginia; Tallahassee, Florida; Los Angeles, California; Chicago, Illinois; and Detroit, Michigan.

The cities would be selected only after intensive, unpublicized, field work. The conferences or other activities would be carefully tailored to meet the particular situation in each community. Meetings between the leading members of the business community and the Negro leadership might be held on the scene, at a nearby college, other conference site, or even in Washington. Religious and professional leaders might be included and, where feasible, Congressional delegations involved.

The goal of these efforts should be twofold: to organize a program for the continued exchange of viewpoints at definite intervals, and to set firm schedules for desegregation and the establishment of equal opportunity. Areas of interest might include:

(1) employment practices;
(2) public accommodations;
(hotels, motels, restaurants, etc.)
(3) schools;
(4) police activities; and
(5) Federal programs operative in the area.

Separate but complementing sessions should be held in Washington, and regionally, with national hotel, motel and department store chain executives, and with national Negro leaders.

Responsibility for administration of the entire program should be centered in the White House, and carried out under the direction of a White House staff man or someone else designated by the President. Staff assistance might be provided the White House designee by the Department of Justice, the Commission on Civil Rights and such other governmental and nongovernmental organizations as would be appropriate.

Publicity would be minimized until constructive agreements or arrangements have been secured. The indispensable element is that all efforts made reflect White House leadership and concern. The initial announcement should be widely publicized. Subsequent publicity would depend on success.

This is a long range approach. It strikes me as constructive, not punitive; cooperative, not dictatorial. An obvious by-product would be that of overcoming the isolation from the Administration many Negro leaders feel and express.

TESTIMONY OF BERL I. BERNHARD, STAFF DIRECTOR
U.S. COMMISSION ON CIVIL RIGHTS
BEFORE THE
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
OF THE
SENATE JUDICIARY COMMITTEE
ON S. 1117 AND OTHER PENDING LEGISLATION

THURSDAY, MAY 23, 1963

Mr. Chairman and Members of the Subcommittee:

I am Berl I. Bernhard, Staff Director of the U.S. Commission on Civil Rights. The Commission appreciates this opportunity to present its views on legislation which would extend the life of the Commission and revise its functions.

President Kennedy, in his Civil Rights Message to the Congress of February 28, spelled out in some detail the views of his Administration on the present role of the Commission and how the agency's functions should be revised to meet current needs in the field of civil rights. Sen. Hart, with bipartisan support, has submitted a bill (S. 1117) to implement the President's proposals. The Commission is in accord both with the President's assessment of the role of our agency in civil rights developments and with the specific legislation which has been introduced to carry out the President's recommendations.

The Commission on Civil Rights has been in operation for more than five years. During this time, it has held hearings, investigated complaints, and ascertained the extent of progress in securing constitutional rights in all sections of the Nation. Major voting hearings were held in Montgomery, Alabama, in 1958 and in New Orleans, Louisiana, in 1961. Hearings on the status of equal protection of the laws have

been held in all areas of the Nation, including New York, Chicago, Cleveland, Detroit, Atlanta, San Francisco, Los Angeles, Phoenix, Memphis, Washington, D.C., Newark and Indianapolis.

These investigations have led to reports on deprivations of the right to vote and on denials of equal protection of the laws in education, employment, housing and the administration of justice. Currently, in addition to the subjects mentioned, we are preparing reports on the status of equal opportunity in the Armed Forces, on the access of minority groups to hospital facilities constructed under the Hill-Burton Act, on the civil rights of Spanish-speaking Americans, and on the state of constitutional guarantees in Mississippi. The Commission's past reports have culminated in a series of recommendations, a number of which have been acted upon by the President and Congress.

Many areas remain to be investigated fully. This will always be the case. But it is appropriate to ask at this juncture whether the major need is now for more facts or for constructive action based upon the facts known. The Commission is satisfied that the facts it has already uncovered and reported concerning denials of equal protection and voting rights provide an ample basis for considered Federal action.

Thus, it seems to us that the major question before Congress is whether the Commission's factfinding role can be redefined in a manner which will permit it to perform a service of continuing significance and benefit to the Nation. In his message, the President said that "as more communities evidence a willingness to face frankly their problems of racial discrimination, there is an increasing need for

expert guidance and assistance in devising workable programs for civil rights progress." The need, the President said, is for information about the methods by which these problems have been solved in the past, for a forum to open channels of communication between contending parties, and for an agency able to give the kind of advice and assistance which will contribute to peaceful and permanent solutions to racial problems.

The Commission's experience bears out this analysis. In the years we have been in operation there has been an increasing demand for information concerning the status of civil rights. Commission reports are widely distributed to Federal, state and local officials, educational institutions and members of the public. At the same time, the staff receives a large volume of specific requests for information from Congress and the public, and from agencies and individuals who have professional responsibilities in the field of civil rights.

At our annual education conferences, held for the purpose of gathering facts, we have discovered that there is little direct communication between educators in various parts of the Nation about the means employed in each community for complying with the mandate of the Supreme Court in the School Segregation Cases. These conferences have had the collateral effect of providing a forum in which educators can share their experiences with desegregation and exchange information and advice. Our 51 Advisory Committees, established for the purpose of gathering facts for the Commission, have found a similar need for communication

at the local level. Their surveys and meetings have encouraged the solution of civil rights problems through State and community action.

Thus, the Commission already performs a limited service of providing information to Government agencies, organizations and individuals in dealing with civil rights problems. The difficulty is that as long as these efforts are necessarily subordinate to the performance of the factfinding and reporting function of the Commission, a function mandated by law, only a very small part of the Commission's resources can be devoted to them. S. 1117 would add information and assistance to the specific duties of the Commission and would enable the agency to concentrate its operations upon those areas which most need attention.

And the need for assigning to some Federal agency the responsibility of providing information and assistance is increasing. The President pointed out in his Civil Rights Message, that the Commission "has advised the Executive Branch not only about desirable policy but about administrative techniques needed to make these changes effective." In many areas of Federal programs, the problem has not been the absence of policy so much as difficulties in implementing adequately rules and regulations requiring nondiscrimination. The Commission has recommended in several of its reports on education, employment and housing, that the Federal Government obtain assurances that its funds will be expended only for nondiscriminatory purposes. Such recommendations are best implemented by establishing appropriate

machinery within the Executive Branch for securing and supervising agreements that Federal money will be expended for the benefit of all citizens without regard to race. When this is done, experience has demonstrated that Federal funds are distributed on an equitable basis without impairing the operation of the program. As policy has developed in the area of Federal operations, there has been a growing need for advice from a competent source on the substance and administration of Federal civil rights requirements.

Similar needs for assistance exist on the State and local levels. In the North, there are increasing demands for governmental action to deal with school segregation, racial housing practices and discrimination in employment. State and local governments are seeking information and guidance in drafting ordinances and adopting effective policies to deal with these problems.

There have been developments along the same lines in the Border States and in some parts of the South. It is noteworthy that in recent months, the City of Richmond, Virginia, has taken action to establish equal opportunity in municipal employment and the State of Kentucky, through its Governor, has adopted a comprehensive fair practices code covering many aspects of civil rights.

In areas where no formal governmental machinery has been established, there may be an even greater need for Federal assistance, so that racial disputes can be resolved in a rational, peaceful manner rather than through violence. For example, the continuing protest against exclusion

of Negro citizens from public facilities suggests the desirability of a forum for representatives of business, civil rights organizations and government to seek means for implementing a policy of equal access to such facilities. As more employers and unions turn their attention to the need for developing merit hiring and training programs, they find a need for advice and assistance. And community organizations in many localities are just beginning to come to grips with the question of how to afford equal access to housing without suffering the upheaval of stable neighborhoods which frequently occurs when real estate speculators are permitted to purvey misinformation and stimulate panic.

Thus, in our judgment, the facts more than warrant the establishment of an agency "to serve as a national clearinghouse for information, and provide advice and technical assistance" in respect to equal protection of the laws. Such an agency would bring facts and analysis to bear upon an area where misinformation and misunderstanding too often breed fear and hatred. It would marshal the constructive resources of government in areas where too often the only alternatives have been government sanctions or private conflict.

If the Commission were authorized to perform the function, we concur with the President's suggestion that the agency be placed "on a fairly stable and permanent basis." The Commission's operations would be strengthened, and made more efficient and more effective if it were granted a longer term. I have found it difficult to recruit, train, and retain personnel in the face of the prospect that the agency

will shortly cease to exist. This uncertainty has also made more difficult the process of establishing priorities and planning long-range studies. And the phasing-out and reduction of staff operations required of an agency scheduled to go out of business is a wasteful process if the agency is then extended and must regroup and secure a new staff.

Congress would not relinquish control over the Commission by extending it for a term longer than two years. The agency would still be subject to a yearly review of its operations when Congress passes upon its appropriations and it could still be terminated at any time.

The President has suggested an extension of at least four years. Sen. Saltonstall's bill (S. 1219) would place the Commission on a permanent basis. We think that an extension for a minimum of four years would provide sufficient assurance of continuity for the Commission to plan its operations on a sound and efficient basis. The precise length of the term is a matter within the sound discretion of the Congress.

There are also a number of technical changes in Commission procedures embodied in S. 1117. These are summarized and explained in a memorandum which we shall submit with the permission of the Committee.

In summary, Mr. Chairman, the Commission believes there is genuine need for an agency to provide information, advice and assistance in the solution of civil rights problems. Such an agency should

have sufficient continuity to enable it to perform these services effectively. If Congress deems the Commission the appropriate body to perform these functions, we would carry out the new mandate to the best of our ability. It is clear to us that the availability of of these services would constitute an affirmative and constructive contribution toward attaining the goal of justice and equal opportunity under law.

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON 25, D.C.

June 6, 1963

Honorable Burke Marshall
Assistant Attorney General
Department of Justice
Washington 25, D. C.

Dear Burke:

The attached is material prepared by John Silard and Potomac Institute for the Commission. It explores both the legislative possibilities and some of the steps that the Executive might take in this field without the need for legislation.

Silard asked me to send this to you in light of the current concern these problems are causing.

Sincerely yours,

Bill

William L. Taylor
Assistant Staff Director
Liaison and Information

Attached

FEDERAL AUTHORITY

WITH REGARD TO RACIAL DISCRIMINATION

IN PUBLIC SERVICES AND ACCOMMODATIONS

A Pilot Study

Prepared for the

United States Civil Rights Commission

March 8, 1962

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FOREWORD

Until February of 1960 the widespread and continuing practice of racial segregation and exclusion at places of public service and accommodation -- hotels, restaurants, lunch counters, theaters, etc. -- was one of those recognized social evils generally deemed beyond the pale of national remedies. About half of the states had passed some legislation against discrimination in public services, but even in these jurisdictions discrimination continued in practice. On February 1, 1960, however, by the spontaneous commencement of the sit-in protest in Greensboro, North Carolina, a prevailing problem which had been relegated to the twilight zone of public consciousness became the focus of national and international attention. See Pollitt, Dime Store Demonstrations, 1960 Duke Law Journal 315.

Since February 1960, the sit-ins at places of public service and accommodation has had extensive and profound consequences. It has produced a vitalizing spirit among Negro citizens of the nation, for whom this forthright protest marks the definitive end of passivity and surrender. The sit-ins were soon injected into the 1960 national elections; both parties made favorable platform references and candidate Kennedy publicly asserted the moral correctness of the sit-in cause, even lending tangible assistance to

its leader, Martin Luther King. Not only Negroes but the white population has also been remarkably affected, particularly in the South which has been unable to dismiss sit-ins as a radical northern movement unsupported by the "good" Negroes of the South.

Nor has the impact of the sit-in upon the actual practice of discrimination in public places been insignificant. Over one hundred localities desegregated within the first year after the protests commenced and the process has not ended. A report in the Wall Street Journal of January 16, 1962, following the protests in Albany, Georgia, involving hundreds of its Negro citizens, indicates that communities as "southern" as Macon, Georgia, now regard the sit-ins as the handwriting on the wall for discrimination in public accommodations, and are abandoning discriminatory practices. And a variant of the sit-in -- the "freedom ride" -- has prompted a recent ICC order forbidding any further segregation at bus and railroad terminals.

The sit-in movement has had other by-products. A rash of arrests and prosecutions under breach of the peace and trespass statutes has created a significant volume of appellate litigation now pending before or on its way to the United States Supreme Court. In December 1961, the Court reversed three "breach of the peace"

convictions from Louisiana on narrow grounds (Garner v. Louisiana), but eight or more cases are presently pending on applications for review from Virginia, North Carolina and Maryland. Without presuming to predict whether the Court will review the pending cases, it is a fair estimate that within the foreseeable future the Supreme Court will examine the fundamental constitutional questions arising from practices of racial discrimination in places of public accommodation, buttressed by various forms of state support and enforcement. Meanwhile, the direct clash between those participating in sit-ins and public authority, including the police and prosecutorial authorities of government, continues unabated. And while the method of passive resistance tends to minimize the chance of violence, it is unquestionable after events in McComb, Brimingham, Jackson, and Albany that sit-ins carry the seeds of conflict no less dangerous than the disorders of Little Rock and New Orleans.

The significant consideration, for present purposes, is that as a nation we stand in midstream with respect to the sit-in movement. We have called it moral but not yet legal. Numerous communities have bowed to the movement but many have not; many have escaped the sit-ins but will be forced to face up to them in

the near future. In the courts we are moving towards full judicial examination of the sit-ins and the racial practices to which they are directed, but the resolution of the basic issues may well be a number of years away. And finally, not only the localities and the courts, but the larger federal political community also stands at midstream. Neither Party will go back on its implicit or explicit endorsement of the sit-ins. Yet neither Party in Congress, nor the present Administration (with the exception of the ICC order) has yet assumed responsibility for reducing manifestly immoral and degrading racism in public services and accommodations.

This study is premised on the hope that careful research, thoughtful recommendations and the focussing of public attention, may foster positive Federal responses to the "clear and present" national evil of discrimination in public services and accommodations. Past Administrations have recognized their responsibility and that of the Congress to implement constitutional rights against state discrimination on the basis of race (i.e., voting, education, employment, etc.). The recent ICC order shows this Administration's readiness to bring Federal controls to bear not only on such governmental discrimination, but also on "private" discrimination which threatens vital national interests. Today, no longer can a clear line be interposed between governmental discrimination and

"private" discrimination so widespread as to deny Negroes vital human rights and equality in fact in their daily lives. Accordingly, all branches of the Federal Government -- judicial, legislative and executive -- will soon be called upon to recognize their direct responsibility to provide sanctions against "private" racial practices which today are being challenged only by the sit-in protests. Hopefully, the national political community may be activated to assist in eradicating discrimination in public services and accommodations, if appropriate Federal responses are given serious consideration and support.

What, then, are the potential powers of the Federal Government which could reduce, and ultimately end, the practice of racial discrimination in places of public service? It is that question to which the first four portions of this study are addressed in the areas, respectively, of Judicial, Congressional, Presidential and Federal Agency power. A fifth section analyzes the sit-in movement and the potential educative role of the Civil Rights Commission. In each section, the Commission's authority is related to the analysis of powers in the branches of Federal Government, and suggestions are made for projects which the Commission may desire to undertake along these lines. This study is based upon research and

analysis, in which the kind assistance of the following persons has been obtained: Messrs. Arnold Aronson, Benjamin V. Cohen, Vincent Doyle, Leslie Dunbar, John Feild, Louis Martin, Burke Marshall, Daniel Pollitt, Marvin Rich, Pedro San Juan, Theodore St. Antoine, Roy Wilkins, and Harris Wofford.

I

THEORIES OF JUDICIAL RELIEF

In some respects the effort to abolish discrimination in public services through the passive resistance movement resembles efforts to abolish other forms of racial discrimination and segregation -- in public schools, voting, government employment, etc. Yet there is a significant difference, inhering in the fact that in these parallel areas the Federal courts are generally supporting reform with all the powers at their command (e.g., in Little Rock and New Orleans).*/ By contrast, in the area under present consideration, not only is the reform effort proceeding without support from courts, but there is a serious question whether the sit-ins may not actually violate the law and be subject to court restraint and penalties (for breach of the peace, trespass, and the like).

In pending criminal cases, the sit-in defendants charged with commission of state offenses in their resistance to racial segregation are asserting a variety of defenses, some of which already

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*/ Of course, governmentally-owned and operated places of public service (parks, recreation facilities, golf courses etc.) are squarely within the area of the Court's "separate cannot be equal" ruling. See Bailey v. Patterson, _____ U.S. _____; 82 Sup. Ct. 382; 30 U.S.L. Week 4164 (U.S. February 26, 1962).

command a degree of judicial support and some of which are wholly new. Because the Constitution prohibits only the denial by state action of equal treatment to racial minorities, the defendants in the sit-in prosecutions are searching for the "state action" ingredient which they hope will defeat the use of judicial process against them. While some of these defensive theories may ultimately become not only a shield but a sword with which to obtain judicial relief against the practice of racial discrimination in public places, most of the current litigation is defensive -- few cases have been brought by Negro citizens against the continuance of public places discrimination.*/ To what extent judicial process may be used against or on behalf of those protesting discrimination in places of public accommodation, is a complex question worthy of careful examination. The alternative "state action" theories outlined below provide a convenient point of departure.

A. Alternative Theories of State Action.

In the cases pending before the Supreme Court and in others still in the lower courts, a variety of "state action" principles

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*/ Some noteworthy exceptions, where the litigation arose from suits by Negroes to obtain admission, Are Burton v. Wilmington Parking Authority. _____ U.S. _____, Williams v. Howard Johnson Restaurant, 268 F. 2d 845.

have been advanced, which may roughly be divided into three general areas: (1) assertions that the state is lending forbidden enforcement or support to the private proprietors' racial discrimination; (2) claims that the state is giving such a degree of support or assistance to a private enterprise (as distinguished from its discriminatory practices), as to vest the enterprise with the governmental disability on discrimination; and (3) arguments that even in the absence of formal relationship between the state and the entity or its discriminatory practices, where a private establishment performs functions governmental in nature or of significant import, it is constitutionally prohibited from indulging in discriminatory racial practices:

1. State support to or enforcement of racial discrimination in public services and accommodations.

The principal argument injected in the sit-in cases is that, in one or another form, the state is providing forbidden support to the "private" practice of racial discrimination. A variety of such forbidden practices is pointed to.

i. It is argued, as in Shelley v. Kraemer, 334 U.S. 1, that judicial process may not be employed to support private discriminatory conduct -- that when a state prosecutes racial trespass cases

(or others similar to trespass), the prosecution and the conviction is a forbidden form of state support to private racial discrimination. A decision to assert this as the basic defense was reached by the attorneys in the sit-in cases in the summer of 1960 at a conference in Washington, D.C. In almost all the cases, however, the argument is qualified by the view that a different result might obtain were a court to convict for trespass at a private home, although it is not yet clear exactly what constitutional distinction the proponents draw between the one situation and the other. Perhaps the earliest and strongest exposition of the Shelley v. Kraemer argument as applied to state prosecution of Negroes who attempt to use facilities catering to the public, was that by the Department of Justice in its brief in Boynton v. Virginia in the 1960 Term of the Supreme Court. There the constitutional distinction is drawn between discrimination by proprietors catering to the public and by the private home owner, on the basis of a balancing of rights; it is suggested that the public interest favoring nondiscriminatory access to public services and accommodations, outweighs the "right" of the business proprietor to exclude Negro customers from such services. It is suggested that in the case of a private home owner the right of

privacy and personal choice outweighs the "right" of access by Negroes.*/

ii. Another allegedly forbidden form of state support to discriminatory practices focuses not merely upon the "trespass" prosecution and conviction, but equally upon collateral forms of state support -- principally upon police enforcement. For instance, in the Louisiana cases decided by the Supreme Court in December of 1961, the evidence showed that the state's arresting officer had acted as a volunteer, without request by the owner, in enforcing what he believed to be public policy against racial mixing at lunch counters. Another variant is found in the pending petition for certiorari in the Glen Echo case from Maryland (Griffin v. State), where the state deputized a private employee of the amusement park entrusted with the task of enforcing the owners' discriminatory policy. In these and similar cases, the Shelley v. Kraemer argument is used to attack the exercise of police enforcement, arresting, accusatory and other executive functions. Cf. Pa. v. Board of Directors, 353 U.S. 230.

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*/ It has also been suggested that another basis of distinction between the private home and the public accommodation may inhere in the difference in the kind of choice exercised in each case by the discriminator. The proprietor is not making individual choices between his customers but merely barring all Negroes whereas the home owner, although he may invite no Negroes, is exercising racial discrimination only within the confines of his personal choice among those whom he invites to use his facilities.

iii. Another line of "support and enforcement" argument points to state statutes requiring segregation, declaring it to be state policy, or permitting its practice. This element was injected into the decision of the Louisiana cases in December 1961, wherein the Supreme Court pointed out that the legislature, although it had repealed segregation laws, retained a declaration of the state's "policy" of segregation. The same argument, with strong evidence of statutory segregation, is being urged upon the Supreme Court in Randolph v. Virginia, pending on application for certiorari. See also, concurring opinion of Mr. Justice Stewart in Burton v. Wilmington Parking Authority, 365 U.S. 715, holding that segregation practiced under a merely permissive statutory provision is forbidden state-supported discrimination.

iv. Still another "support and enforcement" argument urges that in the trespass-type prosecutions what is actually being enforced is a community "custom" of discrimination. It is argued that where discrimination is practiced in a concerted fashion by the entire community, this is "state action" even though it may lack formal identification as action by a branch of government, see, e.g., dictum in Collins v. Hardyman, 341 U.S. 651, 662, and in the Civil Rights Cases, 109 U.S. 3: "state authority in the shape of laws, customs or judicial or executive proceedings". Cf. Terry v. Adams, 375 U.S. 461.

2. State Support to the Enterprise Which is Discriminating.

A second basic line of argument urges that when a state gives a requisite degree of support and assistance to a private entity which discriminates racially then, because of government's "Thumb on the scales", the proprietor is himself forbidden to practice discrimination. See Burton v. Wilmington Parking Authority, 365 U.S. 715. Mr. Justice Douglas suggests in his concurring opinion in the recent Louisiana breach of the peace cases, that the mere licensing of a business is a form of state support which precludes the business entity from practicing discrimination.

Where private enterprise receives not merely a pro forma license, but tangible state supports like subsidies, exclusive or limited franchises and special permits, the argument that a degree of support has been received which transfers the equal protection requirement to the private enterprise, may command judicial approval. Thus, the 1961 decision in Burton v. Wilmington Parking Authority, 365 U.S. 715, found such a close relationship between a "private" restaurant and the state which had chartered it and permitted it to operate on state property, that the racial discrimination of the proprietor was tantamount to governmental discrimination and was struck down under the equal protection clause. CF. Steele, v. Louisville & Nashville RR Co., 323 U.S. 192; Cooper v. Aaron. 358 U.S. 1, 4. Considering the manifold modern supports rendered

by government to private enterprise, the "thumb on the scales" or "governmental assistance" approach may have significant judicial development in a variety of cases involving discrimination in public services.

3. Private Performance of State or Public Functions.

A third line of argument assumes the absence of formal state support to a private enterprise or to its discriminatory practices. Instead, it suggests that those who perform public or quasi-governmental functions, are subject to the same limitations on discrimination as is the state itself. Thus, in Marsh v. Alabama, 326 U.S. 501, a "company town" was found to be carrying on a function governmental in nature and, therefore, prohibited from discriminating against the public in the exercise of First and Fourteenth Amendment rights. In the related area of political elections, private "jaybird primaries" were found by the Supreme Court in Terry v. Adams, 345 U.S. 461, to constitute exercise of power in the public domain and therefore constitutionally barred from the practice of racial discrimination. A recent study suggests the general application of this principle to discrimination in public services. St. Antoine, "Private Racial Discrimination", 59 Mich. L. Rev. 993.

Which, if any, of the several foregoing forms of state action will soon be reviewed by the Supreme Court and how the Court will decide is impossible of prediction. It is safe, however, to assert that all of these lines of argument will be urged upon the Supreme Court within the next few years, calling for the Court's resolution of significant constitutional issues arising from discrimination in public services and accommodations.

B. Practical Effects of Various Judicial Rulings.

In projecting legal developments, it must be remembered that the movements of massive resistance and passive resistance are only marginally influenced by considerations of law. Continued voting discrimination and school segregation indicate that constitutional law and prevailing practice may not be synonomous. It must, therefore, be recognized that there is a chance of the continuance of the sit-ins even were the Supreme Court ultimately to reject all of the theories under which those who participate would be immune from state prosecution. And conversely, there is the possibility of continuing unlawful arrests and continuing practices of segregation at public places even were the Supreme Court to outlaw state enforcement of such segregation, or even its continued practice. The chance of "noncompliance" is large in the area under discussion.

Those communities or businesses which defy concerted public pressure, boycott and sit-ins, are evidencing an unusual degree of emotion or pressure; conversely, there is no question that many of those who participate in the sit-ins today when the legal issues are in doubt, would continue to use passive resistance ("civil disobedience") to assert their human rights even were their actions finally ruled in violation of property rights.

However, the most likely course in coming years is a series of litigations in which the Supreme Court will not finally resolve all the basic legal questions, but proceed on a case-by-case basis. If this is the development, it will tend to maximize continued resistance on both sides. Under such circumstances, both the practice of discrimination with the assistance of state authority and the sit-in protests will give rise to continuing national concern. Thus, to the extent that orderly social progress requires more active participation by the Federal Government in ending public places discrimination, judicial remedies will not alone obviate the need for Federal participation in the process of racial reform. */

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*/ It should however be noted that one of the persons consulted in this study has made a suggestion which, were it to be followed by the Supreme Court, might provide a new avenue of affirmative judicial relief against public places discrimination. It is suggested that the practice of racial discrimination at places

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Suggestion of Investigation in 1962 Concerning Equal Protection in Public Accommodations.

The critical legal issue in all of the sit-in cases is the degree of state action involved in the practice or enforcement of discrimination at places of public service. This is a question on which very little general information has been collected. The Commission could accordingly provide valuable study on existing relationships between discriminatory practices in public services and state supports to those racial practices or to the enterprises which engage in them. By its study the Commission might illuminate questions such as the following:

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of public service is essentially the owner's attempted exercise of a property right granted by the state. Yet under the Constitution the state cannot authorize, even in permissive terms, the practice of racial discrimination. Cf. concurring opinion of Mr. Justice Stewart in Burton v. Wilmington Parking Authority, 365 U.S. 715. Under this view (as well as under the suggestion by Mr. Justice Douglas in the Louisiana cases that a licensed enterprise may not discriminate), it is possible that the Fourteenth Amendment may become not merely a shield against state prosecution of sit-in participants, but also a sword by which excluded minorities can obtain judicial relief against the continued practice of racial discrimination. Cf. Schwelb, The Sit in Demonstration, 36 NYU L. Rev. 779, 803. Certainly such a development is far down the road. Yet no analysis would be complete without a recognition that there are possibilities for judicial enforcement which could provide legal remedies against public places discrimination, where today self-help appears the only recourse.

i. Which states and localities have statutes or ordinances requiring, approving, permitting or forbidding racial discrimination in public services, and how are such laws enforced?

ii. In states which have within recent years repealed segregation statutes and ordinances applicable to public services, what is the history of such laws, what prompted their abandonment, and what effect on today's "custom" of segregation is attributable to former statutory requirements?

iii. Where and in what way is police authority being employed in aid of statutory requirements, a public policy or a custom of segregation in public services?

iv. What forms of state prosecution have been applied to sit-in participants; how many prosecutions against how many persons; what has been the result in cases finally disposed of, and what is the status of all pending prosecutions and appeals?

v. What significant forms of state licensing, subsidy or other assistance are being given to private proprietors who indulge in racial practices?

vi. What are the services, accommodations and facilities which are today generally unavailable on a desegregated basis, and how are Negroes affected in practical terms by such unavailability (i.e., food, lodging, hospital and medical care, legal assistance, amusement, sports, transportation, etc.)?

vii. Are there public services and accommodations (e.g. beauticians' care, old age homes, churches) where considerations of privacy or personal choice would make the breakdown of racially discriminatory practices specially difficult?

viii. To what extent is continuing discrimination in public services and accommodations attributable to the private proprietor's personal predilections, as distinct from economic pressures?

ix. To what extent has police action against sit-ins resulted from appeals for help by the private proprietor and to what extent from official eagerness to enforce local "customs" of discrimination?

Other questions will doubtless come to mind. But the foregoing list is sufficient to indicate the variety of factual inquiries, relevant to pending legal issues, and upon which very general information is presently available, or at least available from any centralized source. It is submitted that the Commission's gathering and publication of such materials does not intrude upon judicial prerogative, and would be welcomed as an appropriate source of Congressional, public and judicial enlightenment. */

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*/ The Commission may want to consider the filing of any relevant materials it gathers as an amicus brief before the United States Supreme Court at some future time. There are presently indications that the Department of Justice, despite the excellent brief for the United States in the Boynton case, may take a very restricted role, if any, in the Supreme Court's resolution of the sit-in cases.

II

POSSIBILITIES FOR FEDERAL LEGISLATION

Although two years have passed since the sit-ins became a subject of political importance, substantially no legislation has been introduced in either House of Congress looking towards the elimination of discrimination in public accommodations and services.*/ The post-Civil War enforcement acts contained a direct prohibition on such discrimination, which was held unconstitutional by the Supreme Court in The Civil Rights Cases, 109 U.S. 3.

Civil Rights legislation is easy to propose and hard to enact. It is too early at this juncture to say which forms of legislation, if any, would have a chance of favorable Congressional action. Federal public places legislation on a subject already one of Congressional cognizance may be easier to enact than a broad, independent civil rights measure. Accordingly, it might be

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*/ Congressman William Fitts Ryan from New York introduced in the last Congress a broad measure patterned on the New York anti-discrimination laws, but public places discrimination was only a minor element of this legislation.

proposed to Congress that it consider legislation tending to reduce discrimination in public services as an amendment to pending legislation. For example, as a rider to Armed Forces legislation it might be provided that it should be a crime for any person to refuse public services to members of the military (or, at least, to those in uniform). Another proviso might condition Federal highway grants upon the requirement that all business establishments located on or servicing the traffic of such highways serve customers regardless of race.

A broader approach could be predicated upon the Commerce Clause of the Constitution, which supports the great majority of Federal regulatory legislation. Congress could find that the free flow of goods in interstate commerce is restricted by practices under which food and other items are withheld from sale from orderly, willing and able customers, solely because of their race. Criminal sanctions, injunctions or administrative machinery could be authorized by Congress against discriminatory refusal by a proprietor to sell on equal terms goods which are moving or have moved in interstate commerce.*/

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*/ Senator Philip Hart may introduce such legislation in the present Congress.

Finally, the Fourteenth Amendment itself is a broad repository of Congressional authority. Under that provision, upon appropriate findings that certain kinds of discrimination in places of public accommodations are in the nature of "state action", Congress could legislate directly against the practices; notwithstanding the Civil Rights Cases (109 U.S. 3) such legislation would today likely be upheld by the Supreme Court in deference to the legislative judgment and modern exigencies. */

To date, hardly any consideration has been given to Federal legislation against racial practices at places of public service. Certainly, careful legal research is required before anyone could confidently recommend one or another form of Federal legislation, and one or another means of enforcement, in this area. Nevertheless, whatever be the form dictated by constitutional and

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*/ In the Civil Rights Cases (109 U.S. 3), though it struck down Federal public places law, the Supreme Court repeatedly affirmed the power of Congress to legislate against any form of state involvement in practices of racial discrimination by private proprietors. The Federal law held unconstitutional in that decision, failed because Congress had sought to reach private practices directly, wholly apart from any vestige of state involvement, permissive or otherwise. Thus, the decision suggests that a different situation might arise were Congress to direct its attention to the licensing by state or local authority of discriminatory private establishments. In line with Justice Douglas's recent concurring opinion in the Louisiana cases, were Congress to prohibit the licensing of any establishment catering only to the white public, such legislation would likely be upheld as sufficiently grounded in state action considerations.

political considerations, Federal "public places" legislation would constitute a sound exercise of Congressional responsibility on a subject of primary national concern, and it is likely that the nation as a whole would so view it.

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Suggestion of Legal Study Followed by Commission Recommendations to the Next Congress for Federal Legislation.

It is recommended that the Commission make a legal study of the various alternatives for Federal legislation. After such study the Commission should be in a position to make direct and positive recommendations to the next Congress for one or more forms of remedial Congressional action.

III

REMEDIAL POWERS OF THE PRESIDENT

The President of the United States as the head of a vast Governmental system having numerous points of contact with "private" racial practices may have considerable power to promote the abandonment of discrimination in public services. In the subsequent section we analyze the powers of particular governmental agencies and departments in this respect. Whereas here the analysis focuses upon the direct authority of the President in the exercise of his more general prerogatives.

As the leader of the nation and as the Commander-in-Chief of the Armed Forces, the President's attitudes, pronouncements and actions in the area of racial practices have great significance. President Kennedy's firm pre-election endorsement of the sit-in movement gives cause for hope that he will continue his support in that direction. There is, however, distinct danger in repeated Presidential pronouncements of principle unaccompanied by Presidential action in support of that principle. Such pronouncements without action may have reverse affect, and be construed to reflect a position of sympathy without commitment. Accordingly, without disparagement of the significance of Presidential pronouncements

in the area of race relations, the need must be recognized for pronouncements which are accompanied by recognizable supporting action.

As Commander-in-Chief of the Armed Forces the President could take the action recommended in 1960 by the Southern Regional Council -- declaring "off limits" to all members of the military, any public establishment which practices racial discrimination. Such a move would have significant practical consequences in numerous localities and for vast numbers of soldiers stationed in or near the localities where discrimination is practiced at public establishments. It would also have recognizable symbolic significance, for the President could justify his action not only by the practical considerations but also because of the moral degradation inherent in subjecting servicemen and citizens to discriminatory treatment.

The "off limits" proposal, though basically sound, has not had adequate study in terms of its probable practical effects, the proper delimitation of its ambit, and its enforcement. Attention needs to be given to questions such as whether the policy should apply to public establishments in every locality or only in those nearest to or regularly used by the members of a military establishment in the vicinity; whether the policy should apply to every

discriminating establishment or only to those which discriminate against Negro servicemen; what kinds of "public service" establishments should be included; whether the prohibition should apply to servicemen on leave; how military commanders shall determine the prevailing practice at any particular establishment; how members of the military are to know which establishments are off limits, etc.*/

Another area of direct Presidential concern involves African diplomats subject to discrimination in public services. There is, of course, a serious political problem involved in concentration on this issue, since no Administration can afford giving the appearance of seeking rights for foreign diplomats which it does not seek for its own citizens. Nevertheless, in connection with or contemporaneous with the taking of other measures, consideration might be given to the President taking action on this front as well. Thus,

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*/ The President might issue a similar order to Federal civilian employees, or at least to certain higher echelons of such employees. Whether this would be desirable is unclear. Certainly the off-limits suggestion seems more naturally applicable to the military, where similar restrictions are traditional. With respect to civilian employees the President could, however, take different action with the same purpose. For instance, every Governmental agency might be required to provide for its employees public eating, recreation and like facilities in communities where such are not generally available on a nondiscriminatory basis.

the President could make reciprocal Executive agreements with other nations guaranteeing their diplomats public accommodations and services on a nondiscriminatory basis. Initially such direct Presidential action may well exert strong pressures on today's recalcitrant proprietors (e.g. Conrad Hilton). Ultimately such agreements may be given in the courts status similar to a treaty, and be enforced against private offenders, not under Fourteenth Amendment "state action" conceptions but rather under concepts of the treaty as the highest law of the land and of judicial deference to foreign relations judgments by the Executive. See United States v. Belmont, 301 U.S. 324; United States v. Pink, 315 U.S. 203. */

Apart from his role as military and diplomatic leader, the President of course has vast political powers at his call. In the exercise of these the President can make clear to national

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*/ Such reciprocal agreements might be written in a manner which does not immediately resolve the question whether they are to be enforced judicially. Agreements in which nondiscriminatory public services are "guaranteed" could be read initially as a promise by the President by administrative means to make some establishments in any area available to diplomats on a nondiscriminatory basis; subsequently, they could be construed to guarantee that all public services and facilities everywhere will be open. It is only the latter reading which would require the intervention of courts or subsequent Congressional action. In this way, Presidential agreements could have immediate significance, with their ultimate potential possibly realized only in future years.

industrial and business leaders the need for reform in the area of public services discrimination and he can indicate a variety of steps he might take if business leaders fail to respond to the national need. Certainly, the Government's contracts and the Government's continued goodwill need not be extended to those enterprises which discriminate in the rendering of public services and accommodations. In this connection there is need for studies to identify those facilities, restaurants, hotel and theater chains, etc., which are adhering to racial practices, over whom leverage can be asserted through Federal contract and like restrictions.

As political leader the President can also assert strong pressures upon state governments (eg. Maryland) to use their powers toward the ending of discriminatory practices in public services and accommodations. The President can make it clear to state officials that their failure to take corrective measures may lead to incidents which will damage this nation's prestige abroad (e.g. Little Rock), may call for the intervention of Federal force (e.g. Birmingham), may affect our diplomatic relations (e.g. Route 40) and may otherwise be detrimental to vital Federal interests (e.g. assignment of Negro servicemen needed at installations in areas where racial discrimination is practiced).

Finally, perhaps the most important power the President has is the power of example as the leader of the nation. If the President in his own conduct and avowed position with respect to racial segregation can illustrate the feeling that racial discrimination is unAmerican, he may do more to move business practices in the nation than by any single Presidential order or combination of Executive controls. In this respect what is most needed is an occasion when the President makes clear his personal revulsion at the racist practices of business establishments and his firm determination never knowingly to frequent any such establishments. (Indeed, the President could hardly exempt himself as Commander-in-Chief from a restriction which it is proposed that he place upon all members of the Armed Forces.) With some ingenuity it should be possible to discover the proper time and place and manner for manifesting the President's personal determination not to frequent any establishment discriminating against Negroes, because of his personal antipathy to such practices. */

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*/ It would not, of course, be appropriate for the Civil Rights Commission to make any public or even private recommendation regarding the President's personal choice. The Commission might however be an appropriate vehicle for, and one or more members of the Commission might personally participate in, a meeting with the President at which it could be emphasized to him that his personal conduct and declaration of antipathy could profoundly influence developments in this area.

Little attention has been paid to the President's remedial powers against the practice of racial discrimination at public places. The foregoing suggestions are a few potential lines of exploration, and doubtless other and similar powers can be discovered through careful study. Whatever powers the President may ultimately be induced to exercise, standing, as we are, in midstream on the question of the sit-ins and discrimination in public places, it is of great importance that the President himself undertake some clear action. Coupled with appropriate pronouncements such action should manifest his determination that racial practices at places of public service and accommodation must be discontinued as a matter of vital national interest.

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Suggestion of Investigations Followed in the Fall of 1962 by Recommendations for Presidential Action.

The Commission has statutory authority to make recommendations to the President, and it appears particularly appropriate for it to recommend to the President regarding the exercise of his general authority. Of the areas for possible Presidential action, the most promising appears to be the military "off limits" order. Accordingly, it is suggested that after appropriate

study the Commission make a direct recommendation to President Kennedy that he promulgate an "off limits" Order (which could be couched in terms of an extension of the Truman order for integration of the Armed Forces).

The previous discussion reviewed some of the questions which ought to be studied before any recommendation is made to the President regarding his exercise of "off limits" authority.*/ In particular the Commission should resolve the problems in enforcement and in delimiting the ambit of the proposed order. The occasions, the places and the conditions under which members of the military are to be barred from frequenting establishments which discriminate should be given careful consideration so that the President will not be required to undertake his own research and analysis.**/

It is also recommended that the Commission undertake an investigation of possible reciprocal agreements to be executed

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*/ Public hearings seem unnecessary in this respect, for data is doubtless presently available in the Department of Defense concerning the number of soldiers in or near segregating localities, and concerning the number of military stations and their location with respect to communities where discrimination is widely practiced.

**/ It has been suggested that the "off limits" order might have too harsh an effect upon white soldiers thereby deprived of normal off base facilities. If this is so, the harsh effect could be tempered by a variety of alternatives. For instance, (1) making off limits discretionary with the base commander, (2) construction of alternate facilities on base and (3) removing the base from its present location.

by the President with foreign countries, guaranteeing nondiscriminatory public services to diplomats and other representatives. While the suggestion for Executive agreements may be premature, a careful study should be of value at some future time when the idea might be more politically feasible. In addition, the Commission may desire to study the political feasibility question itself. Particularly relevant is the current status of the Bricker amendment and the possible impact of the suggested Executive agreements upon a renewal of interest therein.

Of the areas of potential Commission involvement, it is believed that the one for Presidential action is among the most promising and important. It ought to be pursued with vigor so as to permit the making of Commission recommendations to the President by August 1962.

IV

POTENTIAL CONTROLS IN EXECUTIVE DEPARTMENTS AND AGENCIES

Recent events demonstrate that within the Federal departments and agencies there may exist significant and yet unexplored power to curtail prevailing practices of discrimination at public establishments. In 1961 the ICC ordered desegregation at railroad and bus terminals. The Corps of Engineers has promulgated rules prohibiting discrimination on leased Federal property. A similar requirement is now being provided in agreements under which Federal assistance is given to beach reclamation. Another developing area is that of airports constructed with Federal assistance and under potential Federal regulatory control. The F.A.A. and C.A.B. have taken a self-denying position with respect to their regulatory powers, but the Department of Justice has filed and has won a case involving desegregation of facilities at a southern airport. If this case stands, the Department as the statutory representative will doubtless file other suits at airports where segregation in facilities continues. While this problem is thus on the way toward solution, its resolution will be of general interest; the principle upon which the Justice Department has asserted its standing to sue and has obtained a favorable decision on the merits, may have application in related areas of discrimina-

tion where similar Federal controls exist (e.g. transportation facilities such as taxis operating interstate services).

These examples indicate that there may be numerous latent powers in departments (such as Agriculture, Interior and Commerce) which control Federal property, the expenditure of Federal funds for development of state and private properties, or regulate entities in the private sector.

In the exploration of areas of agency and department authority, it will certainly be necessary to analyze specific statutory enactments and also to distinguish between situations where discrimination in public services is being practiced (1) on Federal property, (2) on leased Federal property, (3) on state property supported by Federal assistance, (4) on private property supported by Federal assistance, (5) by regulated entities.

While the exploration suggested may uncover many points of contact between Federal agency controls and the practice of discrimination in public services and accommodations, no one of these is likely to have as widespread impact as the Federal highway assistance program. Certainly, a very large proportion of the places of public service and accommodation which continue to discriminate are located on or adjacent to highways. Equally

clearly, the Federal highway program reaches far into each of the states and over a period of time can affect a very large number of the places of public service and accommodations within the state. Thus, conditioning Federal highway assistance grants upon the state's assurance that public places on the highway or serving the highway traffic will serve all customers, could have vast national consequences.*/

The study of areas of Executive control should include both the legal basis for exerting the Federal limitation, and the practicability or political feasibility thereof. That these are both areas of some complexity is indicated by a cursory examination of the Federal highway program. Under the Federal legislation

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*/ It may, of course, develop that under the system of licensing or charter employed by the state for restaurants and other public service accommodations operating on or adjacent to highways, the applicable state officials do not presently have the authority to require the chartered or licensed business to abandon racial practices. It could, therefore, be objected that the Federal Government should not impose a contractual requirements upon the receipt of Federal highway assistance which the state is powerless to perform. On the other hand, even where under existing law those charged by the state with licensing and franchising functions may not have clear power to condition the public grant of the privilege upon the proprietor's service to all regardless of race, nevertheless the state through its legislature unquestionably could vest such power in its licensing officials. This may be enough to answer the objection that in the existing legislative scheme of the state, a Federally-required guarantee regarding the licensing of establishments on the Federally-supported highway cannot be enforced by the state. Cf. 23 U.S.C. 302.

governing highway assistance, there are major variations in the proximity of the Federal grant to the discriminatory practices of the facilities located on or servicing the highways. On projects in the Interstate System of highways (where the Federal share of costs is 90%) under the statute neither service stations nor other commercial establishments are permitted to operate on the right of way (23 U.S.C. 111). Here the issue will arise only at the exits and interchanges, where the commercial establishments will be clustered. Under this section the Secretary of Commerce is given large discretion regarding approval of state programs (see 23 U.S.C. 105, 109). Thus, until recently, under an Executive Order by President Theodore Roosevelt, the Secretary was prohibiting use of prison labor for manufacture of signs used in the construction of the interstate highway system.

By contrast, the smaller proportion of Federal money which is going into repair and improvement of existing state highways (where the Federal share of cost is 50%) may present a different situation. There is no prohibition on restaurants and other facilities operating on these highways.

A still different legal and practical situation may arise concerning rest and sanitary facilities actually constructed with Federal funds, under 29 U.S.C. 319. More direct Federal control

may exist over practices in a public accommodation actually constructed with Federal money.*/

The Federal Government's activities, regulations and supports are widely diversified and have a remarkable degree of overlap with the private sectors of our national community. It is not unlikely that coming years will find a great increase in the interest in and the utilization of existing Federal controls with respect to racial practices. In the present undeveloped state of thinking regarding this area of Federal power, any research and study should be expansive and imaginative without undue concern whether the executive power will soon be employed. Once such study has been made and is available, as the need and receptivity arises there will then exist a source of factual and legal analysis to support potential assertions of executive power.

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*/ Still other crucial legal and practical differences may appear at different points within the complex Federal highway program. There are provisions for appropriation of Federal lands or Federal rights of way for highway construction (23 U.S.C. 317). This might bring into play the somewhat different considerations which apply to the use of Federal property as distinguished from Federal grants. In sum, findings, judgments and recommendations concerning controls in Federal departments and agencies ought to be made only after detailed analysis of the entire Federal program involved. Only a study sensitive to the legal and practical refinements within each of the Federal programs, is likely in the long run to be favorably received and given serious Departmental consideration.

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Suggestion of Studies, to be Published at Some Future Date, Regarding Executive Agency Powers.

What precise recommendations the Commission might make regarding the exercise by Executive Departments of their power to alleviate discrimination at public places, is a question on which this study makes no recommendation. Extensive legal and factual analysis must precede the resolution of the question, for this is an area in which practically no investigation has anywhere been attempted.

It is recommended that the Commission undertake (through its private resources rather than through public hearings), a specific study of executive department power in the area under consideration.*/

In the exploration of agency powers, the Commission will probably desire to focus on Federal properties (parks, forests, reservations, government buildings, etc.) and upon those departments and agencies having control thereof. Equally important is

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*/ The Commission might desire to begin with a study of those areas where departmental action has already been taken; for instance, the action of the Corps of Engineers in prescribing that no discrimination shall be permitted on leased Federal property. The theory and the method of that proscription as well as the degree of its enforcement may lend themselves to informative investigation.

the investigation of discrimination in areas where substantial Federal assistance is presently provided to states or localities (state parks, beaches, highways, airports, etc.). If a study determines that in one or more of these areas the Federal executive power can effectively be used to condition the Federal grant upon the nondiscriminatory use of the facilities involved, the Commission may ultimately determine to recommend formally the attachment of such conditions.

V

THE INFORMING FUNCTION OF THE CIVIL RIGHTS COMMISSION

In previous sections, suggestions have been made of ways in which the Civil Rights Commission can facilitate the exercise by coordinate branches of Government of their power to alleviate discrimination in public services. In this section we discuss the ways in which the Civil Rights Commission itself, apart from its influence on other branches of Government, can promote the abolition of these racial practices.

Neither the Congress, the Administration, the public nor the Commission itself is sufficiently informed about the sit-ins and their impact to date on racial practices in public accommodations and services. The movement itself is too recent in origin for even observant and interested persons to have obtained the insight which should precede action in any area of reform -- insight which in related areas of desegregation has been a product of many years of public attention and discussion. Accordingly, an important contribution could be made by exercise of the power of the Civil Rights Commission to illuminate the question at hand in its broadest dimensions by public hearings, so as to advance general knowledge and understanding in this divisive area. Questions to

which such hearings could properly be addressed might include the following:

i. What are the practices and how widespread are the practices to which the sit-ins have been directed?

ii. What are the origins, the theory, the methods and the purposes of the sit-ins?

iii. Which communities and areas have abandoned discrimination at public places (in the face of sit-ins or other pressures or in anticipation thereof) and which communities have refused so to do?

iv. What are the forces and methods which have facilitated abandonment of discrimination in public places and what factors have prevented desegregation?

v. What role do state governmental and police authorities play in opposition to sit-in protests, and conversely, how has local government power been used to ease the way toward desegregation?

vi. What areas have shown greatest resistance to desegregation in public services, and how difficult would it be to obtain compliance in such areas?

Other related questions will certainly be found of interest, including ones discussed in earlier sections of this paper.*/ But the central point to be emphasized here is that before making any specific recommendations to other branches of the Federal Government, and indeed all apart from whether the Commission ultimately makes such recommendations, public hearings can advance general enlightenment concerning the sit-in movement and the factors which have facilitated the successful accomplishment of desegregation in many localities. In this connection, a series of valuable studies published by the Southern Regional Council, focussing upon particular communities (and person in those communities) where desegregation in public services has been accomplished within the last two years, is available to the Commission. The Commission's

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*/ It should be noted that the public hearings suggested would also provide the Commission with insight into some important questions regarding the forms of potential Federal legislation. In particular, the Commission's evaluation of the sources of resistance to abandonment of public places discrimination and the degree of such resistances will be important in the Commission's assessment of the enforcement mechanisms to be recommended in such legislation. More or less stringent enforcement methods will appear appropriate, depending upon the degree to which the Commission finds resistance to or readiness to accept desegregation at public places. In like vein, the degree of state involvement in and support of segregation at public places, may effect the kind of legislation the Commission will recommend (e.g., legislation under the Fourteenth Amendment itself, if the Commission finds widespread state action in support of the practice of racial discrimination at public places).

study should also include the twenty-eight states in which public places anti-discrimination legislation has been enacted, as well as the enforcement picture in these jurisdictions. Subsequently the Commission may desire to prepare a "model law" and/or "model ordinance" representing the best learning and experience under existing state and local legislation.*/

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*/ The Civil Rights Commission can also be a useful forum for the establishment of relationships among those who are striving for civil rights reform, as well as between those who are active in seeking change and those who are resisting it. The Commission's hearing in Williamsburg, Va. in 1961 at which both proponents and opponents of public school desegregation were participants, indicates the need for a meeting ground for those principally concerned, even if for opposing reasons, with current racial problems. It may be that through the informal relationships which the Commission can foster between leaders of the sit-in movement, federal officials and business leaders, valuable progress could be achieved by negotiation. While such a function may not be within the traditional framework of the Commission's focus, it is certainly within the spirit of the task which Congress has entrusted to the Commission, and should be given serious consideration.

SYNOPSIS OF RECOMMENDATIONS FOR COMMISSION ACTION

1. Commission survey during 1962 of elements of "state action" involved in continuing practices of discrimination in public services and accommodations.

2. Commission study of alternatives for Federal legislation, followed by recommendation of one or more measures for consideration by the next Congress.

3. Commission study during 1962 followed by recommendations by August for Presidential action on suggestions for declaring segregating public accommodations "off limits" to the military, and for reciprocal Presidential agreements guaranteeing nondiscriminatory services and accommodations to diplomats of foreign countries.

4. Commission studies to be published at some future time of selected areas of Executive Department controls, through limitations on use of Federal property and Federal assistance grants (parks, beaches, highways, airports, etc.).

5. General public hearings in 1962 in selected localities, analyzing the genesis of the sit-in protest as well as the community response thereto, followed by possible promulgation by the Commission of a model law and ordinance.

CONCLUSION

Because the area of discrimination in public services has had the least concerted consideration and analysis, the Commission is in a position here to make particularly valuable contributions which are not available from any other public or private source. True, the recommendations for projects which might be undertaken by the Civil Rights Commission may at first glance appear to propel the Commission too far into an area where there is today no measurable assurance that coordinate branches of the Federal Government can be prompted to exercise their remedial powers. On the other hand, in fields of civil rights concern, whose course has been so unpredictable in recent years, too often careful thought and consideration is given belatedly to questions of prime public significance. (See e.g., the belated consideration of the ICC's power to require desegregation at terminals years after decisions of the United States Supreme Court clearly evinced the power of the ICC to employ its authority in these respects). Accordingly, it is suggested that the Commission should not be deterred from exercising its energies in the directions suggested in this study, merely by the absence of assurance that remedial

action will soon follow its recommendations.*/

Actually there are grounds for optimism that the Federal Government will in fact affirmatively interpose its assistance in the visible future toward the ending of racial segregation in public services. One circumstance which may propel such Federal action is the political significance of its continuing inactivity. No administration can rest secure in the knowledge that racial reform must depend upon methods and forces as volatile as those represented by the civil disobedience movement. Yet, of course, it is the very inactivity of government at a time when social progress will not be stayed, which fosters new and radical methods of reform. The point is made quite explicitly by Professor Frank

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*/ It should be noted that there is an element applicable to discrimination at public places and public services which may not be present in related areas of continuing racial practices, and which may foster readiness to act in this area not obtainable elsewhere. Unlike school integration, voting and similar issues where the movement for reform has principally been of "nuisance value" to those opposed to or unconcerned with progress in race relations, here both the opponents and those unconcerned with the moral issues have become much more involved because of the sit-in movement and its propulsive power. In the effort to end segregation in public services a much larger segment of the community (including the "business community") may therefore be enlistable to support necessary progress. It may well be that not only Federal but latent state and local forces as well could be activated in the not too distant future against the continued practice of discrimination in public services and accommodations throughout the nation.

Randall, a "freedom ride" participant, who states in a discussion reprinted by the Congress of Racial Equality: "When the Federal government is weak on civil rights, slow, distracted, and submissive to southern political pressure, it must be pushed forward by private individuals who engage in direct action." It cannot be long before the present Administration will realize the political dangers inherent in permitting all racial progress to be made by sit-ins and freedom rides and this consideration holds out the hope of forthcoming Federal support for abandonment of racial practices in public services.

But even were the possibility of inducing Federal action smaller than it appears to be, there would remain strong reason for the Civil Rights Commission's direct and positive involvement in this area. The fact is that we are passing through a social revolution on the issue of race which is perhaps even more profound than that of the 1860s. In this new phase, the Negro is writing his own emancipation proclamation by all the social and political forces now in his command or likely soon to be so. Beyond anything that the Federal Government will or will not do and can or cannot do, there remains the undeniable truth that racial segregation whether by governments, by corporations, by proprietors or other societal entities is on the way to extinction. Progress may be slow, halting and painful but the goal is clear and will not be

denied past another generation. For the United States Civil Rights Commission to remain aloof and apart from a social revolution so imminent and profound would be the renunciation of the Commission's most fundamental purposes. Accordingly, all legal and political niceties aside, the Commission should turn its energies to this explosive and exciting subject without delay. In the words of Mr. Justice Holmes, "I think that, as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived."

Commission

FOR FURTHER INFORMATION CONTACT
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Information Officer
Liaison and Information
U.S. Commission on Civil Rights
Washington 25, D. C.

Phone STerling 3-0860
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FOR RELEASE
UPON DELIVERY OF TESTIMONY
JUNE 6, 1963

WASHINGTON, D.C. -- Dr. John A. Hannah, Chairman of the U.S. Commission on Civil Rights, said today that Congress should pass legislation extending the Commission and revising its authority. Testifying before the Senate Subcommittee on Constitutional Rights, Dr. Hannah supported an Administration backed proposal introduced by Senator Philip A. Hart (D. Mich.) which would extend the agency for four years.

He declared, however, that there was ample justification for placing the agency on a permanent basis. "No one can foresee the day," Dr. Hannah said, "when the guarantees of our Constitution will be fully secured to all citizens, much less the time when prejudice and mistrust will be replaced by understanding and racial harmony."

Alluding to current demonstrations for equality, Dr. Hannah declared that the individual Negro cannot afford to adopt a philosophy of patience. "He has but one lifetime; who can blame him for wanting to enjoy his rights within that lifetime?" Instead, the Commission Chairman said, "we should be grateful to American Negroes for their patience, forbearance, and tolerance," up to this time.

The protest movement, he said, would bring an end to many overt racial practices. However, he cited a danger that the current struggle might leave us with "a legacy of hate, fear and mistrust," in which "nobody will be the victor." This peril, Dr. Hannah said, was a challenge to the resources and imagination of the Federal Government.

Thus, he declared that it would be a mistake for Congress "to contemplate the elimination of any part of the civil rights machinery of the Federal Government." Instead, Dr. Hannah said, the Commission should be given authority to provide assistance and guidance to communities faced with civil rights problems. The Commission is scheduled to expire in November 1963.

Dr. Hannah has served as Commission Chairman since 1958. He is President of Michigan State University.

Berl I. Bernhard, Commission Staff Director, also testified at the Hearing.

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TESTIMONY OF DR. JOHN A HANNAH, CHAIRMAN
U.S. COMMISSION ON CIVIL RIGHTS
BEFORE THE
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
OF THE
SENATE JUDICIARY COMMITTEE
ON S. 1117 AND OTHER PENDING LEGISLATION

THURSDAY, JUNE 6, 1963

Mr. Chairman and Members of the Subcommittee:

I appreciate your invitation, extended on behalf of Senator Hart, to add to the testimony already presented on behalf of the Commission my own views on legislation which would extend the life of the agency and revise its functions.

The testimony this Committee has received from Commissioner Griswold and Mr. Bernhard fully states the reasons for a long term extension of the Commission on Civil Rights and an amplification of its authority. I would add only a few personal reflections, based in part upon my experience during the past five years as Chairman of the Commission.

It is clear to me that we are in the midst of a revolutionary change in race relations in this Nation. When our Commission was established in 1957, the national policy of equal opportunity was already firmly embedded in the law. The principle had been eloquently stated long ago in the Declaration of Independence, the Bill of Rights and the Fourteenth Amendment to the Constitution. It had been implemented in a series of judicial decisions, particularly the Supreme Court's opinions in Brown v. Board of Education and the cases following, which said without qualification that segregation in all aspects of public life violated the Constitution.

Yet, as the Commission was to learn in a series of investigations and hearings in all sections of the Nation, there was widespread disregard of these basic rights guaranteed by the Constitution. The Commission learned, too, in its hearings and investigations that the denial of equal opportunity had inflicted deep wounds upon the Negro community, wounds which were keenly felt by the great majority of its citizens. This last fact was perhaps not very apparent to most of the American public. There were, of course, a number of organizations of standing which had been working over the years to secure equal rights for Negro citizens, employing such traditional methods as litigation, legislation, political and community action. But the deep discontent of the average Negro citizen had not manifested itself in the kind of overt action dramatic enough to compel our attention. Thus, it was possible for some people to conclude that the activities of the NAACP, the Urban League and other organizations did not reflect any strong dissatisfaction on the part of the Negro community.

The events of recent weeks have shattered any such illusion. It is a measure of the desperation of the Negro people of Birmingham that they were willing to see their children go to jail in the hope that it would contribute to a better future for them. And the deep feelings of Birmingham have been echoed in demonstrations in North Carolina; Philadelphia; Jackson, Mississippi and other cities all over the Nation.

These actions and the feelings which prompted them must be understood. Instead of being overly critical of leaders who now demand action, we should be grateful to American Negroes for their patience, forbearance, and tolerance over the long years of slow progress. Violence cannot be condoned, but we should understand why some feel that they are driven to it.

In this connection, I would ask those who plead and argue for a gradual alleviation of the Negro's miserable lot to put himself in the place of a Negro and ask himself how patient he would be if, nine years after the Supreme Court's desegregation decision, he saw fewer than eight percent of Negro children in the South attending integrated schools, and in Mississippi, South Carolina and Alabama none; if he saw equal opportunities for employment denied to him; if he saw himself still without a vote 100 years after the Emancipation Proclamation; if he saw good housing denied him even if he could afford it; and if he saw his fellows receive a different kind of treatment by police officers than that accorded whites. Philosophically, a slow tedious advance towards equality in education, employment, voting, housing and justice may be best, but the individual Negro cannot afford to be that philosophical. He has but one lifetime; who can blame him for wanting to enjoy his rights within that lifetime?

The turmoil will continue. Out of it, I am sure there will come an end to many of the racial practices that violate our Constitution and our consciences. In just three years, the sit-in movement, led by

college students, has altered customs in more than one hundred communities that had resisted change for more than a half century before. As the pace of the protest movement quickens, these barriers will continue to fall. But the effort to bring an end to overt practices of discrimination is only one part of the problem. If, when the current struggle is over, we have been driven into opposite camps and are left with a legacy of hate, fear and mistrust, nobody will be the victor.

This, it seems to me, is the real danger. In many places, tensions are now so great and feelings so bitter that it is difficult to see how they can be alleviated. Binding up the Nation's wounds may well be a task almost as difficult as it was when Lincoln spoke of it almost a century ago. It is a job which challenges the resources and imagination of the Federal Government.

Thus, it would be a serious mistake, in my judgment, for the Congress to contemplate the elimination of any part of the civil rights machinery of the Federal Government. A public agency with a continuing responsibility for bringing to light the facts and making recommendations for corrective action is a necessity. By performing these duties responsibly, the agency helps to reduce tensions and to promote calm and reasonable solutions to civil rights problems. Beyond the fact-finding function, there is an even more pressing need for constructive action. As the President said in his Civil Rights Message to Congress, " . . . there is an increasing need for expert guidance and assistance

in devising workable programs for civil rights progress." Solutions must be found at all levels of society - by State and local governments, by industry and labor unions, by community and religious groups, as well as by the Federal Government.

No single agency or institution can hope to have all the answers. But it would be a contribution of immeasurable importance to vest in some agency of the Federal Government the function of collecting and making information available and of providing assistance and guidance to communities faced with civil rights problems.

I support the legislation introduced by Senator Hart (S. 1117) to accomplish this purpose by revising the authority of the Commission on Civil Rights. If, however, the Commission is to perform these new duties effectively, it should be placed on a more stable basis. The four year extension provided in S. 1117 would assure sufficient continuity for the Commission to plan its operations efficiently and effectively. But in my own judgment, a permanent extension of the agency is amply warranted by the facts. No one can foresee the day when the guarantees of our Constitution will be fully secured to all citizens, much less the time when prejudice and mistrust will be replaced by understanding and racial harmony. It would be a significant token of our maturity and resolve if we recognized this fact by establishing a permanent instrumentality for dealing with civil rights problems, rather than attempting to meet them on an ad hoc, crisis-by-crisis basis.

As long as there are still widespread denials of basic rights there will be a need to improve the enforcement procedures available to the Federal Government. But if in the long run we are seeking lasting solutions and better race relations, the constructive resources of Government should also be put to work. S. 1117 would be a significant step toward that goal.

TO: Burke Marshall

FROM: Berl Bernhard

SUBJECT: Meeting at the Commission 6/12/63 - 9:00 a.m.

There will be a meeting in my office at 9:00 a.m. The office is now at 1701 Pennsylvania Avenue, N.W. -- on the fourth floor.

There are two things that will actively concern the Department of Justice:

1. the hiring of Negroes at the Justice Department in both secretarial and legal positions.

2. the extent to which the Justice Department or the federal government overall can provide protection for demonstrators.

The following will attend the meeting:

Charles Horsky
Walter N. Tobriner
John Duncan
Franklin Jackson - President, NAACP
FNA Hale (Executive Secretary - NAACP)
Julius Hobson - CORE
Walter N. Fauntroy -or-
Bishop Smallwood Williams

Secretary Wirtz has agreed to be present also, but it is my thinking that the problems concerning the Labor Department have not jelled to the point where his presence would serve any useful purpose, and it would be foolish to waste his time.

I have made the point very clear that this meeting should take, at the most, one hour, and that what has to be discussed should fit within that period of time.

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FOR RELEASE
June 7, 1963

FOR FURTHER INFORMATION CONTACT
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Chairman of Special Committee on
Equal Employment Opportunity
D.C. Advisory Committee to the
U.S. Commission on Civil Rights
1126 16th Street, N.W.
Washington, D.C.
Phone: EX 3-6094, Extension 10
EX 2-5650 (Evenings)

Enactment by the District Commissioners of a Fair Employment Practices ordinance was recommendaed today by the District of Columbia Advisory Committee to the United States Commission on Civil Rights. The Committee maintained that the issuance of such an order would be a proper exercise of the Commissioners' police power.

The Committee blamed both unions and management for continued "widespread and substantial" discrimination in employment in a 59-page report, based on testimony received during a Conference on Equal Employment Opportunity which it held bere on February 27, 28, and March 1, 1963. The Conference was conducted by a Special Committee on Equal Employment Opportunity composed of five members of the D.C. Advisory Committee and twenty other citizens, representing a cross section of the Washington community. Testimony was heard from representatives of business, labor, the schools, community organizations, and the Federal and District Governments.

In acknowledging receipt of the report entitled "Employment in Washington, D.C.," Commission on Civil Rights Staff Director Berl I. Bernhard praised the uncompensated work of the Special Committee and its Chairman, Ben D. Segal, Education and International Affairs Director of the International Union of Electrical Workers. "This report demonstrates beyond question," Bernhard said, "that the need for action is immediate; all excuses for further delay and procrastination have been exhausted."

Denial of equal opportunity to minority groups is cited by the Committee as perhaps the most significant factor "in the high incidence of crime, unemployment, social dislocation, school dropouts, and political apathy among members of minority groups."

Though Negroes constitute some 54 percent of the District's population, the Committee notes that 7 of every 10 unemployed persons are nonwhites. The median income of nonwhites is only 70 percent that of whites and the average nonwhite family earns 56 cents for every dollar earned by the average white family--and "that 56 cents represents the work of more bread-winners per family."

The report takes note of advances made during the past ten years but states that Washington is not yet an integrated city: "It is not integrated in education, it is not integrated in housing, and it is far from integrated in employment."

Private employers, unions, business schools, employment agencies, and the Federal and District Governments are found to be active or passive collaborators in the prevailing pattern of open and subtle discrimination. The Committee states that, aside from a few token appointments, Negroes seldom have access to managerial positions in private firms and District Government and have had limited opportunity with the Federal Government. Negroes, "with only a handful of exceptions," and in some cases Jews, are barred from the fields of banking, finance, communications, insurance, and real estate by the same restrictions which have existed for decades.

Though employment desegregation has worked well when employers and unions have been willing to abandon discriminatory practices, progress is still slow, especially in the skilled trades where apprenticeship training is required.

The Committee pointed out that frustration and low incentives leading to high drop out rates among Negro students account in part for the complaint that Negro job applicants are sometimes not qualified. On the other hand, the Committee notes, "in all too many cases, different standards exist for qualified whites and 'qualified' Negroes." The Committee found that Negro employment is restricted by the use of "qualifications" as an overt weapon of discrimination, or by a "sincere but shortsighted" personnel policy which refuses responsibility for training applicants injured by "a lifetime of prejudice."

Despite gains in opportunities for Federal employment in the District, the bulk of Negroes are found in the lower-income job classifications.

The Committee also recommended Federal and local executive action to ban discrimination in all governmentally supported vocational education, training and apprenticeship programs, the strict enforcement of provisions for cancelling government contracts when nondiscrimination clauses are violated, and action by national and international unions--assisted by the Federal and District Governments--to eliminate discrimination by local unions.

To implement further the broad corrective program proposed in the report, the Committee recommended the creation of a Department of Labor in the District Government, the establishment of a municipal college, licensing requirements to curb discrimination by private business and vocational schools, and the enactment of a minimum wage law for men.

The District of Columbia Advisory Committee to the United States Commission on Civil Rights was established in April, 1962, pursuant to the Civil Rights Act of 1957. It is one of 51 such Committees in existence throughout the Nation. The Committee is chaired by Dr. Duncan Howlett, Minister of All Souls Church, Unitarian.

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EMPLOYMENT

IN

WASHINGTON, D.C.

A REPORT

OF THE

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

TO THE

UNITED STATES COMMISSION ON CIVIL RIGHTS

JUNE 1963

DISTRICT OF COLUMBIA ADVISORY COMMITTEE TO THE
UNITED STATES COMMISSION ON CIVIL RIGHTS

Dr. Duncan Howlett, Chairman
Reverend E. Franklin Jackson, Vice Chairman
James M. Lambie, Jr. Secretary
Eugene Davidson
Dean Paul R. Dean
Dean Patricia R. Harris
George E. C. Hayes
Frank J. Luchs
Mrs. Henry Munroe
Joseph L. Rauh, Jr.
Ben D. Segal, Chairman, Special Committee on Equal Employment Opportunity
Sterling Tucker
Henry Kellogg Willard II

SPECIAL COMMITTEE ON EQUAL EMPLOYMENT OPPORTUNITY
(organizations listed for identification only)

Ben D. Segal, Chairman, International Union of Electrical, Radio and Machine Workers, AFL-CIO
Gilbert Ankeney, Vice Chairman, The Chesapeake and Potomac Telephone Company of Washington
Leonard Aries, National Conference of Christians and Jews
Ruth Bates, District of Columbia Commissioners' Council on Human Relations
Joseph Beavers, President, Washington Negro American Labor Council
Harry Boyd, Potomac Electric Power Company
Mrs. George T. Brown, Chairman, Maryland Advisory Committee to the United States Commission on Civil Rights
Eugene Davidson, President, Washington Real Estate Brokers Association
Patrick Deck, President, Merchants and Manufacturers' Association
John Feild, Potomac Institute
Isaac Franck, Executive Director, Jewish Community Council of Greater Washington
Madeline Furth, District of Columbia League of Women Voters
Aaron Goldman, President, Macke Vending Company

George E. C. Hayes, Attorney at Law
Reverand E. Franklin Jackson, President, District of Columbia Branch: NAACP
Robert T. Keith, Washington Gas Light Company
Reverend Virgil Lowder, Executive Director, National Capital Area Council of Churches
Frank McGuigan, Secretary, Greater Washington Central Labor Council,
Dr. C. J. Nuesse, President, Catholic Interracial Council
Oliver T. Palmer, Cafeteria and Restaurant Workers Local 473
Very Reverend Francis B. Sayre, Jr., Dean of the Washington Cathedral
Donald Slaiman, AFL-CIO Civil Rights Department
Kathryn Stone, Virginia Advisory Committee to the United States Commission on Civil Rights
Sterling Tucker, Executive Director, Washington Urban League
Robert L. Wearring, District of Columbia Apprenticeship Council

CONTENTS

COMMISSION ACKNOWLEDGMENT

Although the United States Commission on Civil Rights has maintained State Advisory Committees in all States of the Union since its establishment, the District of Columbia Advisory Committee is of relatively recent origin. It was organized in the Spring of 1962 to keep the Commission advised of civil rights developments in this important community and to supplement Commission activities in the District. Under the very able leadership of Dr. Duncan Howlett, the District group soon established itself as one of our most active, energetic, and effective Advisory Committees.

The Commission is particularly indebted to the District of Columbia Advisory Committee for its inquiry into equal employment opportunities in the Washington area. By means of the establishment of a Special Committee (ad hoc) on Equal Employment Opportunity, a working group of 25 leaders in the fields of business, labor, and human relations was associated with this important effort. All of them were uncompensated, and neither a budget nor a staff could be provided. The fact that the Special Committee produced this outstanding report in spite of limitations and obstacles is a special tribute to all of the members and especially to the Chairman, Mr. Ben Segal.

On behalf of the Commission, I would like to express our sincere gratitude to the District of Columbia Advisory Committee and to its Special Committee on Equal Employment Opportunity for the preparation, production, and submission of this report. This is an important and substantial contribution on the part of citizens who are intimately familiar with the Washington scene. It is our hope that the sense of seriousness and urgency which is so forcibly and persuasively expressed in this report will not be lost on the agencies of Government to which the recommendations are addressed. This report demonstrates beyond question that the need for action is immediate; all excuses for further delay and procrastination have been exhausted.

BERL I. BERNHARD
Staff Director
U.S. Commission
on Civil Rights

PREFACE

The District of Columbia Advisory Committee, composed entirely of private citizens serving without remuneration, is one of 51 such groups throughout the nation, established as fact-gathering bodies pursuant to the Civil Rights Act of 1957, and designed to assist the United States Commission on Civil Rights in the performance of its statutory duties.

Four principal programs are currently being sponsored by the D.C. Advisory Committee: one on the Centenary of the Emancipation Proclamation, one on Metropolitan Housing, one on the Administration of Justice, and a fourth on Employment Practices.

The last of these programs has been the responsibility of a Special Committee on Equal Employment Opportunity, composed of 5 members of the D.C. Advisory Committee and twenty others selected to give the group as broad a basis in the Washington community as possible. The Special Committee conducted the Conference[1] summarized in this report. Lacking the power of subpoena or the authority to put witnesses under oath, it relied wholly on statements voluntarily submitted, either orally or in writing, by representatives of industry, labor, the schools, and the community organizations.[2]

1/ Unpublished transcript of the Conference on Equal Employment Opportunity of the District of Columbia Advisory Committee to the U.S. Commission on Civil Rights, February 27-March 1, 1963, (hereinafter cited as D.C. Employment Conference). The transcript is in the files of the U.S. Commission on Civil Rights, Washington 25, D.C. (Opening remarks by Dr. Duncan Howlett, Chairman of the D.C. Advisory Committee.)

2/ D.C. Employment Conference 6 (opening remarks by Mr. Ben D. Segal, Chairman of the Special Committee on Equal Employment Opportunity).

The response, on the whole, was gratifying. Speakers from numerous groups appeared before the Special Committee to present their views, grievances, and recommendations. Only a few organizations which had been asked to appear failed to do so, or at least to submit written statements.

Aside from its fact-finding mission, the Special Committee feels that an educational function was served within the community. The conference, held on February 27 and 28, and March 1, 1963, was amply covered by the local press and other media. Residents of the area were aroused to the grave problems of employment discrimination, both subtle and obvious, that plague minority groups in the District.

There was no attempt to ignore the advances which have taken place, nor to conceal the serious inequalities still remaining. The sole guiding principle of the Special Committee was to uncover the facts to the best of its ability, and to provide the basis for recommendations founded on such facts. The work of the Special Committee forms the foundation for this report. 3/

3/ The Advisory Committee and the Special Committee owe a great debt to two men for their efforts in digesting the transcripts of the Conference for use in the report: Mr. Hal Witt of the District of Columbia Bar and Mr. Alex Rode.

INTRODUCTION

Traditionally, our nation has been committed to a principle so simple in expression and yet so profound in its implications that it has determined the very texture of our life.

"We hold these truths to be self-evident . . ." Is there a schoolchild in any part of the country, on an isolated farm or in the great urban centers, who has not heard the ringing phrase from the Declaration of Independence and responded to it? Was there a time, throughout all our history, when common men were not stirred to greater efforts by this exhortation?

Whatever America has meant to men here and abroad, it has invariably been looked upon as a land of almost unlimited opportunity. Despite occasional economic lags, despite wars and internal upheaval, this image of the United States has persisted: it was a place where the only limitations to success were each individual's talent and industry.

Neither class, nor social origin, nor parental occupation imposed limits on a man's ambitions. Along with our great natural wealth and democratic institutions, the keystone of initiative supported our might and our progress.

And yet, nearly two hundred years after this principle was first espoused, for some Americans it is still not "self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

For members of our minority groups, and particularly for nineteen million American Negroes, the reality does not conform to the ideal. Across the continent, in every town, city and suburb, the Negro citizen finds his aspirations blocked by myriad forms of discrimination.

Some, like segregation, are overt and obstinate, though they are gradually yielding before public opinion and the law. Others are far more subtle, and in a sense, far more insidious.

Among the latter, inequality in employment is perhaps the most injurious. It saps the Negro's energy, undermines his motivation, perpetuates his economic dependence, and creates widespread frustration. As has so often been pointed out, all Americans are adversely affected by such discrimination: we cannot hope to maintain our prosperity and growth while ten per cent of our people are held in fetters.

But job discrimination is not simply an economic question. It has become, in our time, a question of foreign policy, of domestic tranquillity, of harmony and coherence--a question, in short, of national power. Most basic of all, job discrimination is morally wrong. The time is long past, if it ever existed, when men could justify treating others as less than men.

Although discrimination against other minority groups has by no means been totally eradicated, the Negro remains its principal victim. There is reason to believe that when bias against him yields at last, all Americans will be freed. This study, therefore, concerns itself primarily with discrimination as encountered by Negroes.

Washington, D.C. is in many ways an ideal laboratory for the study of discriminatory practices. It is visited annually by countless diplomats and foreign tourists. It no doubt influences the visitors' view of our nation as a whole, of its professed ideals and its way of life--and not only are foreigners influenced thus, but thousands of young Americans whose trip to the Nation's Capital may be the first and only contact they will ever have with the seat of the Federal Government.

Washington is not a typical American city. There is little industry and relatively few large commercial enterprises; the Government is the dominant employer.[1/] And yet, because of its urban-suburban pattern and the composition of its population, Washington offers fruitful insights as a model for the study of job discrimination.

In 1960, approximately 54% of the D.C. population was nonwhite. In nearby Maryland and Virginia, comprising the remainder of the standard metropolitan statistical area, the corresponding figure was 6.5%.[2/] For decades, the Negroes have made up about 25% of the total area population.[3/] These statistics confirm a trend which has continued for many years: an influx of Negroes into the central city, and a movement of whites to the suburbs.[4/] As far as can be discerned, the pattern remains constant to the present day.

1/ David A. Sawyer, "Fair Employment in the Nation's Capital: A Study of Progress and Dilemma," The Journal of Intergroup Relations, Winter 1962-63, 37.

2/ U.S. Census of Population: 1960.

3/ Sawyer, op. cit. supra, note 1, at 38.

4/ U.S. Commission on Civil Rights, Housing in Washington, D.C., 1962, p. 2.

Undoubtedly many types of discrimination contribute to the "ghetto" scheme. 5/ But unequal employment opportunity must be considered a central factor which perpetuates the current situation. As Berl I. Bernhard, Staff Director of the Commission on Civil Rights pointed out:

> * * * in the last analysis, the minority citizen can only better himself by increasing his income; and this is to be done only if he is qualified for employment, and if people will employ him at other than menial tasks. 6/

In 1959, the average nonwhite family earned about 56% of the average white family income in the District, a ratio that has remained fairly stable for over twenty years. 7/ More than 87% of jobs in the white-collar and managerial category in the metropolitan area were held by whites, while the majority of Negro workers could be found in either service or manual labor positions. 8/ Past and present discrimination must be held accountable for this imbalance, and it is the function of this report to present some of the casuses and possible remedies for such discrimination.

The next pages are a summary of the employment situation in the Washington area based on the Employment Conference and materials submitted to the Committee. Following the summary are the findings and the recommendations of the D.C. Advisory Committee.

5/ D.C. Employment Conference 12. (Testimony of Honorable Berl I. Bernhard, Staff Director, U.S. Commission on Civil Rights.)

6/ Ibid.

7/ Ibid at 15.

8/ Census: 1960.

I. THE IMPACT OF UNEQUAL RIGHTS

Discrimination is a relative term. If you are the director of personnel services at the Potomac Electric Power Company, you would take pride in the fact that:

> Today if a customer comes to our office to pay his bill, the receiving teller may be a Negro; if he calls our office to inquire about a bill, he may talk to a Negro; if he calls to have service transferred from one place to another, he may talk to a Negro; the man who comes to read the meter in his basement may be Negro; if he appears to be having voltage trouble, the man who comes to make tests may be a Negro. All of these activities are in different Departments of the Company. 1/

But if you are Julius Hobson, president of the Washington chapter of CORE, you have a different story to tell:

> We tried to get from PEPCO a statement of agreement on the hiring of Negroes at all job levels, and I don't mean just for window dressing, but in regard to the basic jobs in PEPCO, such as electricians.
>
> There are no Negro electricians at the company. There are no Negroes in electronics. There are no Negroes in training for these jobs, and they are the basic jobs in PEPCO. 2/

As a union official, you are aware of the problems, but your personnal commitment to fair employment is unequivocal:

> The national policy of the AFL-CIO is well-known to this panel and to the Advisory Committee, and we subscribe 100 percent to the national policy in the field of race relations.
>
> * * * Of the hundred locals affiliated, I think only a handful do not have some Negro members. * * * We have been doing all we can in this field, by our actions and by our communications with the local unions. 3/

1/ D.C. Employment Conference. (P. 2 of statement of Harry Boyd, Potomac Electric Power Company.)

2/ Id. at 238.(Testimony of Julius Hobson.)

3/ Id. at 188. (Testimony of J.C. Turner, Greater Washington Central Labor Council.)

Or, if you are executive secretary of the Building Trades Council, you cite some encouraging figures:

> * * * Bricklayers Local No. 1 has about 35 percent Negroes, and Bricklayers Local No. 4 about 90 percent. * * * Nearly all (of the Carpenters Locals) have Negro members, but no records are kept according to race. * * * For the Cement Makers, it is about 75 percent. * * * The Electrical Workers have one Negro. * * * The Engineers * * * have about 200 Negro members. * * * The Steam Fitters just recently took in one Negro. * * * The Plumbers recently took in one * * * the Plasterers have about 25 percent Negro membership. * * * The Roofers have about 75 percent of Negro workers. * * * The Tile and Terrazzo Workers indicate that none have applied to local unions. * * * 4/

The statistics somehow seem less impressive when you are Stokeley Carmichael, a member of the Non-Violent Action Group at Howard University:

> The Federal Government appropriates all the money to Howard University for its new buildings. * * * The contract * * * is given by the GSA. * * * currently working on the new gymnasium are a number of Locals. * * * The Electrical Local #26 employs two Negroes and one (Negro) journeyman. The Sheetmetal Union #102 employs no Negroes. The Plumbers Local #5 and the Steamfitters Local #602 employ no Negroes at all. * * * We think it is a blatant insult for GSA to assign these Locals and these Unions to build the new gymnasium on our site. * * * We are not going to take this. 5/

Few observers would deny that some progress has been made in combatting employment discrimination in the Washington area. The concerted efforts of the Federal and District governments, of private organizations, of industry and the labor movement, have led to increasing opportunities for members of minority groups. But for those who are being discriminated against, the question of <u>how much</u> discrimination exists is no longer central; the point that it exists at all is cause enough for anger.

4/ <u>Id.</u> at 208. (Testimony of Joseph Curtice, Building Trades Council.)

5/ <u>Id.</u> at 21. (Testimony of Stokeley Carmichael.)

In Washington, however, we have not reached that advanced stage where only vestiges of the problem remain. Discrimination in employment is widespread, and substantial.

II. THE PACE OF PROGRESS

Today, nearly ten years after the momentous Supreme Court school desegregation decision, the Nation's Capital is not an integrated city. It is not integrated in education, it is not integrated in housing, and it is far from integrated in employment. A foreign visitor--or, for that matter, a high school student from Iowa--will soon discover the "ghettos" of the city; he will see schools only a few blocks apart that are virtually all-white or all-Negro; he will notice the racial make-up of the city's menial laborers.

The median income of nonwhite citizens in the District is only 70 percent of that of white citizens. The economic gap has shown very little change over the last twenty years.[1/] Seven out of ten unemployed persons in the District are nonwhite. The average nonwhite family earns 56 cents for every dollar earned by the average white family, and that 56 cents represents the work of more bread-winners per family.[2/] Such, in the words of John B. Duncan, the District's first Negro Commissioner, is "the price of unequal opportunity."[3/]

Inroads have been made by minority groups during the past decade in securing employment where it was previously denied. Opportunities in government have increased, but the great bulk of Negroes are concentrated in the lower income groups. In the Federal Government, in 1961,

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1/ D.C. Employment Conference Conference. (P. 2 of statement of Honorable John B. Duncan.)

2/ Id. at 15. (Testimony of Honorable Berl I. Bernhard.)

3/ Id. (P. 2 of testimony of John B. Duncan.)

while Negroes comprised 8.9 percent of employees in the classified service, they made up 18.1 percent of the employees in grades GS-1 through GS-4, 4.9 percent of the employees in grades GS-5 through GS-12, and an infinitesimal 7/10 of one percent in grades GS-12 through GS-18. These figures are for the Federal Government as a whole, but they are believed to represent substantially the proportions in the District. Between June 1961 and June 1962, employment of Negroes in the bottom four grades increased slightly; in grades GS-5 through GS-12 Negro employment increased 19 percent compared with 5.9 percent overall; in grades GS-12 through GS-18, Negro employment increased 35.6 percent compared with 9.5 percent overall. While the impact of these figures is tempered by realization that greater percentage increase means few actual jobs when the number was very small to begin with, the direction is established. 4/

In the Government of the District of Columbia, there have also been some significant changes. As of June 30, 1962, 12,302 out of 25,553 full-time positions in the District Government, 48.1 percent of the total, were held by Negroes. This compares with 46.7 percent in 1961. However, less than 8 percent of positions classified Grade 12 and above were held by Negroes. 5/

Private industry in the Washington area, spurred by the "gentle but persistent" 6/ efforts of such organizations as the Urban League, has gradually opened long-barred doors:

4/ Id. (P. 6 of statement of Hobart Taylor, Executive Vice-Chairman, President's Committee on Equal Employment Opportunity.)

5/ Id. (P. 5-6 of statement of Honorable John B. Duncan.)

6/ Id. (P. 2 of statement of Harry Boyd, Potomac Electric Power Company.)

> There is no question that in absolute terms we are making progress: I can state the names of dozens of local business firms which now employ Negroes, or employ them in better positions than several years ago. 7/

Boris Shishkin, director of the AFL-CIO Civil Rights Department, cited an example of progress within the labor movement:

> * * * the bricklayers' Union was * * * lily-white. * * * last summer, I could look out and see the construction of a new addition to the U.S. Chamber of Commerce headquarters where there were bricklayers who were colored and white, working side by side 8/

Yet the difficulties encountered by a Presidential Committee in securing a job for one Negro electrician on a Government contract job are well-known, and symbolic of the hard core of problems which remain. 9/

In government, in private industry, and in the labor movement, the Negro worker is finding new opportunities. But as Aaron Goldman, chairman of the D.C. Commissioners' Council on Human Relations pointed out, the question which must now be asked is:

> Is the pace fast enough to be described as progress? I remember 25 years ago in a small plane with an airspeed of 60 miles per hour trying to reach a not too far away airport in the face of a 50 mile per hour wind. A quick calculation of my actual ground speed soon convinced me that my gas would never hold out for even such a short voyage. Viewed in this relative scale, we are not making sufficient headway at all in equal employment opportunities when we consider the distance yet ahead and when we calculate the price of failure in terms of delinquency, dependency, disease--in short, the kind of social catastrophe Dr. Conant and others have prophesied unless we find meaningful work for our young people in accordance with their abilities. 10/

7/ Id. (P. 1 of statement of Aaron Goldman, Chairman of D.C. Commissioners' Council on Human Relations.)

8/ Id. at 270-271. (Testimony of Boris Shishkin.)

9/ U.S. Commission on Civil Rights, Vol. 3, Employment, p. 132.

10/ Id. (P. 1 of statement of Aaron Goldman.)

III. PROTEST AND INDICTMENT

After many years of silent frustration, Washington's Negro citizens are becoming increasingly active in numerous civic and protest organizations. Supported by those white citizens who are dedicated to racial equality, they have revitalized long-active organizations and founded new ones. It is these voices, speaking in chorus, which most vehemently indict the community for its persisting inequalities.

Sometimes the voices speak out against the divergence between pronouncements and practice:

> A review of the current status of employment opportunity in the District of Columbia reveals that the most significant point in this whole field is that there seems to be a change in climate in the employment picture. Most employers at least publicly profess to have and follow a merit hiring policy. It is unpopular to say that you discriminate openly. I hasten to add, however, that practice does not always equal public pronouncements and as our statement submitted for the record indicates, there have been some losses in income differentials. 1/

Sometimes they describe the social consequences of job discrimination and "tokenism."

> In the past few years we have noticed with a sense of satisfaction areas of progress but view with alarm the tendency to open jobs to one or two Negroes and then consider the job well-done. Equal employment opportunity is without a doubt one of the keys to the problems facing the total community. Crime, welfare, housing, dependency all depend upon full employment on an equal basis for eradication of the evils existing in them. It is a known fact that the hardest to place of all potential workers is the Negro male. With a minimal number of laboring jobs open to anyone and with the policy of building and trades unions to exlude almost entirely the Negro worker, and with traps and dead ends, ceilings and quotas existing in those positions which are open to them, the chances for employment are for all intents and purposes non-existent. 2/

1/ D.C. Employment Conference. (P. 4 of statement of Walter B. Lewis, Washington Urban League.)

2/ Id. (P. 1 of statement of Edward A. Hailes, D.C. Branch, N.A.A.C.P.)

And they remind us that the problem of discrimination is not statistics, but people:

> I do not know what your purpose is in holding this hearing. I ~~do not~~ know what the final outcome would be, or what the final authority is, but I would beg of you to look specifically at some of the individual cases of discrimination and talk to some of the real live people who are discriminated against--not the experts on the Negro or the experts on the Labor Movement, or the experts on this committee or that committee--but the little man who comes in and tells you that he cannot work because of his race. There are hundreds in this city, and if you have any difficulty in assembling them, CORE will be glad to do it. * * * You don't have to take CORE's word for discrimination. All you have to do is go down into the metropolis and turn in any door. 3/

Whatever their particular approach, the groups concur in the feeling, as expressed by Henry L. Dixon, president of the D. C. Federation of Civic Associations, that:

> * * * it is obvious from visiting the various businesses in the District of Columbia, there is nothing like equal opportunity in the employment of Negroes. * * * Each agency comes in and is Simon-pure. Everyone is for brotherhood, but no one wants to live next to his brother. * * * We want action, because action in this area is the only thing that is going to suffice, and make the Nation's Capital what we all want it to be. 4/

"The fact that there is and has been widespread denial of equal employment opportunity," said Frank D. Reeves, Democratic National Committeeman for the District, ". . . would be self-evident to the casual observer." He added:

> We appreciate that the * * * Commission may require documentation for its purposes * * * For our purposes, however, knowledge of the fact that * * * 54 percent of the District of Columbia's population is Negro, considered in the light of what mere visual observation of employment patterns in local private industry and government will disclose, is adequate proof that equal employment

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3/ Id. at 242, 244-45. (Testimony of Julius Hobson, Washington CORE.) It should be noted that the last half-day of the 3-day Conference was spent in executive session hearing individual grievances of employment discrimination.

4/ Id. at 144. (Testimony of Henry L. Dixon.)

> has not prevailed in this community. * * * Our primary concern is with what may be evolved by way of policy and program to solve the problem. 5/

One hundred years after the Emancipation Proclamation, the Negro residents of the Washington area are united in their demands for action, and for action now. They know that progress is being made. They know that in another hundred years, the problem might well resolve itself. But they also know that they can no longer tell the unemployed, the children, the college students to wait with patience for the millenium.

5/ Id. (P. 2 of statement of Frank D. Reeves.) Strong support for measures to eliminate employment discrimination was also heard at the Conference from Carl Shipley, Chairman of the Republican State Committee for the District of Columbia.

IV. THE SCHOOLS

The effect of discriminatory employment practices is felt long before a Negro actually becomes a job-seeker. There is no minimum age requirement for victims of bias. More often than not, children of pre-school and elementary school age are aware of the problem. They see their fathers laid off or unable to find jobs, they see their mothers taking servants' posts, they see older brothers or sisters sitting idly about the house after leaving or finishing school. They hear from early childhood of the well-paying jobs that are closed to the Negro. Thus it may well be asked:

> "What is the incentive for them to continue in their education, to seek technical training and then have the door closed to them? 1/

The Reverend Geno C. Baroni of the Catholic Interracial Council cited a specific case:

> * * * what do you do with a boy named Larry--in our 8th grade class--whose father is unemployed, an unskilled laborer? Larry is old enough to know that his father never had a chance to be a part of the trade union that he wanted to be in. You tell Larry to work, to discipline himself, and get an education, and throw off the slings and arrows of his environment to aspire to an affluence that he doesn't see? It's a very difficult thing. 2/

Washington's public school enrollment is predominantly nonwhite. Each year over two thousand students--the vast majority of them Negroes--drop out of school. 3/ "It's an impossible situation," said Hyman Perlo, job counselor for drop-outs with the D.C. Schools.

1/ D.C. Employment Conference. (P. 2 of statement of Isadore Seeman, Executive Director, D.C. Health and Welfare Council.)

2/ Id. at 39. (Testimony of Father Geno C. Baroni.)

3/ Id. at 65. (Testimony of Hyman Perlo)

> They feel they are not needed; they are not wanted. They are completely unfamiliar with the facts of life and the responsibilities of a job. * * * I don't know whether any of you have taken an untrained youngster out for a job, but if you haven't, you ought to try, because you really then are going to get the real picture. 4/

A significant number of Negro youths with substantial ability receive vocational training, but, because of discriminatory employment, particularly in the skilled trades, they find no work. Often they are counselled or directed into non-vocational, academic studies for which they are not fully suited, merely in the hope that they may find jobs in a professional area. Yet eight out of ten of these youngsters never complete college. The community loses the important contributions which could have been derived from their unutilized skills. 5/

Some who seek employment after graduation soon run head-on into the barrier. In the experience of Fred Z. Hetzel, director of the U.S. Employment Service for the District:

> Discrimination frequently perpetuates a flagrant waste of the skills of our young people graduating from Washington's excellent vocational high schools. Many of these graduates desperately need the opportunity to raise themselves by their own bootstraps. You can't preach democracy and opportunity to an 18-year old boy who has the aptitude to become a first-rate craftsman, but will never make it because the union won't apprentice him and employers won't hire him. If this boy takes a third-rate job, he will sooner or later--probably sooner--wind up on the unemployment rolls. 6/

Students who graduate in non-vocational curricula find much the same situation. Many Washington private schools still discriminate in accepting applicants for technical training. 7/

4/ Id. at 65-66.

5/ Id. at 59. (Testimony of Lemuel Penn, D.C. Public Schools.)

6/ Id. (P. 4 of statement of Fred Z. Hetzel.)

7/ Id. (P. 5 of statement of Fred Z. Hetzel.)

A central factor in training discrimination are the restrictive admissions practices of the leading business schools. With only one or two exceptions, they have intransigently maintained these practices. There has developed a circular pattern in which Negroes cannot get office training, and then are denied jobs because they do not have the training. 8/

One of the bright spots in the generally dismal picture is the Business and Distributive Education program sponsored by the public schools. There are two kinds of training: the High School Cooperative Program, in which students attend school half the day and work the other half; and the Adult Education Program, which accounts for 90 percent of the students. Albert DeMond, director of the programs, was asked why so few high school students participate.

> First they are drained off by academic courses, the counselors send them into other fields, and when they do come into businesses many times they go into stenography or typing in Government jobs, etc. So we have to do a hard selling job to get the students to accept distributive education and we need the cooperation from workers who can really show these students that there are some aareers available. They don't believe it because nobody in their family, or nobody they have ever knwon, ever had a good job in selling. 9/

The adult program concurrently places and trains workers for occupations in selling and distribution. Although many of the employers who participate still practice discrimination, Mr. DeMond gave one heartening example:

> A laundry and dry-cleaning association would be glad to recruit Negro driver-salesmen right at this moment--men who can earn $8,000-$12,000 a year. And we have people who have passed the eighth grade, never went to High School, and are driving laundry trucks making $7,500-$8,000 per year. This I can prove. 10/

8/ Id. (P. 2 of statement of Simon Douglas)

9/ Id. at 70. (Testimony of Albert DeMond)

10/ Id. at 66.

For the few fortunate Negro students who, because of family circumstances or exceptional ability, are able to complete college, the situation is steadily improving. And while jobs of a particular kind may now be open to Negroes, they have a much narrower range of choice of positions within their profession than do their while colleagues. "For the first time," testified Mrs. Marian Coombs of Howard University's placement office:

> We are receiving a release on placement opportunities * * * in the District. In addition, we are having a very decided increase in visits from various agencies of the Federal Government. * * * The increase that we have noticed since 1961 in the number of recruiters from industry, business, and Government * * * reflects a rise of something like 400 percent. * * * Traditionally, medicine, law, dentistry, religion, and teaching were the areas which were commonly considered to be professions to which our graduates might aspire. Now we have every assurance that we can place all of the engineers--Negroes--whom we are able to produce * * * (though) they may not be placed where they want to be placed. We do not, however, have the same success with the liberal arts people, and they recognize that. 11/

From drop-outs to college graduates, job inequalities persist, but those with the most advanced training obviously fare much better. The gravest problem, of course, is to overcome the legacy of discrimination which has resulted in lack of motivation and academic interest among Negro students.

11/ Id. at 110. (Testimony of Mrs. Marian Coombs.)

V. THE "QUALIFIED APPLICANT"

Repeated references were made at the Conference to the lack of qualified applicants among Negroes, in nearly every kind of job--from skilled crafts to behind-the-counter sales. 1/ There is undoubtedly some truth to the complaint; it would take a miracle to suddenly produce a qualified labor force after decades of discrimination. But the significant fact is that in all too many cases, different standards exist for qualified whites and "qualified" Negroes.

Companies cited lack of clerical skills, poor mathematical background, and undesirable personal charachteristics as some of the principal failings. It is within that final category that a subtle but pernicious form of discrimination may be taking place--not necessarily because of outright bias--but because it tends to penalize the Negro applicant for having been a victim of earlier discrimination.

Philip Stoddard Brown, a Washington economist, analyzed the cyclical nature of the problem:

> Most employers say that they will hire any competent person, or one that has a good basic education. They do not say much about police record, the ability of applicants to get along with others, about manners, dress, way of speaking and so forth, yet I suspect that these considerations are often the most important. This is often the big, unspoken reason for refusing to hire many Negro boys and girls. There are still lots of jobs for stupid people in the world, but not so many for those who have a police record or some emotional imbalance --yet it is a remarkable boy, living in a slum area, who has not had a brush with the police, or some cause to be emotionally disturbed. 2/

1/ D.C. Employment Conference. (See statements submitted by the Chesapeake and Potomac Telephone Company, Washington Gas Light Company, The Evening Star, Western Union Telegraph, Giant Food Stores, Peoples Drug Stores, American Security and Trust, and the Riggs National Bank.

2/ Id. at 80. (Testimony of Philip Stoddard Brown.)

Sometimes there seems to be a lack of communication between employers seeking "qualified applicants" and those who could qualify for the jobs. Calvin Rolark, editor of the New Observer, was asked whether qualified Negroes could be found for positions on The Evening Star, which had expressed its need and willingness to hire them. 3/

> * * * I think it would be no trouble at all * * * no trouble whatsoever. We have three Negro newspapers here * * * If the Star would utilize these papers to let their wishes be known--that they were looking for qualified Negroes--they would find them. 4/

When asked whether in his opinion, there were qualified Negroes in D.C. to fill positions in the whole range of news media, Mr. Rolark answered:

> I have always been a little reluctant answering any questions when the word "qualified" is mentioned. I know that there are numerous Negroes here who pursue journalistic fields, have degrees in journalism, have degrees in business administration, economics, etc. We will find these "qualified" people on the police force, in GS-3 clerk-typist jobs * * * These doors are shut in their faces. 5/

Mr. Rolark acknowledged that talk about qualifications means one thing for the Negro and another thing for the white applicant. 6/

"Qualifications" are used in two ways to restrict Negro employment: both as an overt weapon of discrimination, and as a sincere but short-sighted personnel policy which refuses to assume responsibility for the training of applicants who have been injured by a lifetime of prejudice. It is easier to formulate solutions for the discriminatory application of more exacting standards to Negro applicants than to whites. Imagination and responsibility can reveal solutions for the subtle problem of

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3/ Id. (See P. 2 of statement of John H. Kauffman, Evening Star Newspaper Company.)
4/ Id. at 8. (Testimony of Calvin W. Rolark for the National Capital Voters Association.)
5/ Ibid. at 9.
6/ Ibid. at 9.

the "not-quite-qualified" workers. Philip Stoddard Brown provided a starting point:

> Persons capable of education must be trained and advanced to create openings at the lowest levels (for the untrainable and the inexperienced). This I believe to be the only way by which we can surmount our unemployment problem. Now, whose business is it to train people for skilled and professional work? Is it the schools', the business firms', or the parents'? I think the only answer to that is that it is everybody's job. 7/

7/ Id. at 81. (Testimony of Philip Stoddard Brown.)

VI. THE APPRENTICESHIP PROGRAM

Perhaps no single factor is of greater importance in ending discrimination in the trades--particularly the building trades, where it has been most persistent--than the establishment of full equal opportunity in apprenticeship.

Numerous witnesses before the Conference indicted the current apprenticeship programs as discriminatory. "To date," said Aaron Goldman of the Commissioner's Council on Human Relations, "we have not made any progress in breaking down the obstacles to Apprenticeship trades." 1/ He was supported by Victor R. Daly, deputy director of the USES for the District:

> Local efforts to place qualified Negro applicants in Apprenticeship training with the craft unions have met with "Massive resistance" by the organized building trades * * * Currently there are 66 registered apprentices in the skilled construction trades * * * 44 are in carpentry, 16 are in operating engineering, 4 are metal lathe apprentices and 2 are training as reinforced concrete rodmen. To our knowledge one of these young men, in carpentry, is nonwhite. In nearby Montgomery County, 128 registered apprentices are enrolled in the county schools. There is not a single Negro * * * in this group. 2/

Later in the Conference the figures sited by Mr. Daly were questioned by the Executive Secretary of the Washington Building Trades Council. He had conducted a telephone survey of the locals affiliated with the Council and had been informed that Negro representation in the unions and their apprenticeship programs was more extensive than the above figures indicate.

1/ D.C. Employment Conference (p. 3 of statement of Aaron Goldman).

2/ Id. (p. 3 of statement of Victor R. Daly).

> The Cement Makers have many. The Carpenters had four the last time I talked to them * * * The Electricians have two * * * The Engineers have 19. * * * but I will say that (the program) is overwhelmingly made up of whites. 3/

Although there is little doubt that Negro participation in the apprenticeship programs has increased in recent years, the persistence of the exclusion was vividly illustrated by the Howard University gymnasium case. Students at this Federally-chartered, predominantly Negro, university noted the absence of Negro craftsmen from the work force on the construction of the gymnasium and bought a detailed description of the situation to the attention of the Conference. 4/

After the Conference the students appealed to the President's Committee on Equal Employment Opportunity to take all necessary steps to bring Negroes into the four craft unions which the students accused of total exclusion or "tokenism". 5/ With public interest aroused in the Howard case, the Secretary of Labor called the contractors and unions involved in the Howard project together and warned them that unless Negroes were bought into the crafts, either as apprentices or from other sources, strong measures would be taken by the President's Committee. As of this writing there are reports of some initial efforts by unions to bring Negro apprentices on to Federal construction jobs. 6/

The persistence of discrimination in work under Federal contracts, all of which contain non-discrimination clasues, dramatizes the need for more effective compliance machinery and enforcement.

3/ Id. at 205-06, 211-12. (Testimony of Joseph Curtice, Washington Building and Construction Trades Council.)

4/ Id. at 21. (Testimony of Stokely Carmichael, Howard University Non-Violent Action Group.)

5/ Washington Post, March 22, 1963, p. 1, sec. C.

6/ Washington Post, May 25, 1963, p. 1, sec. D. Negro craftsmen were solicited for the Howard project by advertisements appearing in local newspapers, including the Afro-American.

Under Secretary of Labor John F. Henning announced at the Conference a long range program by the Federal Government to stimulate a fair apprenticeship program for the District. He explained as background that since 1961 the Bureau of Apprenticeship and Training in the Department of Labor has been requiring non-discrimination clauses in the apprenticeship agreements of firms handling government contracts and in the registration of new apprenticeship programs with the Bureau. Mr. Henning announced that an Industrial Training Adviser had been appointed in the Washington Office of the Bureau to coordinate equal opportunity programs of the Bureau in the Washington area, and that:

> * * * the Department of Labor expects to move ahead as promptly as possible with the establishment on a demonstration basis of an apprenticeship information center in the District. This should be a joint enterprise of the Bureau of Apprenticeship and Training, Employment Service, the schools, the D.C. Apprenticeship Council, and employers and unions. Its experience in determining apprenticeship opportunities and in counseling young people regarding them will contribute knowledge that can prove invaluable in determining other actions that may be needed. 7/

Establishment of the information center, which is still in the planning stage, should do much to increase communication between the trades and the Negro community. As the Executive Director of the AFL-CIO Civil Rights Department put it, "one of the central things . . . is that the veil be torn of secrecy and silence about what goes on in apprenticeship training and what it means." 8/

7/ D.C. Employment Conference. (Statement of Under Secretary of Labor John F. Henning.)

8/ Id. at 272. (Testimony of Boris Shishkin, Director, AFL-CIO Civil Rights Department.

A serious obstacle to real progress in opening up the apprenticeship programs to Negroes has been the "buck-passing" between labor and management on this issue. Companies claim they cannot apprentice a Negro because the union will not aceept him; the unions say they do not do the hiring and are therefore powerless to act. With both unions and and employers involved with the government in the new D.C. Apprenticeship Information Center, one aim of which is promotion of Negro apprenticeship, a genuine cooperative effort could do much to overcome one of Washington's most serious problems in this whole employment field.

VII. SKILLED AND SEMI-SKILLED JOBS

Minority groups have traditionally gravitated toward unskilled work; reared in poverty, barred from acquiring skills and experience in most occupations, unable to postpone entry into the labor market, they have often settled for whatever work was most available. Negroes in the Washington area are no exception. 1/

Although opportunities for acquiring skills have broadened in recent years for nonwhites, the situation in skilled and semi-skilled trades is still highly unsatisfactory. Apprenticeship restrictions are but one of the obstacles to equal employment opportunity.

In the labor movement, the stimulus for full integration has usually come from the AFL-CIO or the international union, but the translation of principle into action at the local level often is quite difficult. The Greater Washington Central Labor Council, a voluntary association of area unions, reported some of the problems at the Conference:

> We have tried, by example, by precept, by moral suasion, by argumentation, to persuade local unions that they should have Negro members * * * the Central Labor Council has done an outstanding job in terms of opposing all forms of segregation, and has made it very clear to all local unions that we do not believe there is any room in the American Labor Movement for segregation in any form. * * * We have done this formally. We have done it officially. We have done it informally, and we have done it unofficially. * * * We cannot pick up the charter of a local union because it won't take in Negro members. We can't even expel a local union because it will not take in Negro members. 2/

Admission to union membership can sometimes be obtained by means other than apprenticeship:

1/ Skill Survey of the Washington Metropolitan Area, U.S. Employment Service, 1963, p. 19.

2/ D.C. Employment Conference at 197. (Testimony of J.C. Turner, Greater Washington Central Labor Council.)

> I think that the problem of lateral entry--the taking in of qualified journeymen * * * is probably the area which is overlooked the most in this whole problem of discrimination as it relates to labor unions. I believe that a great deal more emphasis--not that it is not extremely important--is placed on the taking in of apprentices, rather than in terms of the problem of acceptance of qualified Negroes into membership as lateral entries, by the signing up of employers who are employing union journeymen. I would say that the biggest percentage of our people who are Negroes are men who have come in as a result of our going out and contracting and organizing to solicit their membership in the union, and then * * * negotiating a contract in their behalf as a part of the union. 3/

Recently, some previously segregated locals have accepted Negroes on a "token" basis. As the Urban League says:

> * * * the opportunity afforded by "tokenism," challenging a rare few with the emotional stability and courage to make a pilot breakthrough in a new job category, cannot be expected to inspire many young people. Without certain knowledge that their years of training will truly get them ahead in later life, nonwhite teenagers are readily tempted to leave school early, seeking immediate fulfillment of very short-range goals. 4/

Thus, in the skilled and semi-skilled occupations, the rapid and complete integration of the labor movement is essential. Since most jobs at this level are unionized, the continued existence of discrimination in unions is felt directly by Negro students in the schools. As long as they see no hope for acceptance, they will continue to drift into unskilled jobs for which the demand is steadily declining.

In those private industries where union discrimination is not a factor, the employment of Negroes in skilled and semi-skilled jobs is on the increase--although employers have also been guilty of discrimination. Even in companies with stated merit hiring policies, the picture is by no means wholly bright.

3/ Id. at 202. (Testimony of J.C. Turner.)

4/ Washington Urban League, Third Annual Report, 1963, p. 7.

Some white-collar positions are available to Negroes in the telephone company, but the technical and craft categories have been opened very recently and these only on a limited basis. Token integration exists in the transit system. Both the gas and electric company have recently initiated merit hiring, however their turnover rates are quite low. * * * In both construction and manufacturing, employers claim not to hire Negro skilled workers because of fear of union reprisal. The League has frequently found limited basis for the claim, although unions bear their share of the guilt. 5/

The instances of "tokenism" are widespread:

For years the practice has persisted to relegate the Negro to driving the hard fuel (coal) trucks and reserving "for white only" such jobs on the oil delivery trucks. In the fall of 1961 * * * (after negotiation) * * * several Negroes (were) hired to deliver oil. As a result of pushing and letter writing the major soft drink companies have hired at least one (Negro) delivery man. The Milk Industry has done the same and at least one bread company has made the attempt. In each of these industries we are the victims of tokenism for window dressing; one Negro is hired and then they boast of being integrated. 6/

5/ Ibid. at 6.

6/ Id. (Statement of Edward A. Hailes, D.C. Branch, NAACP.)

VIII. CLERICAL AND SALES WORK

Negro high school graduates with commercial skills experience relatively little trouble in finding employment in the area, primarily because of high demand in government agencies. But for those with skill deficiencies, or those who decide on clerical training after graduation, the problems are manifold.

There is, to begin with, the question of training. Where can a Washington Negro prepare for a career in office work? Generally such preparation is given by a number of private business schools, which also help place their graduates in government and private industry. In a survey made by Iota Phi Lambda Sorority, an organization of business women, in May 1961, thirteen schools were surveyed to determine their admission policy. It was found that seven of these operated with racial restrictions.[1] To date, with the help of various organizations, one of the schools has totally desegregated all of its facilities, and another has partly desegregated.[2] The problem, of course, still remains serious.

Yet even where the Negro can secure the proper training, jobs remain closed. Simon Douglas, placement counselor for the D.C. Public Schools, reported:

> The manager of a local business to whom I have been sending various types of workers for the past ten years recently requested a file clerk. Although I had fully-qualified colored applicants available, I was not able to prevail upon (her) to accept one of these applicants. Her reason was that she had never hired a colored person in that type of position.[3]

1/ D.C. Employment Conference. (P. 2 of statement of Mrs. Marion H. Jackson, Iota Phi Lambda Sorority.)

2/ Id. (P. 3 of statement of Mrs. Marion H. Jackson.)

3/ Id. (Statement of Simon Douglas.)

Many sectors of the private economy are almost completely closed to the Negro. In this category are the finance, insurance and real estate businesses, enterprises in which, incidentally, there is also only token employment of Jews. 4/ A few banks have hired a small number of Negroes in recent years; insurance companies, with very few exceptions, have done nothing. Savings and loan associations, mortgage companies, title companies, and stock brokerage firms still limit their nonwhite employees to the menial level: doormen, porters, janitorial workers and messengers. 5/

Placement of Negro white-collar workers is usually far more difficult than for their white counterparts. Mrs. Joan Grossman, of the Temple Secretarial School--the only fully integrated business school in the area--testified on some of her experiences:

> We find that very few of our white girls come to us for placement. Very often they have jobs waiting for them, or, if they stay in school long enough to be ready, there is no difficulty at all in getting jobs. * * * we find, unfortunately, even with Government agencies, that there is discrimination. We find that someone will call up and ask for a secretary or a typist or somebody to do some kind of clerical work * * * We ask them whether they will accept a Negro * * * and the answer is, "Well, I personally would, but she would probably be uncomfortable because she would be the only colored person in the office," or, "I personally would, but my superior feels a little bit differently." * * * We have a great deal of trouble placing Negro students. 6/

In the field of sales and distribution, the situation as elsewhere is improving. Some progress has been made in major department stores, but in many cases "tokenism" has again substituted for true equal opportunity.

4/ Id. (P. 3-4 of statement of Myer Freyman, Jewish Community Council of Greater Washington.)

5/ Id. (P. 5 of statement of Walter B. Lewis, Washington Urban League.) There may be one or two exceptions, but they merely prove the rule.

6/ Id. at 115. (Testimony of Mrs. Joan Grossman.)

The role of the employment agencies is particularly crucial in the clerical field. Racial considerations continue to be an important factor in private hiring, and employment agencies accept and fill discriminatory job orders. The United States Employment Service attempts to discourage restrictive practices by refusing to accept discriminatory job orders and by trying to convince the employer that racial restrictions should be removed. "All too often," however, the employer "withdraws his request and fills his needs elsewhere."[7] The continued willingness of private agencies to follow discriminatory practices hinders progress in this area.

Ted Wilson, who operates a private employment agency, defended the free operation of employer "preferences," and stated that he felt that skill, not race or religion "governs every hiring process."[8] The evidence refutes the latter view. It is interesting to note that a survey of private employment agencies in the Washington area revealed that of 22 agencies sampled, 21 accepted job orders for secretaries which specified "We don't want any Jewish girls here" routinely and without any questions or reservations.[9]

In March 1962, an important step was taken in an agreement made between the Merchants and Manufacturers Association and the Urban League. The Association, through its Board of Governors, unanimously approved the principle of merit hiring. The Association and the League agreed to jointly implement the program on a continuing basis.[10] Since the Merchants and Manufacturers Association represents

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7/ Id. (P. 5 of testimony of Fred Z. Hetzel, Director, U.S. Employment Service for the District of Columbia.)

8/ Id. (P. 2A of statement of Ted Wilson.)

9/ Id. (P. 5 of statement of Myer Freyman.) One agency was unresponsive to the survey.

10/ Id. (P. 1 of statement submitted to the Conference by the Merchants and Manufacturers Association.)

an important part of the city's business community, it is hoped that the action will exert increasing pressure on the community as a whole. It is regrettable, in this connection, that the Board of Trade, which includes in its membership many of the major employers, declined to participate in the Conference at all.

As of this date, however, gross examples of discrimination are still found in the retail trade. Illustrating some of the problems were the charges made by Julius Hobson, president of Washington CORE:

> * * * (Company A) there are no Negro sales representatives. * * * None of the women who work as hostesses in the company are Negroes. * * * All of the driver-salesmen /on certain routes/ are white. * * * there have been 26 complaints this company that Negro personnel do not have an opportunity to move ahead.
>
> Now we will move to (Company B) * * * I wrote a letter to the president (of the company) * * * after having held a hearing myself with 13 of his employees, and made the following observations: * * * (1) he pays Negroes differential wages for the same work: (2) that (Company B) requires Negro employees to remain on the job until work is completed, and come in on Sundays and holidays without payment of overtime, under threat of being fired; (3) that this manager uses abusive language to Negroes, and that if they protest they are fired * * *11/

It is CORE's practice to picket retail stores and establishments which they believe practice discrimination. Mr. Hobson cited two examples:

> * * * (Company C) stores, a chair of shoe stores downtown, * * * refuses to hire Negro salesmen. They have one Negro, who, when a picket line is formed, is brought out of the stock room and put on the floor. When the picket line leaves, he goes back into the stock room. * * *

11/ Id. at 240. (Testimony of Julius Hobson, Washington CORE.

> We find that there are only five or six automobile companies in town that have Negro mechanics, salesmen, and office personnel. A particular case is that of the (Company D) * * * 65 percent of (its) business (is) with Negroes, but (they) had no Negro sales people, office personnel, or mechanics. 12/

Negroes rarely seek employment in outside sales, although in some cases the monetary rewards can be exceptional. But for psychological as well other reasons, commission sales are difficult for nonwhites. Many companies, of course, will not hire Negroes as sales representatives, even though the demand for such employees is great; often, however, even when Negroes have the opportunity for sales jobs, they are reluctant to enter the field. Edward Faggans of the Fuller Products Company--a Negro-owned manufacturing firm with integration of personnel at all levels--said, ". . . we have to convert Negroes into selling since they haven't been exposed to this thing." 13/

In clerical and sales work, where customer relations are of prime importance, there is evidence that Washington's Negro majority is slowly but steadily influencing changes in employment. Where "the customer is always right," the customer is beginning to make his economic power felt.

12/ Id. at 242 (testimony of Julius Hobson.)

13/ Id. at 50. (testimony of Edward Faggans.)

IX. TECHNICAL AND PROFESSIONAL JOBS

Outside of government employment, widespread bias continues to exist in the hiring of Negro professionals in the Washington area. For technicians, the problem is no longer as severe; recent demand has outstripped the supply, and the awarding of government contracts has made employers conform to equal opportunity regulations. 1/

Melpar, Inc., an Arlington, Virginia, research and development firm, has Negroes employed in professional, scientific, and technical capacities, and its experience is most likely representative of other area firms engaged in government contract work. 2/

Negro professionals in private industry find great difficulty, however, in obtaining managerial or executive positions with firms without governmental contracts. As was noted earlier, 3/ employment in real estate companies, the finance industry, insurance, etc., is only open to Negroes at the very lowest levels. In the communications field, the picture is bleak. One major newspaper:

> * * * has yet to employ a Negro in its news department * * * none of the Washington daily newspapers have employed Negro citizens in their sales departments * * * The national news magazines published in Washington have yet to employ Negro citizens as news people. * * * In broadcasting, there are no Negro citizens employed as announcers, commentators, or engineers in any network TV stations * * * The other area of communications is the advertising agency. This field is a desert for Negroes. There are no Negroes employed as account men, production specialists, time and space buyers, or in any of the creative fields. 4/

1/ D.C. Employment Conference. (P. 3 of statement of Mrs. Marion H. Jackson, Iota Phi Lambda.)

2/ Id. at 300. (Testimony of Mrs. J. Lafrank, Melpar, Inc.)

3/ See Ch. VIII

4/ Id. (P. 2-3 of statement of Calvin Rolark, National Capital Voters Association.) It is recognized that there are now one or two Negro newsmen employed by local television stations.

For the Negro college graduate in science or engineering, many opportunities exist--though his choice is more restricted than the white graduate's.[5] But for the degree holder in liberal arts, the traditional fields--law, religion, and teaching--are still predominantly the only outlets outside of government service.[6]

5/ Id. at 111. (Testimony of Mrs. Marian Coombs, Director of Counselling and Placement, Howard University.)

6/ Ibid.

X. GOVERNMENT AS EMPLOYER AND CREATOR OF EMPLOYMENT

The Federal and District governments employ over one-third of Washington's labor force.[1/] Discrimination against Negroes in hiring and especially in promotion in Government is reflected by the figures cited in Chapter 2, supra. Also revealing is a survey conducted in 1960 by the President's Committee on Government Employment Policy. That Committee studied Federal employment in three cities, New York, Detroit and Dallas-Fort Worth. In the three cities as a whole, 16.8 percent of Federal employees were Negro. Of Negro employees in Classification Act[2/] positions, 75 percent were in grades 1 through 4, 24.4 percent in grades 5 through 11, and .64 percent in grades 12 through 15.[3/]

Important strides are being made, and the impact of a commitment to equal opportunity will be increasingly felt. There is a long way to go, however, and many pockets of resistance remain. The need is for maximum vigilance and workable procedures to enforce the standards.

The President's Committee on Equal Employment Opportunity, created by Executive Order 10925, effective April 6, 1961, is charged with insuring equal opportunity in employment by the Federal Government and by government contractors. Under the Executive Order, all departments and agencies are instructed to make thorough audits of personnel to find employees who have been passed over for promotion for reasons other than

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1/ Skill Survey of Washington Metropolitan Area, U.S. Employment Service, 1963, p. 22.

2/ 5 U.S.C. §§ 994, 1071-1153.

3/ U.S. Commission on Civil Rights, 1961 Report, Volume 3, Employment, p. 29.

qualifications. 4/ With the Committee's direction, departments and agencies have established policies and procedures for achieving equal opportunity.

Under its complaint procedure, during the first 22 months of its operation, the Committee received a total of 1,941 complaints of unequal employment opportunity in the Federal Government. 1,136 have been processed to completion, and corrective action was taken in 416 cases. 5/

There was evidence of continued discrimination in certain agencies presented at the Conference. It appears that often the problem results from resistance by individual personnel directors and parts of departments or agencies. Edward A. Hailes, executive secretary of the Washington Branch, NAACP, reviewed some of the complaints received by his organization:

> Some agencies are bad, others are outrageous, some are making efforts. * * * in too many instances the officer appointed to make, evaluate, and correct is the Personnel Officer who has created or perpetuated the problem in the first place. * * * The agency from which most complaints come is the Government Printing Office. * * * complaints of failures to promote * * * of segregated sections * * * (of) reprisals for speaking out * * * expressions of fear to seek help from Congressmen, civil rights organizations, and other agencies * * * complaints that favored sections are reserved for whites * * * Our experience has also included complaints from * * * Bureau of Engraving * * * the Agency for International Development, the Department of Interior (Reproduction Section), Park Police * * * 6/

John Fauntleroy, president of the Washington Bar Association, said:

4/ As of March 31, 1963, approximately 725,575 out of 2,260,000 employees had been reviewed. 1,060 had been up-graded and given additional responsibilities, and 1,602 others were being prepared for possible promotion. Not all of those affected are nonwhite. Statement of Vice-President Lyndon B. Johnson, May 12, 1963, Press release of President's Committee on Equal Employment Opportunity.

5/ D.C. Employment Conference. (Statement of Hobart Taylor, Executive Vice Chairman, President's Committee on Equal Employment Opportunity.)

6/ Id. (P. 3-5 of statement of Edward A. Hailes.)

> * * * the act of discrimination has been greatly refined by supervisors in the government service today. It is very difficult to prove, and when agency hearings (on discrimination) are requested, the hearing panels being all employees of the agency are in a delicate position of either upholding the decision of management or facing the wrath of management in being denied further promotion. In most cases, the hearing panels take the easy way out and abide by the decision of management. * * * I would suggest * * * that appeal panels in agency discrimination cases be composed of members of the bar of the area in which the agency is located. I think that independent board members, who are lawyers, would do a much better job of conducting the hearings and analyzing the evidence * * * (and) would not (be) subjected to the pressures of management. 7/

The suggestion was endorsed by Walter Lewis of the Urban League:

> * * * fair promotion policies are doomed to failure as long as agencies are required or permitted to investiagte themselves * * * An effective program will never be developed until an outside agency is charged with the responsibility of receiving, investigating, and adjudicating all charges of discrimination and prejudice. 8/

The problems in the District Government are similar. "Equal Employment Officers" have been appointed in each of the 37 departments. Their task is to process complaints from employees who feel they have been victims of discrimination, and to promote equal opportunity within their purisdictions. 9/ Commissioner Duncan pointed out some more complicated aspects of the problem:

> Many Negroes in the Government are fairly new to public service and seem to be found mostly in the beginning steps and grades. Unfortunately, many with great potential are not qualified by training and experience to take advantage of increasing opportunities. * * * conceivably some allowance must be made for those who, for no reason of their own, have been denied the opportunity of acquiring the experience usually required on paper. 10/

7/ Id. (P. 3 of statement of John Fauntleroy.)
8/ Id. (P. 6 of statement of Walter B. Lewis.)
9/ Id. (P. 4 of statement of John B. Duncan, D.C. Commissioner.)
10/ Id. (P. 5 of statement of John B. Duncan.)

The District Government's Organization Order 125, issued April 9, 1958 and amended May 9, 1961, established the Commissioners' Council on Human Relations, charged with advising and assisting the Commissioners to promote the policy of non-discrimination in employment in the District Government and by persons holding District Government contracts. The Council has no enforcement powers.

While the work of the Council and of the equal employment officers have succeeded in "creating a general awareness" [11] of the problems of racial discrimination in the District Government, more substantial progress is needed. As noted above, while 48.1 percent of the 25,553 full-time positions in the D.C. Government were held by Negroes in 1962, less than 8 percent of the jobs graded 12 and above were held by Negroes. [12]

The Council lacks the staff and authority necessary to aid in achieving more significant compliance. [13]

In the field of government contracts, the lack of adequate staff and authority in the Council is more striking. In the words of the Council's Chairman, Aaron Goldman:

> To date we have not made any real progress in securing compliance on the part of most contractors with the non-discrimination clause in their contracts with the District. Our Council does not have the field staff necessary for such compliance checks, nor to my knowledge is this job being adequately done by the appropriate contracting officers in the District Building. In all candor, the provisions of this law are not being vigorously enforced. [14]

11/ Id. (P. 4 of statement of Aaron Goldman, D.C. Commissioners Council on Human Relations.)

12/ The Urban League analysis of the District Government's annual "Report on Manpower in the District of Columbia" for the years 1960 through 1962 revealed that the median salary of Negroes as a percentage of the median salary decrease from 90% to 84% in 1962.

13/ Ibid.

14/ Ibid.

Thus, there is no significant enforcement of the non-discrimination requirements contained in the contracts made by the District government with contractors, subcontractors and vendors.

For Federal contractors, merit hiring is required by Executive Order 10925, and responsibility for enforcement is in the hands of the President's Committee. The Committee receives complaints and may investigate and adjust them. Throughout the nation, the Committee received 1,738 complaints during the first two years of its operations. Action on 1,040 has been completed. 141 were dismissed because no government contract was involved. Of the remaining 899, findings of discrimination were made and correction action taken in 644 cases, a rate of 72 percent.15/

Some results have also been achieved under the "Plans for Progress" program. A survey of employment changes by 65 participating companies across the nation showed that while Negroes comprised only 4.1 percent of the total workforce of the companies when they entered the program, 22.7 percent of those hired in the first six months of the program were Negro. At the start, Negroes held 1.5 percent of salaried jobs. 9.9 percent of those acquiring salaried position in the six months were Negroes.16/

The progress is encouraging, but the figures show how far there is to go.

15/ Statement of Vice President Lyndon B. Johnson, May 13, 1963, Press Release of President's Committee on Equal Employment Opportunity.

16/ Report of Hobart Taylor, May 10, 1963, Press Release of President's Committee on Equal Employment Opportunity.

In Washington, the Howard University gymnasium situation (See chapter 6, supra.) shows that the distance between the promise and the reality is great. It has been found that there is little awareness of the non-discrimination requirement among the men who do the actual hiring. 17/ Washington is no exception, and the need is for renewed vigor of enforcement.

The intent of the President and the District Commissioners on questions of discrimination in government is crystal-clear. Full implementation of equal opportunity programs will, however, require persistent review, investigation, and vigilance. As has been pointed out earlier--in the Washington area, the influence of Government on all sectors of the economy is often decisive.

The reliance on individual complaints places a heavy responsibility on the private organizations which are active in the civil rights field. Many individuals who are discriminated against are unaware of the procedures which must be followed. The civil rights organizations must increase their efforts to make these procedures familiar, and to assist complainants in their utilization.

Affirmative action by the government, employers, unions and the community are necessary to supplement the individual complaint procedure.

17/ U.S. Commission on Civil Rights, 1961 Report, Volume 3, Employment, p. 92.

XI. THE NEED FOR LEGISLATION

In employment as in other fields where bias is predominant, most will agree that "the ultimate solution will rest on the conscience of the American people." [1] But there is evidence that conscience will all too often remain dormant unless spurred by law. In Washington, real progress in equal employment opportunity only began about four years ago. [2] Nearly all merit hiring policies in private industry have been in force only since that time. Formerly segregated unions and apprenticeship programs have only recently taken in their first Negroes. The upgrading of Negro employees in government was begun in earnest in 1961.

During this four-year period, strong executive action was taken by the Federal and District Governments. Numerous private and quasi-official groups in the area devoted their attention to the problem. It is evident that only through the combined efforts of government and citizens' organizations was any progress made possible.

As this report suggests, much remains to be done. Persuasion, conciliation, and compromise will continue to be important means toward the end, but the limits can only be extended by more forceful and direct action.

Of those who testified at the Conference on Equal Employment Opportunity of the D.C. Advisory Committee to the U.S. Commission on Civil Rights, there was virtually unanimous support for a Fair Employment Practices ordinance by the D.C. Commissioners. The General Counsel of the

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1/ D.C. Employment Conference. (P. 1 of statement of Right Reverend Monsignor George L. Gingras, Catholic Archdiocese of Washington.)

2/ Washington Urban League, Third Annual Report, 1963, p. 1.

U.S. Commission on Civil Rights, in a formal opinion, dated May 9, 1963, submitted to this Committee, concludes that the Commissioners have the power to issue such an ordinance. We fully support that view.

There was widespread support for a minimum wage act for the District of Columbia. The need for increased programs in the District Schools was also supported by a great many witnesses.

In addition, because of Washington's peculiar metropolitan pattern, support was voiced for a Federal FEP Act to include the surrounding communities; without it, Washington will continue to be a city segregated in fact.

Time and patience are often the most comfortable ways by which to solve a problem. Where the problem is relatively insignificant, they may well be the best ways. But, as has been shown throughout this report, equal employment opportunity is neither an insignificant goal, nor can much more time be allowed to pass without achieving it. With each passing month, the legacy of a century of discrimination accruss unto itself greater and more pernicious dividends.

If we are not to be saddled with the costs of discrimination--economic, political, legal, and moral--for another generation, the need for action is urgent. It is this sense of urgency, perhaps, that characterizes best the tone and tenor of this Conference.

FINDINGS

General

1. The denial of equal opportunity in employment to minority groups is a significant--and may well be the most significant--factor in the high incidence of crime, unemployment, social dislocation, school drop-outs, and political apathy among members of minority groups.

2. Inequality in employment opportunities seriously undermines the stability of any community, decreases the purchasing power of its citizens, adversely affects the rate of economic progress, increases the tax burden, and creates a potentially explosive situation in which crime and senseless violence become overt symptoms of frustration. All of these conditions are in evidence at present in the District of Columbia, where Negroes, still treated as a minority group, constitute in fact a majority of the population. Unemployment in the Washington Metropolitan Area, as elsewhere, hits the Negroes most severely.

3. No civil rights problem in the Washington Metropolitan Area can be considered exclusively within the artificial limits of the District of Columbia. Employment is no exception. The bulk of the labor force is, and will continue to be, employed in the central city, but a large and expanding job market does exist in the Maryland and Virginia suburbs. In these areas, Negroes are almost totally excluded from employment above the menial level.

4. A factor common to all aspects of the problem of securing equal employment opportunity in employment is the demand for "qualified applicants only." In many cases, the demand is merely a cover for discriminatory practices.

In other cases recruiting applicants with the necessary training or experience is difficult. In the latter, an effort to provide on-the-job training would often overcome any real problems. Without a new approach in this area, lack of qualifications resulting from years of discrimination becomes self-perpetuating.

5. Although progress has been achieved through sincere private efforts, it appears that meaningful solution of the problems which remain can only come through Government action. Such action has so far been too limited.

6. The effectiveness of other antidiscrimination measures is reduced by the absence of equal opportunity in employment. Discrimination in housing, for example, is intrinsically connected with the pattern of job inequality.

7. Where firms have taken action to end discrimination, and management's attitude in favor of such action has been clear and forceful, no significant difficulties have been encountered. In firms where Negroes have been employed in previously all-white positions, little if any resistance has been found among other employees or customers.

Industry and the Retail Trade

8. Some progress has been made, particularly among public utilities and government contractors, in considering applicants for non-managerial positions irrespective of race, creed, or national origin. A few firms have followed voluntary nondiscriminatory hiring policies for years, and others have initiated programs recently.

9. Many government contractors, subcontractors, and vendors are still blatantly practicing discrimination in hiring policies. Lack of

investigative and enforcement machinery and failure to use existing powers has all too often placed government in the incongruous position of condoning discrimination while it does battle against it on other fronts.

10. Discrepancies exist between the stated hiring policies of many firms and the conditions as described by such private groups as the NAACP, the Urban League, and CORE. There is reason to believe that discrimination at all but the most menial levels in industry and the retail trade is the rule rather than the exception, and that "tokenism" far too often substitutes for real nondiscriminatory hiring policies.

11. Managerial appointments, on the whole, are still rarely available to Negroes. Part of the reason lies in the long history of discrimination, which has made it difficult, if not impossible, for Negroes to acquire the skills and responsibilities within a company that would lead to high-level appointments. Past discrimination has also discouraged college-trained Negroes from applying for management training programs in firms now willing to accept them. Much too often, token appointments of a few Negroes, in selected departments or localities, to positions of a supervisory nature is considered sufficient progress toward nondiscrimination.

12. In certain fields--notably banking, finance, communications, insurance, and real estate--and with only a handful of exceptions, discrimination in employment has gone on virtually unchanged for decades. In some of these fields, discrimination is directed against Jews as well as Negroes.

13. There is evidence that in some service industries, Negroes and whites are remunerated at different rates for the same work, Negroes are abused by white supervisors, and are threatened with firing or other reprisals if they voice a complaint.

14. In some industries, there is evidence of collusion between management and unions to prevent the entry of Negroes into all-white positions.

Unions

15. Where union membership is a factor in employment, discriminatory practices of local unions are as pernicious a barrier to Negro employment as are the practices of employers. Such labor practices as exist in connection with the apprenticeship programs--exclusive family preferences and secretive selection procedures--and in the hiring halls with arbitrary referral of all-white work crews, have been effective in excluding Negroes from many highly-paid jobs.

16. In Metropolitan Washington, where a large proportion of the labor force is Negro, integration of membership exists in varying degrees in nearly all local unions. A small number of locals, generally of skilled workers in the building trades, still do not have Negro members, despite pressures from the international unions and from the AFL-CIO.

17. Despite integration of membership which exists, the great majority of paid union positions, or of elected leadership positions, is in the hands of white members. This can be accounted for in part by past discriminatory practices, but current prejudice plays a large part. Some locals with large Negro majorities, particularly in the non-craft trades, do have Negro leadership. A few, especially those that represent government workers, seem to be totally integrated in membership and leadership.

18. The fact that not enough effective pressure has been exerted aganist autonomous locals by the international union or by the AFL-CIO accounts in part for the continuance of pockets of segregation. The AFL-CIO, and the internationals, almost without exception, are committed to a policy of nondiscrimination.

19. In some skilled trades, Negro workers constitute a small fraction of union members. A large proportion of those in the non-skilled trades are Negro. Where exclusive hiring halls exist, management tends to blame the unions for the lack of Negroes; where union or open shops exist, the unions blame management. There is reason to believe that all too often both are responsible for denying equal employment opportunity to Negroes, and that the situation is perpetuated by a mutually accepted and meaningless game of buck passing.

20. Where full integration of unions has been achieved, initial resistance by white members has disappeared almost immediately.

Apprenticeship

21. Discrimination in apprenticeship is one of the most serious problems encountered. Its impact upon Negro youth should not be underestimated.

22. Apprenticeship programs within the trades seem to be most resistant to acceptance of equal employment opportunity. The small number of Negro apprentices in the skilled trades indicates that little progress has been made. In some trades, there has been no progress at all, or none beyond mere tokenism.

23. Government is a partner in apprenticeship through the D.C. Apprenticeship Council, but the inadequacy of its program, as well as lack of coordination between the schools, other governmental agencies,

and the joint apprenticeship committees themselves is to a great degree responsible for the lack of integration in the apprenticeship programs. Some hope for improvement is contained in the proposal outlined by Under Secretary of Labor Henning.

24. In view of the long history of racial discrimination in apprenticeship, Negroes have been discouraged from applying. There is an urgent need to encourage Negro youth to seek participation in apprenticeship training programs.

Clerical Workers

25. Discrimination in the hiring of office help, or for so-called "white collar" jobs, is still extensive. Employment agencies, both governmental and private, report frequent requests by employers for "white workers only," and for "Gentiles only."

26. Occasional requests from government agencies, despite the explicit policies of the Federal and District Governments, are discriminatory in nature, usually due to the individual prejudices of a supervisor or department head.

27. Training for certain types of office positions, such as bookkeeping or stenography, is not available to nonwhites in many local private schools. Placements for these positions, which are often handled by the schools, result in inequality of employment opportunity.

28. Negro applicants for clerical positions are often subjected to more demanding standards than white applicants, and offered lower pay in private industry for the same jobs as whites, and generally find that the number of jobs available to them is far fewer than the number of qualified Negro applicants, while exactly the opposite is true for white clerical workers.

Employment Agencies

29. The United States Employment Service now performs a valuable role in making job referrals without regard to race, and in refusing to fill discriminatory job orders.

30. Private agencies are a refuge for those placing racial or religious restrictions on job openings. Discriminatory referrals are made and orders accepted.

31. Discriminatory referrals are often made in anticipation of hiring restrictions which may not exist.

Education

32. Protracted discrimination in employment has had a direct effect on the motivations of Negro students. Many young Negroes, believing themselves destined for unskilled or menial labor whether they finish high school or not, drop out before completing their secondary education.

33. Negro students, for the most part, are less informed about trends and opportunities in the labor market than their white counterparts. Ghettoized housing patterns contribute powerfully to the lack of such information.

34. At the present time, no large-scale program exists to aid a significant portion of the drop-outs, or to train them for skilled or semi-skilled positions. Several thousand youngsters are thus cast loose in the District each year, with little if any work experience and no marketable skills. Increased and improved counselling services for minority youths are needed to prepare them for new training and employment opportunities.

35. The college-trained Negro, especially in technical and scientific fields, finds less and more restricted opportunity to market

his skills than the white college graduate. There has been some improvement.

36. It is particularly disturbing that employment opportunities for Negro liberal arts graduates are still more restricted than for whites. Much progress must be made in this area.

37. Discriminatory admission policies by private business schools are widespread, and exist to some degree in vocational schools.

Federal and District Government

38. Discrimination is Federal government employment is decreasing but the pace is too slow.

39. In the District government, progress beyond formulation of nondiscriminatory policy has been scanty. Responsibility for implementation is scattered among the several departments, and has been largely ineffective. Absence of effective enforcement procedures is responsible for the lack of progress.

40. Negroes in positions above grade 9 (appriximately $7,000 per annum), both in the Federal and District Governments, are still the great exception. Here as elsewhere, long years of discrimination continue to take their toll.

RECOMMENDATIONS

Preface

In its findings, the Advisory Committee has pointed out the limited progress and serious deficiencies of programs now in effect to secure equal employment opportunities in the Washington Metropolitan area. The Committee is heartened by the evidence provided by the voluntary action of some employers that employment discrimination can be eliminated without undue friction or damage to profitable business operations. In view, however, of the serious problems which have been shown to exist, and the evidence that voluntary action has not been sufficient to deal with them, the Committee makes recommendations aimed to accomplish the following ends: (1) An immediate end to discriminatory practices in employment; (2) an immediate end to discriminatory practices by trade unions; (3) means provided by law to end such practices; (4) active government participation in uncovering and preventing more covert discriminatory practices by employment agencies, unions and employers; (5) short-term measures to provide on-the-job training for unqualified and so-called "unqualified" applicants, particularly those who are members of minority groups; and (6) long-term programs for education, training, and placement of new minority group entrants into the labor market.

The employment problem is, of course, inextricably linked with a number of other problems--housing, education, etc. Their simultaneous solution is essential to any meaningful progress in equal employment opportunity, just as a solution to the problems of employment is essential to progress in all other fields. In addition to its specific recommendations, therefore, the Committee strongly urges that the District of

Columbia Board of Commissioners without delay issue a fair housing regulation, ban discriminatory practices by real estate brokers and salesmen, and take all other measures for ending racial discrimination in housing recommended by the U.S. Commission on Civil Rights in September 1962, and that related problems be examined at the earliest opportunity.

Recommendation 1. That the Board of Commissioners of the District of Columbia exercising their police power, which is fully adequate in this regard, issue and effectively implement a Fair Employment Practices regulation, making unlawful any discrimination by reason of race, religion, color, or national origin in employment by any employer, employment agency or labor organization, with power to enforce such regulation lodged in an appropriate agency.

Recommendation 2. That, in view of the metropolitan scope of the employment problems, the Commission on Civil Rights recommend the enactment by Congress of National Fair Employment Practices legislation, and that, pending such action by Congress, the Maryland and Virginia Advisory Committees to the Commission on Civil Rights hold public meetings and make recommendations designed to eliminate employment discrimination in those states.

Recommendation 3. That, pending issuance of a Fair Employment Practices regulation, the D.C. Commissioners' Council on Human Relations be charged with enforcement authority to curtail employment discrimination, and that the Council be given adequately increased staff and budget to enable it to discharge these responsibilities effectively.

Recommendation 4. That effective measures be taken to implement the present requirements of nondiscrimination in employment by contractors and

subcontractors with, and vendors to, the District Government, including (a) that all government contracting officers be required to transmit to the Council on Human Relations copies of all complaints of employment discrimination received by them, reports of any action taken thereon, and copies of all surveys of the employment practices of the government agencies and the contractors with which they do business, and (b) that government agencies be directed not to grant any government contract to any prospective contractor with a history of discrimination in employment until the Council on Human Relations shall have investigated and such steps have been taken as will insure that such contractor will in fact abide by the nondiscrimination clause in its contract.

Recommendation 5. That the existing provisions for cancellation of government contracts for violation of nondiscrimination clauses be strictly enforced.

Recommendation 6. That (a) action be taken by national and international unions to eliminate discrimination by their local unions in the areas of membership, training, apprenticeship, employment and the like, and (b) the Federal and District Governments assume their full responsibilities in assisting the unions in eliminating discrimination.

Recommendation 7. That the President and the District Commissioners direct that appropriate measures be taken to (a) provide for dissemination on a continuing basis of information as to job qualifications and availability in the District in government employment, in employment with government contractors, and in industries providing nondiscriminatory employment, and (b) encourage and aid all employers to set up on-the-job training programs for unqualified and so-called "unqualified" applicants, so that the

gap between employers' needs and employee availability, much of which results from existing and past discriminatory practices, may be bridged with all possible speed.

Recommendation 8. That Federal and local executive action be taken to eliminate discrimination in all governmentally supported vocational education, training, and apprenticeship programs.

Recommendation 9. That the United States Employment Service establish an Apprenticeship Information Center for the District of Columbia, as proposed by Under Secretary of Labor John F. Henning, to act as coordinating agency for the promotion of equal opportunity in apprenticeship for the D.C. joint apprenticeship committees, the D.C. Apprenticeship Council, the D.C. schools, labor unions, industry, and voluntary associations active in promoting equal opportunity in apprenticeship.

Recommendation 10. That the Federal and local governments, in the District and adjoining suburban counties, issue directives prohibiting government agencies from accepting referrals from employment agencies or schools which practice discriminatory assignment, referrals, or admissions.

Recommendation 11. That the District Commissioners, under their broad power to regulate the activities of government licensees prohibit private employment agencies from accepting discriminatory job orders and from making referrals on a discriminatory basis.

Recommendation 12. That, because of the particular impact of unemployment on members on members of minority groups caused by discriminatory practices, all government efforts be taken to promote full employment, including (a) expansion of the retraining programs recently initiated in the District under the Manpower Development and Training Act, and other

programs, with particular consideration given to further programs to combat functional illiteracy, (b) increases in the school staff available for vocational counselling and guidance and extension of this work to the elementary schools, at all times assuring that the counselling and guidance is attuned to the needs of the labor market, (c) development and expansion of work-study programs, with cooperation of schools and employers, and (d) steps to make school curricula better suited to the needs of the labor market, taken in consultation with interested employers.

Recommendation 13. That, to further the above purposes, (a) a Department of Labor in the District Government be created, charged with development and implementation of long-range programs to combat unemployment, (b) steps be taken to improve the educational facilities in the District, including the establishment of a municipal college, (c) licensing requirements for private business and vocational schools be provided, and (d) a minimum wage for men be enacted.

Conclusion: A sense of urgency

In conclusion, the Advisory Committee cannot emphasize too strongly that action on the problem of racial discrimination is long overdue.

The steps taken by some private employers toward realizing equal opportunity in employment have met with notable success. The Committee is deeply appreciative of their efforts, and hopes that they will undertake to make their successes more widely known, so that baseless fears may be allayed.

While the signs of progress are welcome, they are all too few and far between. The facts on the extent of racial discrimination in employment are well known. Public discussion may be beneficial, but it has proved

woefully inadequate for the job. The need is not to sit still and contemplate our progress, or even merely to hope that more will be done in the future. The need is for a solution to the problem.

The Committee recognizes that its recommendations are not all-inclusive, and that they will not solve the problems overnight. The recommendations do, however, represent essential first steps which have become imperative. The gap between the expression of our democratic ideals and our practice of racial discrimination must be eliminated.

It is therefore with a sense of utmost urgency that the District of Columbia Advisory Committee presents the above recommendations. It remains for an aroused community to make known its will, and for the responsible officials to do their duty.

# # #

APPENDIX

DISTRICT OF COLUMBIA ADVISORY COMMITTEE CONFERENCE ON EQUAL EMPLOYMENT OPPORTUNITY: PROGRESS AND PROBLEMS

Presiding Panel:

Ben D. Segal, Chairman
Gilbert Ankeney
Leonard Aries
Ruth Bates
Joseph Beavers
Isaac Franck
Dr. Duncan Howlett
Sterling Tucker

Testimony (in order of appearance):

Honorable Charles A. Horsky, Advisor for National Capital Affairs to the President
Honorable Berl I. Bernhard, Staff Director, United States Commission on Civil Rights
Fred Hetzel, Director, United States Employment Service for District of Columbia
Honorable John B. Duncan, District of Columbia Commissioner
Honorable John F. Henning, Undersecretary of Labor
Harry Boyd, Personnel Director of the Potomac Electric Power Company
Aaron Goldman, Chairman of the District of Columbia Commissioners' Council on Human Relations
James Murray, Chief, Employment Center, District of Columbia Employment Center
Hobart Taylor, Jr., Executive Vice Chairman of the President's Committee on Equal Employment Opportunity
Honorable Esther Peterson, Assistant Secretary of Labor and Director of the Women's Bureau
Lemuel Penn, District of Columbia Public Schools
Hyman Perlo, Job Counsellor for Drop-Outs, District of Columbia Public Schools
Philip Stoddard Brown, Economist
Mrs. Kathryn Stone, Washington Center for Metropolitan Studies
Mrs. Eunice Grier, Washington Center for Metropolitan Studies
Boise L. Brister, Statistician of the District of Columbia Public Schools
Simon Douglas, Guidance and Placement, District of Columbia Public Schools

Harold Clark, Director of Vocational Education
Mrs. Marian Coombs, Student Employment and Graduate Placement at Howard University
Mrs. Joan Grossman, Temple Secretarial School
Charles D. Thompson, Assistant Vice President, Chesapeake and Potomac Telephone Company
F. W. Amadon, Director of Personnel, Washington Gas Light Company
John H. Kauffman, Business Manager, Washington Evening Star Newspaper Company
A. H. Bowman, Western Union Telegraph Company
Victor R. Daly, Deputy Director, United States Employment Service for the District of Columbia
Henry L. Dixon, President, District of Columbia Federation of Civic Associations
Richard Elder, Director of Personnel Services, George Washington University Hospital
Edward A. Hailes, Executive Secretary of NAACP District of Columbia Branch
William F. Rogers, Director of Personnel, Giant Food Stores
W. E. Pannill, Personnel Manager, Peoples Drug Stores
Aaron Goldman, President, Macke Vending Company
J. C. Turner, President, Greater Washington Central Labor Council
Joseph Curtice, Executive Secretary, Building Trades Council
John Evans, Chairman, District of Columbia Apprenticeship Council
James Rademaker, First Vice President, National Association of Letter Carriers
Frank H. McGuigan, President, Local 400, Retail Clerks Union
Julius Hobson, President, Washington CORE
Joseph A. Bepko, Jr., Personnel Manager, Continental Baking Company
Walter J. Bierwagon, President, Local 689, Amalgamated Association of Street and Electric Railway Employees
Cypran Tilghman, Local 80, Hotel, Restaurant and Bartenders Union
Boris Shishkin, Director, AFL-CIO Civil Rights Department
Walter B. Lewis, Assistant Executive Director, Washington Urban League
Reverend Graham W. Howe, on behalf of Reverend Virgil E. Lowder, Executive Director, Council of Churches, National Capital Area
Isadore Seeman, Executive Director, Health and Welfare Council
Mrs. E. G. Stoddard, Neighborhood Service Project
Mrs. Richard C. Simonson, President, District of Columbia League of Women Voters
Carl Shipley, Republican State Committee for District of Columbia

Frank D. Reeves, Democratic National Committeeman for D.C.
John Fauntleroy, President, Washington Bar Association
Mrs. J. Lafrank, Melpar, Inc.
K. K. Kobayashi, Japanese-American Citizens League
Mrs. Carolyn Stewart, Negro Community Council
Myer Freyman, Chairman, Employment Discrimination Committee, Jewish Community Council of Greater Washington
Ted Wilson, Better Employment Agency Committee
Russell L. Bradley, Executive Director, National Conference of Christians and Jews
Berkeley Burrell, President, National Business League and Vice President District of Columbia Commissioners' Crime Council
Walter Davis, Assistant Director, AFL-CIO, Civil Rights Department
John Feild, Executive Director, President's Committee on Equal Employment Opportunity
Mortimer C. Lebowitz, President, Morton's Department Store
Benjamin Orringer, D.C. Recreation Department
Calvin Rolark, National Capital Voters Association
Stokeley Carmichael, Howard University Non-Violent Action Group
Richard Gay, Personnel Director, Washington Hospital Center
Leonard Hill,District of Columbia Department of Vocational Education
Reverend Geno C. Baroni,Catholic Interracial Council
David A. Sawyer, Former Director, Commissioners' Council on Human Relations
Mrs. Marion H. Jackson, Coordinator, Iota Phi Lambda Sorority
Edward Faggans, Fuller Products Company
Right Reverend Monsignor George L. Gingras, Catholic Archdiocese of Washington
Adrian Roberts, National Vice President of the American Federation of Government Employees
Dr. Albert B. DeMond, Office of Business and Distributive Education, District of Columbia Public Schools
Mrs. Marion H. Jackson, District of Columbia Chamber of Commerce

COMMISSION ON CIVIL RIGHTS
WASHINGTON 25, D.C.

OFFICIAL BUSINESS

Commission

FOR IMMEDIATE RELEASE
LOUISVILLE, KENTUCKY
June 25, 1962

The U.S. Junior Chamber of Commerce national convention in Louisville has been asked by its group of Ten Outstanding Young Men of 1962 to take five steps aimed at resolving the current crisis in race relations in America.

The TOYM awards are presented annually by the JayCees as proof of their dedication to the belief that the American way of life presents unlimited opportunities to all young men of faith, vision and courage...and to reaffirm that part of the JayCee Creed which says, "service to humanity is the best work of life."

For perhaps the first time since the awards came into being a quarter of a century ago, the ten 1962 recipients have taken a public stand on a controversial issue. In a three-page petition presented to the National JayCee President, Doug Blankenship, the group notes that the JayCees have risen to meet many challenges in the past. The challenge posed now by the controversy over civil rights, the petition states, spells opportunity as well as danger.

The danger lies in the certainty that our ideals will wither if we apply them sporadically or selectively. The opportunity presented is to demonstrate anew that social problems are best solved within the framework of a free and democratic society.

In recognizing these facts, and in recognizing the need for dynamic business leadership in this as in all other challenges to our society, the TOYM call upon the officers and members of the U.S. Junior Chamber of Commerce to take the following five steps:

1. Remind the business community that racial discrimination is incompatible with a free enterprise system;

2. Urge employers to hire, train and promote regardless of race or color;

3. Impress businessmen serving the public that racial discrimination is a slur on America;

4. Stimulate businessmen to actively participate on biracial committees to alleviate current racial tensions;

5. Encourage businessmen to assure Negroes free choice in the housing market as part of a community-wide effort to build stable and prosperous neighborhoods.

The TOYM of 1962 also offer their assistance to advance the stated objectives in any manner which the JayCees deem appropriate.

FOR IMMEDIATE RELEASE
LOUISVILLE, KENTUCKY
JUNE 25, 1963

PETITION

TO: United States Junior Chamber of Commerce
Annual Convention
Louisville, Kentucky

FROM: Your Ten Outstanding Young Men of 1962

We were greatly honored when you selected us as America's Ten Outstanding Young Men of 1962. You urged us to continue to work for the betterment of America and to take this responsibility seriously. It is in this vein, and for this reason, that we feel impelled to make the following statement. What we say, we say with the JAYCEES Creed in mind:

> That the brotherhood of man transcends the sovereignty of nations; ....That earth's great treasure lies in human personality; And that service to humanity is the best work of life.

The JAYCEES have risen to meet many challenges, have contributed immeasurably to the improvement of our communities, and have never turned away from a task because of its difficulty.

The current crisis in race relations in America is only the latest in a series of challenges to our Nation's basic principles. It is one to which the President and other high government officials of both parties have frequently and urgently addressed themselves in recent weeks. It is a crisis which is neither sectional nor partisan.

As in the past, the challenge spells opportunity as well as danger. The danger lies in the certainty that our ideals will wither if we apply them sporadically or selectively. We pride ourselves that the American society holds individual dignity inviolate and that it imposes no restraints on the lawful ambitions of any citizens. This conviction is the heart of our vaunted liberty, and the secret of the success of our free enterprise system. America is what it is because our ancestors fled from societies in which men were judged by birth and not by ability. Yet, in 1963, there is within our society a group of persons to whom, in large measure, we deny equal opportunity because of the color of their skin. The President has pointed out that no Negro baby born in America today can hope to have an even chance unless we awaken to the violation of our most sacred principles.

The challenge we now face presents an opportunity to demonstrate anew that social problems are best solved within the framework of a free and democratic society. We who like to teach by example cannot hope to convince the world's overwhelming non-Caucasian majority of the validity of our political and economic system until we can prove that it assures to all persons, regardless of race or color, equality of opportunity. Moreover, the economy of our country, as well as its spirit, is bound to benefit from the entry of 20 million citizens into the mainstream of American life.

Recognizing these facts, and recognizing the need for dynamic business leadership in this as in all other challenges to our society, we call upon the officers and members of the United States Junior Chamber of Commerce to take the following steps:

1. Remind the business community that racial discrimination is incompatible with a free enterprise system founded on the premise that both persons and products should compete on their merits.

2. Urge employers in their hiring, training and promotion policies affirmatively to seek out persons with talent and potential regardless of race or color.

3. Impress on businessmen who serve the public that refusal to serve persons because of race is a slur on America as well as on the individual victim and perpetuates the exclusion of Negro Americans from the American way of life.

4. Stimulate businessmen to make a long range commitment of time and energy to work on biracial committees, and other agencies, to find ways to alleviate current racial tensions and make Negroes full participants in the life of our communities.

5. Encourage businessmen to assure Negroes a free choice in the housing market as part of a community-wide effort to build stable and prosperous neighborhoods.

We offer you our assistance to advance these objectives in any manner which you deem appropriate.

Curtiss M. Anderson
Former Editor of Ladies' Home Journal;
Contributing Editor McCalls' Magazine; Writer
New York City, N.Y.

James T. Beatty
President, Los Angeles Track Club
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Jules Bergman
Science Editor, American Broadcasting Company
New York City, N.Y.

Hon. Berl I. Bernhard
Staff Director, U.S. Commission on Civil Rights
Washington, D.C.

Congressman John Brademas
U.S. Representative
South Bend, Indiana

Guido Calabresi
Professor of Law
Yale University Law School
New Haven, Connecticut

Rev. Robert W. Castle, Jr.
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