John S

Richmond – Union Theological Seminary
4/20/64

Opponents charge "the greatest federal power grab in U.S. history" –

Proponents – moderate + constructive attempt to meet most pressing demands for racial justice in U.S.

Bill sent to Cong by Pres. Kennedy in June 1963 – 10 months later still locked in debate. seldom has any Cong given such detailed + studious attention to any piece of leg.

What I have to do this evening – Substance of leg. situation Outlook

II Title

Title I---Voting Rights.

Opening: U.S. founded on principle of govt. by the people.

Basic ducements of Am. history dedicated to the principle of popular sovereignty through majority rule.

15th amendment: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Examples: Basic right to vote denied to millions.

Less than 7% of eligible Negroes in Miss. are registered, compared to 70% of the white adult population. Dozens of counties less than 3%. In 100 counties containing about 1/3 of all southern Negroes, an average of only 8.3% of the eligible Negroes are registered. In Seminole County, Ga. 2.5% of the Negroes of voting age are registered compared to 132% of the eligible whites.

Background to current bill: Civil Rights Acts of 1957 and 1960. Empowered Atty General to bring suit to protect voting rights; inspect voting record, and fed. courts to appoint voter registration referees if discriminatory pattern exists.

Justice has brought 58 voting suits. Experience has revealed that present procedures do not provide adequate remedies for loss of voting rights. Title I embodies next steps which must be taken.

1) Double Standard for Voter Qualification: voting officials regularly apply one set of standards to white applicants and another set to Negroes. different lines etc - Different standards of constitutional interpretation. Applicants for voting registration must be evaluated according to uniform standards, procedures and practices.

2) Immaterial or technical errors: favorite trick of asking applicant's age in years, months, and days, etc. Would prohibit denial errors on application forms - Negro - brown - black of right to vote for such immaterial errors.

3) Literacy tests; although literacy tests are used to discriminate, it is often difficult to prove when tests are given orally and no record is kept of the questions and answers. Would require that tests given in correction with Federal elections be administered in writing.

Also rebuttable presumption that person with sixth grade education is considered literate. Merely a rule of evidence, not a voting qualification.

4) Delays in litigation: Example--suit instituted in July 1961 ~~in~~ in Louisiana (where 24,000 of 40,000 whites registered as compared to 725 of 16,000 Negroes) is still pending after more than two years. No such thing as retroactive relief ~~with respect to~~ xxx voting rights. No amount of subsequent litigation can repair the damage.

Title I provides that either party may ask chief judge of the circuit to appoint a ~~th~~ree-judge court to hear case. ~~A~~ appeals directly to Sup.Ct.

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Constitutional Basis of Title I. Applies expressly only to voting for members of the House and Senate and for Pres and Vice-Pres. 14th and 15th amendment confer upon Congress authority to legislate with respect to disciminatory denials of the right to vote--- Title I establishes no qualifications for voting. Just requires that whatever standards and procedures a state does apply will be applied fairly to all who apply.

Title II--Equal Access to Public ~~Accommodations~~ Accommodations

If those of us whose skin insures free access to places of public accommodation were to experience ~~h~~umiliation which awaits Negro Americans, we would be quick to protest and to seek assistance of remedial laws. Problem in both North & South —

No preferred status on Negroes. Still possible to exclude but only on grounds that other Americans are excluded.

Common law heritage: during 13th, 14th, and 15th centuries the duty to serve all who came to a place of public accommodation was covered by criminal law. Blackstone: ". . . when a man professes the keeping such inn or public hous e, he thereby gives a general license to any person to enter his doors." Not just question of rights but also obligations —

Extent of voluntary desegregation: Limits have been reached in many areas of South. In 275 cities with population over 10,000 in South and border states: 65% of Cities all or part of hotels were segregated; 60% of Cities restaurants and ~~xxxxxxxx~~ theatres; in cities with less than 10,000, 85-90% of public accommodations were still segregated. Still a great deal to accomplish —

as of last July

4/

Provisions: Establishes right of all persons to full and equal enjoyment of services and facilities of specified places of public accommodation where operation of such places affect interstate commerce or where such discimination or segregation is supported by State action.

Two bases of authority

Includes: hotels and motels, restaurants and lunch counters, arenas, places of
gasoline stations, theatres, sports ~~xxxxxxxxxxx~~ exhibition or

5/

Emphasis on Voluntary Compliance: AG directed to use fully existing institutions to achieve voluntary compliance where possible. Existence of sanctions will serve to encourage voluntary action.

Constitutional basis for Title II. Enfringement of private property

Many acts based on commerce clause are designed to eliminate social evils, e.g., minimum wage, Wagner Act, transportation of gambling devices, prostitutes, etc. Also clear economic consequences of discrimination and segregation ~~xxxxxxxxx~~:

impact on interstate flow of goods, capital, and people.

Use of Negro truck drivers in certain parts of the country.

Fact that some establishments are small does not matter: aggregate impact on commerce of activities of numerous small

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Relationship to the flow of goods in commerce or to interstate travel is the basic test with respect to each type of enumerated establishment.

Civil Rights Cases of 1883. Court did not consider commerce clause in this decision. Specifically said it was not considering this source of Congressional authority. Regarding 14th amendment, the 1875 law referred to discrimination by a "person," and 14th only mentions "State." Present language drafted carefully to specify "State." Hence no conflict with 1883 decision.

State laws: Found in 30 states and D.C. Sup. Ct. has upheld constitutionality of state public accommodations laws.

6/

Title III and IV---Desegregation of Public Facilities and Schools.

1) Title III authorizes AG to bring suits for desegregation of public facilities--parks, playgrounds, libraries, museums, etc.

2) Title IV authorizes AG to bring school desegregation suits where he certifies that he has received signed complaint from aggrieved parties and that these parties are unable to initiate and maintain appropriate legal proceedings for relief.

// Creates no new rights or duties on local officials. Merely authorize AG to sue on behalf of U.S. to enforce what Constitution itself compels.

In 7 States of deep South, less than 1% of all Negro pupils in biracial districts are enrolled in desegregated schools. There are ~~xxxx~~ nearly 2,000 biracial school districts which are still totally segregated. Cost is great and suits take long time. Massive efforts to block desegregation in the courts, constant appeals, ingenious schemes to deny equal desegregated education to millions of Negro children.

What is nature of problem which titles designed to meet?

Title IV also provides for affirmative assistance in meeting problem of segregated schools: advice and technical assistance, special training grants, comprehensive survey by Commissioner of Education into all forms of discrimination and inequality of educational opportunity.

7/

Title V---Extension of Civil Rights Commission.

Extends life of Commission for additional four years. Given new authority to serve as national clearinghouse for information concerning denials of equal protection of the laws. Also authorized to investigate allegations of voting fraud.

Title VI---Ending Discrimination in Federal Programs.

Basic principle set forth in Section 601--- Read—

President Kennedy in his civil rights message: "Simple justice requires that public funds to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, or subsidizes or results in racial discrimination."

How serious is this problem?

Federal assistance in segregated schools under impacted area program (Virginia received $15, 640,000 in 1962) Five Southern states received over $35 million.

Since 1946 over $36 million in direct grants made to segregated hospitals. Vocational training courses, employment services, agricultural extension services, etc. operated on segregated basis.

Title VI directs each Federal agency to take whatever steps are necessary to implement basic principle of nondiscrimination.

Not Punative: Termination of assistance is not objective of Title. All other means of ending discrimination must first be attempted.

No shotgun authority; cannot terminate highway assistance because of segregated schools.

Eight steps must be followed before Federal aid could be terminated.

8/

(1) agency must adopt nondiscrimination requirement, (2) President must approve requirement, (3) agency must advise recipient of noncompliance and seek to secure voluntary compliance, (4) hearing must be held before formal compliance action is taken, (5) agency may seek to secure compliance by means not involving cutoff of funds, (6) must make express finding of noncompliance, (7) must file written report with Congress, (8) order subject to judicial review. Opponents have been unwilling to challenge directly the principle stated in Title VI. Are attempting a flank attack by seeking to create false and misleading impressions as to the intention and effect of Title VI.

No effect on social security, vet. compensation and pensions, civil service retirement, etc., farm payment programs, Balanced and moderate approach. Middle road between wholly discretionary approach and immediate cutoff where discrimination exists. Wise to leave agency good deal of discretion in implementing title. Wisdom of "with all deliberate speed."

Title VII---Equal Employment Opportunity. — Perhaps the most Controversial at present.

Problem of jobs is at core of civil rights problem.

What good does it do a Negro to be able to eat in a fine restaurant if he cannot afford to pay the bill?

Negro is principal victim of job discrimination. Unemployment rates among non-whites is over twice as high as among whites.

Non-whites constitute only 11% of the total work force, yet they account for 25% of all workers unemployed for 6 months or more.

17% of non-white workers have white collar jobs; among white workers the figure is 47%. Shameful fact is that educatad Negroes are often denied chance for jobs for which they are trained.

43% of all non-white workers with technical training held jobs on which they used that training---compared to 60% of all workers.

Only 2% of white women graduated from high school are domestic workers--20% Negro women with this education can find only domestic work.

Negro with four years of college can expect to earn less in his lifetime than a white man who quit school after the 8th grade.

Negro college graduates have only half the lifetime earning s of white college graduates.

And the situation is getting worse---impact of automation, etc.

Situation requires both an end to discrimination and upgrading of Negro occupational skills through education and training.

Provisions of Title VII

Deals with discrimination in employment on grounds of race, color, religion, sex, or national origin.

Unlawful employment practice for employees of 25 or more persons in industries affecting interstate commerce or labor unions with 25 or more members to discriminate in hiring, union membership, job referral on basis of race, color, religion, sex, or national origin.

Provisions

Establish five member bipartisan EEO Commission responsible for receiving and investigating complaints of unlawful employment practices, and seeking to bring about voluntary compliance. Only courts will be empowered to issue enforcement orders.

Description of Procedure.

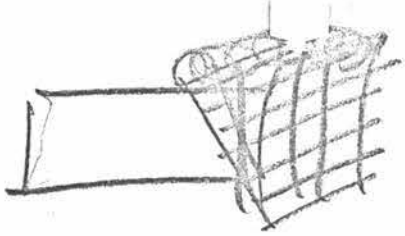
Filing of charge with Commission, in writing and under oath.

If charge is investigated, it will be referred to Commission. If two members agree charge is substantiated, Comission will attempt to conciliate and persuade employer to cease. Wholly voluntary. Otherwise it will be dropped.

If practices continue, then Commission as a whole has to decide whether or not to bring suit in Federal district court. Trial de novo. Private party may bring suit if he has written permission of one member of the Commission.

Relief sought would be suit for injunction against future acts, but court could order appropriate affirmative relief.

AMENDMENT



11/

Nothing in title to empower Commission to require hiring, firing, promotion in order to meet racial quotas.

Commission is also directed to enter into agreements xk with State FEP agencies. 25 States have FEP laws of varying effectiveness.

Moderate and constructive attempt toward the elimination of one aspect of racial discrimination in America. Republican in origin, moderate in approach.

Miscellaneous Titles---VIII through XI.

VIII--survey of registration and voting. As recommended by the Commission on Civil Rights.

IX--Appeal of remands in Civil Rights cases.

X--Community Relations Service

XI--Appropriations and separability clause.

Conclusion

All areas are interrelated---education, job opportunity, public accommodations, voting, public facilities, etc.

Great advance upon voluntary compliance + Fed Court system — Minimum effort —

Discrim - a distinction in treatment given to different individuals because of their different race, religion, or national origin.

(1) Voting rights — V
(2) Pub accom. — P
(3) deseg. pub. fac — P
(4) deg. Schools — S
(5) C R comm — C
(6) Discrim in Fed prgrms — F
(7) FEPC — J.

- Civil Rights bill
- what next? to field of race relationships

- V P situation
  - L B J's choice

into the postwar period.

It is impossible to deal with the problem of poverty in America today without understanding that this dominant view of America as being potentially affluent for all those who warrant affluence distorts both the image the poor have of themselves and the one we have of them.

The work-oriented concept of America, with its great

easily in bed than out of it.

And the poor stand in line far more than we do. They stand in line to buy money orders because, unlike us, they have no checking accounts. They stand in line to get the surplus food packages; they stand in line at the unemployment insurance office; and they stand, or perhaps sit, in line at the clinics where they take their children.

horizontal slum tenements of California and Texas. Appalachia *is* a human slag heap and most of the rural South is made up of subsistence counties.

But generally, the poverty I have seen has been somewhat less physically repulsive than I expected, for the poor in America are not so much physical as they are psychological paupers.

Civil Rights Agitation--Old Angers, New Hope

BY M. W. NEWMAN

School boycotts . . . chanting pickets . . . protest meetings . . . angry disputes over school violence . . . Negroes finding new pride, white people torn between fear and sympathy.

They're all a part of our decade's civil rights upheaval. And for 1964 they add up to challenge, conflict, old angers and new hope.

Top authorities at the Orthopsychiatric Assn. meeting, sizing up this historic home-front battle, traced varying patterns behind the confusing clash of forces.

There was psychologist Kenneth Clark, bitterly assailing Chicago's schools as 10 years behind the times in facing up to racial integration.

THERE WAS DR. BENJAMIN SPOCK, the noted baby doctor whose book, "Baby and Child Care," has guided a generation of mothers on the problems of bringing up Junior.

A white man, Dr. Spock told of marching in picket lines for integration—and challenged his fellow professional men to take a stand, too.

And four researchers, three of them white, found hopeful signs that as civil rights agitation increases, crime among Negroes appears to decrease. The reason is that the mass activity gives Negroes hope they never had before, the scholars concluded.

BUT THERE WAS LITTLE COMFORT for believers in the status quo in the opinion of Clark, prominent Negro psychologist on the faculty of New York University.

His analysis of the effect of school segregation on children was submitted to the Supreme Court before its history-making 1954 integration ruling.

Ten years later, Clark says that Supt. Benjamin C. Willis and Chicago's Board of Education haven't learned a thing.

"Chicago is at least 10 years behind New York in readiness to understand, accept and deal with the integration problem," he told The Daily News.

"There seems to be a blindness or inability to face the problem here, and begin to make the needed adjustments.

"Supt. Willis and the board seem to spend their time saying there is no problem — a pose that New York abandoned in 1954.

"New York may not have solved the problem, but at least it is trying to face it. There's a dialog going on."

CLARK IS HIGHLY CRITICAL of the pattern of so-called segregated public schools here, which he calls inferior and "dehumanizing."

"All-white or all-Negro schools distort reality and fail to prepare children to live in a world of diversity," he said.

"We're throwing away our opportunity to educate our children, white and black, for the real world."

Clark also challenged accusations that classroom violence in Chicago and New York has risen as a result of civil rights agitation and boycotts.

"I haven't seen any figures to prove it," he said.

"Of course, we always have vandalism. But even a lot of that is a symptom of resentment against a damaging and dehumanizing system.

"I would say that profound violence is done by segregation and inferior schools, and not by efforts to meet the problem."

THE STORMY CIVIL-RIGHTS movement appears to be cutting down crime among Negroes by giving them something to live for, four researchers found during studies in the Deep South.

The four men include three psychiatrists, Fredric Solomon and Jacob R. Fishman of the faculty of Howard University in Washington, and Garrett J. O'Connor of Baltimore. Walter W. Walker, youth center director at Howard, also took part.

They said they studied three cities, identified only as Z, A and X.

In Z (apparently Atlanta), they found that between 1959 and 1962, the average number of assaults during months of intense civil rights activity was 39.

In "non-civil rights months," it was listed as 52. Negroes accounted for four out of five of the assault cases.

IN CITY A, THEY FOUND that once-violent Negro juvenile gangs had been channeled into peaceful guard duty at racial protest meetings.

Instead of throwing rocks at policemen as they formerly did, some of the youngsters were out cajoling fellow-Negroes to register and vote.

In Town X, the studies indicated, there was a dropoff in murder, robbery, burglary and larceny cases involving Negroes during the mass demonstrations of 1963.

In explanation, the researchers said that one cause of Negro crime is "damming up of resentment at second-class status."

Blocked off from hope and opportunity, many Negroes find release in violent crime — usually against other Negroes, it was found.

Nonviolent direct action on the civil rights front — sit-ins, protest marches — gives them a chance to blow off steam peacefully while having a say about their own future for the first time, the study says.

This results in a sense of dedication and greater responsibility, even for those who only cheer from the sidelines, the researchers found.

"The key to it all is hope," said Dr. Fishman, one of the four researchers.

"For the first time, these Negro young people can feel some direct effect on society and live for something outside themselves."

LIVING FOR SOMETHING OUTSIDE the self also was the theme advanced by Dr. Spock in his prepared paper.

The famous baby doctor made a moving appeal for his fellow physicians, scientists and professional men to "be bold" and join the battle against racial bigotry.

The rugged Dr. Spock has marched on picket lines — twice for peace and once for integrated schools, he said. He is a sponsor of the National Committee for a Sane Nuclear Policy.

His picketing experience was "personally painful and embarrassing," he said frankly — but something that had to be done if we don't want to hide from "the crucial issues of the day."

"Racial discrimination is cruel, barbaric, obscene," the tall Cleveland physician said.

"Our great-grandchildren will be disgusted when they learn that millions of Americans supported this vicious nonsense and that most of the rest of us stood by, blind about our passive complicity."

ON THE PICKET LINE, DR. SPOCK said, one feels like "a two-legged squirrel in a public cage," — a target of scorn, crude remarks, cynicism or indifference.

But he said many people, and particularly men, are reluctant even to lend their names to a cause, or write articles or give speeches. Meanwhile, it is the fashion to reproach the German people for not daring to stick their necks out against Hitler, Dr. Spock said.

"We who claim to be experts in diseases of the spirit should be at least as active as the clergy" in fighting discrimination, he said.

"If more of us were willing to be bold, then boldness would become more respectable."

ollege Woman

intimacy and sexual intimacy are equated and in which fidelity is the ultimate goal."

Thus, according to Walters, the "sexual code of late adolescents is a strict one and is based on the quality of the total relationship rather than on externally imposed sexual restrictions.

"This represents a more psychologically mature step away from the over-simplified dichotomy of good and bad inherent in making chastity the chief measure of virtue among unmarried young women."

IN A PAPER on a related topic, Dr. Florence Clothier, M.D., of Vassar College, recalled the storm of controversy that erupted in 1962 when Vassar's president told her female students that the school would not tolerate premarital sexual indulgence.

Dr. Clothier said the controversy was "evidence that mores have changed" and that the change has presented college administrators with serious new problems.

"Our culture is built around the monogamous family unit, sanctified by Hebraic-Christian tradition," she said.

If we believe this cultural framework is worth saving, she said, "parents and educators are challenged to devise contemporary means of helping young people to develop values that will strengthen rather than undermine family life.

"We are challenged to help young men and young women to utilize their sexual energies in a way that is constructive, not destructive. . . .

"College administrators cannot dictate conscience and morals which are individual matters, but they can provide some guide lines by defining the standards of conduct expected of students."

COPY Johnst File - Civil Rights

Memo to Senator
cc: White House Folder, Bill Connell, Bob Jensen

From John G. Stewart

April 6, 1964

This may seem to be a little premature, but I do feel it is important that we give some thought to what will happen upon passage of the civil rights bill. If, as we all hope, a strong and effective bill becomes law, its implementation will be of crucial importance if we are to avoid a summer of chaos and bloodshed.

In this regard, it seems to me to be particularly important that the responsible politicians of the South, such men as Richard Russell, Lister Hill, and others, be prevailed upon to make statements along these lines: "We have bitterly opposed this bill with all the resources in our command, we believe the Bill to be profoundly in error, but nevertheless, Congress has acted and the President has signed it into law. Therefore, we urge our fellow citizens to abide by this decision and, as loyal Americans, to observe and obey the law."

If such a statement could be made upon passage of the Civil Rights Act, it seems to me that we might set the foundation for avoiding some very serious incidents. I would suppose also that the President is the only person who could approach these Southern Senators and other Southern leaders with the request to make such a statement. Of course, he would not want to do it until the bill's passage was assured, but I thought you might wish to discuss this with him at the White House at an appropriate time. I call this to your attention for your reaction and comments.

Incidentially, several of the church groups, particularly the Presbyterians, are also going to be attempting to produce this kind of reaction. It seems to me to make real good sense.

Do you think this is worth pressing with HHH? — .

SANFORD GOTTLIEB
POLITICAL ACTION DIRECTOR

NATIONAL COMMITTEE FOR A SANE NUCLEAR POLICY, INC.
245 SECOND STREET N.E. — WASHINGTON 2, D. C. - LI 6-4859

Civil Rights

Jill

Speech material

July 29, 1964

Professor Eric Goldman
The White House
Washington, D. C.

Dear Professor Goldman:

This note might be entitled "Peace---the answer to the white backlash".

Assuming that Chalmers Roberts' article in The Washington Post of July 26 is substantially correct insofar as the President's desire to stress civil rights, jobs and peace is concerned, may I add a few small bits of political intelligence which convince me that the peace issue is the way to neutralize and overcome the white backlash.

Tommy D'Allessandro, member of the City Council in Baltimore and son of the former Mayor, reports that the only issue on which he can "get through" to the pro-Wallace voters in the working-class districts of Baltimore is peace. The thought of a trigger-happy Goldwater in the White House gives them pause. As you know, many of these workers are Catholic and of Eastern European origin, a group comparable to those in Milwaukee who voted heavily for Wallace.

Joseph Tydings, Democratic candidate for the Senate in Maryland, reports that he establishes excellent rapport with Polish-Americans when he urges continued U. S. aid for Poland and discusses his visit to that country. While strongly anti-Communist, these voters have a realistic view of the limited independence achieved under Gomulka, Tydings says, and they support measures to strengthen this tendency. Liberalized immigration policy is another issue with obvious appeal to this group. Tydings also says that voters in general respond with understanding to discussion of the Sino-Soviet split and to specific programs of a constructive nature such as Food for Peace.

Tydings' statement about the Sino-Soviet split is the first "hard" evidence from a candidate in support of my thesis, developed in the memo on the Goldwater arguments which I sent you, that a discussion of change and conflict in the Communist bloc is necessary to break down the simple-minded Goldwaterite view of a monolithic and conspiratorial enemy.

We know from President Kennedy's Western trip that the test ban has great emotional appeal, no doubt based on the fear of fallout. If people in Billings, Montana, and Salt Lake City---which are not renowned

as centers of liberalism---could respond so spontaneously to a side reference to the test ban, this might be an indication that the President could cut deeply into the moderate-conservative vote by stressing the peace issue.

Much of the emotional support for peace in this country is latent, surfacing only at such times as a President's visit. For several years magazines like Redbook and McCall's have followed a policy of publishing peace-oriented material. This, combined with the fear of fallout, has no doubt affected women more than men. Yet peace remains the only universal issue; no one looks forward to mass incineration. The poll of the Communications Workers of America, a union whose membership is very representative of the country as a whole, has shown world peace as the top issue for most of the past decade. The latest poll, completed less than a month ago, again ranks world peace at the top of the list.

Where conflicting, emotion-filled issues tug at an individual voter during an election campaign, it seems to me that the negative appeal of the white backlash can only be offset by issues which generate an equal amount of enthusiasm and hope. Peace, if stated in positive rather than merely passive terms, is such an issue. The "great society", which focuses on real and urgent domestic needs (affecting Negro and white alike) and points toward a solution, is another. As Walter Lippmann pointed out the other day, there can be no concentration on domestic needs without a detente in the world.

This theme---peace as the prerequisite for fulfilling the American dream---can be the one which neutralizes the backlash and rallies the middle-of-the-roaders.

Sincerely,

Sanford Gottlieb

Investment in Unmet National Needs

The Senate Subcommittee on Employment and Manpower has calculated the cost of meeting the backlog of urban and rural needs. Just to keep up with population growth during the next 20 years, the cost of public and private programs indicates that an investment of between $500 and $700 billion will be necessary in urban areas. If the elimination of existing blight and obsolescence in the cities is included, between $120 and $125 billion more would be required from both public and private sources. About three-quarters of the money would come from private sources, according to these estimates. The programs in question include housing, urban renewal, mass transit, highways, pollution control, the construction of other local public facilities, and community planning.

Rural programs of forest protection, soil and watershed conservation, brush clearing and revegetation in the Western rangelands, establishment and improvement of recreational facilities on public lands, establishment and improvement of fish and wildlife refuges, water development for navigation, flood control, power generation, irrigation, water supply and waste treatment have also been investigated. They would cost the federal government about $4 billion a year over a period of 10 years. In addition, the cost to state and local governments and industry for water development alone would be about $8 billion annually for the same period. These estimates are almost entirely for land acquisition and physical improvements.

In short, the backlog of urban and rural needs amounts to a staggering sum of $43-53 billion a year for 10 years, then $31-41 billion a year for another decade. The higher figure comes close to the size of the present arms budget on an annual basis. The higher figure of the second decade equals former Defense Undersecretary Roswell Gilpatric's estimate of an adequate defense budget in 1970 without disarmament.

Urban Needs (20-year period) from public and private sources;	$500-$700 billion	
with elimination of blight and obsolescence in cities	$120-$125 billion	
	$620-$825 billion TOTAL	
		$31-$41 billion per year
Rural Needs (10-year period)	$40 billion (federal)	
	$80 billion (state, local govts., industry)	
	$120 billion TOTAL	
		$12 billion per year

GRAND TOTAL: $43-$53 billion a year for 10 years, then $31-$41 billion a year for another 10 years.

Civil Rights
Speech Material
Called 7/27/64

July 20, 1964

GALLRS

MEMORANDUM

TO: John Stewart

FROM: William Connell

I think we should begin collecting data on this question of where the people stand on strong pro-rights candidates. As for example, this Gallup Poll published June 10 that most voters would favor strong pro-rights candidates. I have an idea that this is going to be the prime issue in the campaign, at least that is what the Republicans are going to try to make it.

The next 10 days we need to pull together every bit of information we can on the net advisability of the President's taking an articulate yet responsible running mate committed publicly to the cause of civil rights. While I think we should not be making civil rights statements particularly, I foresee a rapid polarization of the entire white community with a very large proportion of the moderate Republicans supporting the moral position of civil rights and, therefore, either refraining from voting for Goldwater or throwing their weight to the Johnson ticket.

The key point of the Gallup Poll is the Northern whites' preference for a candidate favoring rights 65%, with only 19% outright against.

CC Senator
Bob Jensen

Attachment

The Harris Survey

HM26/A

Rights Bill Still Favored 2 to 1 Despite 'Backlash'

By Louis Harris

Despite mounting concern over a northern "white backlash" on civil rights and signs of new extremism in Negro demonstrations, dominant public opinion remains overwhelmingly in favor of passage of the Johnson-Kennedy civil rights bill now before the Senate.

The key facts about civil rights legislation from a survey of a cross-section of the American people:

- By nearly 3 to 1, people in all regions, including the South, favor a Senate rule of cloture to end the civil rights filibuster.
- By well over 2 to 1, the Nation favors the Administration bill on civil rights.
- The public accommodations section of the civil rights measure is favored by an even wider margin than the bill as a whole.
- While the white South favors a curb on filibusters, opposition to the over-all bill, and specifically to the public accommodations section, runs nearly 2 to 1 below the Mason-Dixon line.

Sen. Humphrey predicts rights bill passage by early summer. Page A2.

It is apparent that the long drawn-out filibuster on civil rights has not impressed the American public with the usefulness of such legislative tactics:

LIMIT SENATE DEBATE ON CIVIL RIGHTS

	Nationwide	White South
	%	%
Favor	63	44
Oppose	24	43
Not sure	13	13

Traditionally, of course, a minority of Southern Senators has been able to tie up civil rights legislation until some kind of compromise

As the debate on civil rights has taken place over the past several months, public support for the Johnson-Kennedy measure has actually risen:

ADMINISTRATION CIVIL RIGHTS BILL

	Favorable
	%
April, 1964	70
February, 1964	68
November, 1963	63

The South's stand in opposition to the civil rights bill is nowhere more graphic than to the key section outlawing segregation in public accommodations:

OUTLAWING SEGREGATION IN PUBLIC ACCOMMODATIONS

	Total Nation	White South
	%	%
Favor	62	24
Oppose	27	69
Not sure	11	7

Despite rather fierce Southern white opposition to the civil rights legislation, President Johnson is not yet in trouble politically in the South over this issue. This is evident in the fact that against his strongest GOP opponent, Henry Cabot Lodge, Mr. Johnson holds a 68-32 percent lead today below the Mason-Dixon line.

It is also apparent when people are asked to rate the job the President is doing in working to get the civil rights legislation passed by Congress:

ON JOHNSON HANDLING OF CIVIL RIGHTS BILL

	Positive	Negative
Nationwide	67	33
White South	61	39
Negroes	77	23

The Gallup Poll

(13)

61 Per Cent Approve Accommodations Law

PRINCETON, N.J.—As Congress renews debate on the Civil Rights bill, an increased majority of the U.S. public would like to see the key public accommodations section of the bill passed.

By a ratio of 61 to 31, the American people today favor a law which would ban discrimination in such public places as hotels, restaurants, theaters, and the like. Last June, the margin between those opposed was 49 to 42 per cent.

Following is the question asked:

"How would you feel about a law which would give all persons—Negro as well as white—the right to be served in public places such as hotels, restaurants, theaters, and similar establishments. Would you like to see Congress pass such a law, or not?"

The latest results, with the trend since June of last year:

LIKE TO SEE CONGRESS PASS LAW?

	Yes, would	Would not	No opinion
	%	%	%
Jan., '64	61	31	8
Aug., '63	54	38	8
June, '63	49	42	9

As might be expected Northern and Southern whites differ widely in their views on the bill.

Seven out of every ten white people living outside the South say they would like to see Congress pass such a law. Almost the same proportion of Southern whites take the opposite view.

However, among both groups, opinion has moved in the direction of support of the bill since last June, as seen in the following tables:

LIKE TO SEE CONGRESS PASS LAW?

— Northern Whites —	Today	June
	%	%
Yes	71	55
No	21	34
No opinion	8	11

— Southern Whites —	Today	June
	%	%
Yes	20	12
No	72	82
No opinion	8	6

The Gallup Poll

Rights Issue Gaining Strength for Barry

By George Gallup

PRINCETON, N.J., July 25 If civil rights become an issue of prime importance in this year's presidential campaign, Sen. Barry Goldwater may carry many states of the South in November.

Gov. George C. Wallace's withdrawal from the race improves Sen. Goldwater's chances in this region, judging from a recent Gallup Poll survey.

All tests of recent weeks have shown the South to be predominantly against civil rights.

This issue was put to people across the country in these terms:

"If two candidates of your own party were alike in all respects except that one candidate took a strong stand in favor of civil rights and the other a strong stand against civil rights, which man would you be more likely to prefer?"

SOUTHERN WHITES	
Candidate for civil rights	**28%**
Candidate against	**55**
No opinion	**17**
NORTHERN WHITES	
Candidate for civil rights	**67%**
Candidate against	**17**
No opinion	**16**

Large majorities in all three regions outside the South support the candidate who takes a strong stand in favor of the issue. Views are most favorable to the pro-civil rights candidate in the East and least favorable in the Far West.

While this is true, it should be pointed out that white Northerners have many reservations. As evidence of a "white backlash," the number of white persons who think mass demonstrations do the Negro cause more harm than good has grown in one year from 66 per cent to 81 per cent.

HM2618

The Gallup Poll

Voters Prefer Rights Supporters

(54)

PRINCETON, N.J., June 9 If political party loyalties were no consideration, 6 out of every 10 Americans would prefer a candidate who takes a strong stand in favor of civil rights over one who takes the opposite position.

Since civil rights may become a "hidden" issue in this year's presidential campaign—not debated openly by the candidates, but still a potent factor in the minds of voters—Gallup Poll reporters put this question to a broad sample of adults:

"If two candidates of your own party were alike in all respects except that one candidate took a strong stand in favor of civil rights and the other a strong stand against civil rights, which man would you be more likely to prefer?"

Here are the views of all persons interviewed:

Candidate favoring rights	**60%**
Candidate against	**25%**
No opinion	**15%**

Here are the views of white persons in the South, and outside the South:

Southern Whites Prefer:	
Candidate favoring rights	**31%**
Candidate against	**54%**
No opinion	**15%**

Northern Whites Prefer:	
Candidate favoring rights	**65%**
Candidate against	**19%**
No opinion	**16%**

No marked differences are found on the basis of a person's political affiliation, as seen in the following tables:

	R. %	D. %	In. %
Candidate favoring rights	58	62	58
Candidate against	28	24	21
No opinion	14	14	21

ANPA Group Elects Lindsay

NEW YORK, June 9 (UPI) David Lindsay Jr., publisher of the Sarasota (Fla.,) Herald-Tribune and [illegible] of the role of the free press. Lindsay was elected last week at a meeting at the ANPA headquarters here.

Hm 261 A

The Harris Survey

Johnson Commands a Wide Lead With Negroes, Southern Whites

By Louis Harris

In the honeymoon period following his succession to the Presidency, Lyndon B. Johnson has been enjoying the best of all political worlds. This is nowhere more graphically shown than in his seeming ability to score highly among white Southerners at the same time he is being backed by Negro voters all across the country.

Today, against the combined strength of five leading Republicans, the new Democratic President runs ahead by almost 2 to 1 in the South and by over 3 to 1 among Negroes. However, these same two groups are headed on a collision course over the upcoming civil rights bill, which Negroes favor by 4 to 1 and white Southerners oppose by almost 2 to 1.

In the latest pairings in the race for President among a carefully drawn cross-section of voters, Mr. Johnson's percentages compare as follows with those of his predecessor:

Vote Among Negroes and in South

Vote For:	Johnson 1964	Kennedy 1963
	%	%
South	64	47
Negroes	77	88

Despite the fall-off for President Johnson among Negroes, he still is running substantially as well with this key minority group as did Mr. Kennedy in 1960. Four years ago, the late President polled 78 per cent of the Negro vote. The real Johnson gain has been scored in the South, where he is a full 13 per centage points above the Kennedy showing of 1960, which was a bare 51 per cent. This is also 17 points ahead of the late President's rating in the South just before his assassination.

The issue on which the ultimate fate of President Johnson in the South and among Negroes is likely to be determined is civil rights, and here Negroes and Southerners sharply disagree:

State-wide group organized in California for Rockefeller campaign. Page A2.

Businessmen show confidence in President Johnson's program of economies. Page A2.

Col. Glenn's landing in Ohio blows political fuses in spectacular manner. Page A2.

Negroes and Southerners On Civil Rights Bill

	Favor	Oppose
	%	%
Southern Voters	34	66
Negro Voters	81	19

President Johnson, of course, has come out squarely for a tough civil rights measure, asking that Congress pass the bill as a memorial to John F. Kennedy.

In the South, nevertheless, confidence in Mr. Johnson's Southern background leads white voters to the belief he will be more moderate on the racial issue than his predecessor.

On this question, better than eight people in every 10 in the Nation as a whole say it makes no difference to them that President Johnson is a Southerner, and that this fact will not influence their judgment of him as President. However, the two exceptions—to whom it definitely does matter—are Southerners and Negroes:

On LBJ Being a Southerner

	Matters	Doesn't Matter
	%	%
Total Nation		
	19	81
East	8	92
Midwest	16	84
South	32	68
West	17	83
Negroes	32	68

Roughly a third of the South and an identical percentage of Negroes, Nationwide, admit being sensitive to the fact that Mr. Johnson is a Southerner. Obviously many white southerners are pleased by it, and express an emotional loyalty to the first Southern President in this century—almost irrespective of the specific stands he might take. By the same token, many Negroes are worried by the President's Southern background, and they will want constant new assurances of his sincerity on civil rights.

14 Feared Lost In Ship Collision

HAMMERFEST, Norway Jan. 26 (AP)—Fourteen men were feared lost today from a Norwegian fishing boat that collided with an East German bulk carrier not far from the North Cape.

WASHINGTON POST
Date Page A 2
MAY 24 1964

The Gallup Poll #M261 B

Johnson Is Rated High On Civil Rights Handling

#49

By George Gallup

PRINCETON, N. J., May 23 One important reason for President Johnson's continuing high popularity is the fact that over half of all white persons, as well as the great majority of Negroes, currently approve of the way he is handling the sensitive civil rights problem.

Only about one person in seven among those who approve of Mr. Johnson's performance in general say that they disapprove of his handling of the civil rights problem.

But of those who express over-all disapproval of the job being done by Mr. Johnson, two out of three disapprove of his efforts on the civil rights front.

Here is the survey question asked about the civil rights problem:

"Do you approve or disapprove of the way Mr. Johnson is handling the civil rights problem?"

The national results, including the views of both Negroes and whites:

Approve	57%
Disapprove	21
No opinion	22

The views of Southern whites and white persons living outside the South:

Southern Whites	
Approve	36%
Disapprove	39
No opinion	25
Whites Outside South	
Approve	59%
Disapprove	17
No opinion	24

The results by party offiliation:

Republicans	
Approve	51%
Disapprove	27
No opinion	22
Democrats	
Approve	62%
Disapprove	17
No opinion	21
Independents	
Approve	53%
Disapprove	22
No opinion	25

The Gallup Poll:

Negroes Recognizing Demonstration Harm

By George Gallup

PRINCETON, N. J., June 6 Since this time last year, not only the great majority of white people, but some Negroes as well, have come to the view that mass demonstrations do the Negro cause more harm than good.

The following question was asked in Gallup surveys one year apart:

"Do you think mass demonstrations by Negroes are more likely to help or more likely to hurt the Negro's cause for racial equality?"

Here are the views of whites and Negroes, today and in 1963:

Whites

	1964	1963
Help	10%	21%
Hurt	81	66
No difference	3	4
No opinion	6	9

Negroes

	1964	1963
Help	55%	72%
Hurt	22	13
No difference	8	9
No opinion	15	6

As would be expected, when the views of all Negroes and white persons are combined opinion is overwhelmingly on the side that mass Negro demonstrations hurt rather than help the cause of the Negro

All Persons

	1964	1963
Help	15%	27%
Hurt	74	60
No difference	4	4
No opinion	7	9

The Harris Survey

Goldwater Rights Views Given Minority Rating

By Louis Harris

SAN FRANCISCO—The division over civil rights at the Republican convention points up the sharp differences that also exist in the country at large between down-the-line backers of Sen. Barry Goldwater and the general public.

These facts emerge from a Nation-wide survey of all voters, including preconvention supporters of Sen. Goldwater, on the question of racial tensions and civil rights.

• While the Nation as a whole is optimistic about real progress being made this summer on civil rights—by better than 2 to 1—Goldwater supporters tend to be pessimistic, expecting violence and increasing bitterness in race relations.

• Fully 61 per cent of the American people say that civil rights advocates have the right to conduct demonstrations, such as picketing and protest marches. However, only 46 per cent of Goldwater supporters are willing to concede this right.

• Underlying the pessimism of the Goldwater people is the fact that 70 per cent of them expressed opposition to the recently passed civil rights law, compared with only 33 per cent opposed among the public as a whole.

• When asked to voice either approval or disapproval of Negro rights demonstrators picketing the Republican and Democratic party conventions, 76 per cent of the public and an even larger 88 per cent of Goldwater voters register their disapproval.

• By a high 87-13 per cent margin, the Nation sees essentially positive goals in the Negro protest: the quest for equal rights, better jobs, equal education. Goldwater backers tend far more than the public as a whole to see the civil rights drive as basically a plot to gain power, a desire for preferential treatment for Negroes and a move toward communism.

In many ways, the ultimate outcome of next November's balloting will depend on how many American voters grow to agree or disagree with the hard-core rank and file of the Arizona Senator on the rights issue.

A solid majority of the Nation now believes the pace of the civil rights progress has either been satisfactory or too slow. Among Goldwater supporters, however, a majority believes things have moved too fast.

PACE OF CIVIL RIGHTS PROGRESS

	Total Nation	Goldwater Voters
	%	%
Too slow	35	19
About right	25	21
Too fast	31	51
Not sure	9	9

Part of the difference in these estimates stems from attitudes toward civil rights demonstrations, such as took place at the Cow Palace in San Francisco last week:

CIVIL RIGHTS DEMONSTRATORS

	Total Nation	Goldwater Voters
	%	%
Have right to demonstrate	61	46
No right to demonstrate	32	48
Not sure	7	6

The country as a whole clearly recognizes the right of protest, while Goldwater backers tend not to agree with the majority. However, when asked to express approval or disapproval of picketing of political conventions, Goldwater supporters find themselves in solid agreement with the rest of the public:

ON PICKETING CONVENTIONS

	Total Nation	Goldwater Voters
	%	%
Approve	18	9
Disapprove	76	88
Not sure	6	3

In the Maryland Democratic primary last May, our surveys clearly showed that Gov. George Wallace of Alabama steadily increased his vote, not because he had wide appeal in his own right, but rather because Maryland voters wanted some way to express their disapproval of the tactics of civil rights protest groups. This will certainly be a key pattern to watch as the Presidential campaign takes shape in the Nation as a whole.

The Gallup Poll

Race Problem Revealed As Leading U.S. Issue

By George Gallup

PRINCETON, N. J., July 28 The last five months have been marked by a growing concern among Americans over the race issue, and it now overshadows all other issues—both domestic and international—as the public's No. 1 worry.

Last May, international problems and the struggle over desegregation were cited equally often by persons interviewed as the most important problem facing the country. Going back to March, international problems were found at that time to weigh more heavily on people's mind's than the race issue.

In the latest survey, 47 per cent cite the domestic issue as the top problem, while 35 per cent mention a problem in the area of international relations. Most of the responses in the latter category are expressed in general terms, such as "keeping the peace," "relations with Russia," and "the threat of communism."

Despite the volume of debate over the U. S. position in regard to Viet-Nam, only about one person in five of those who mention international problems considers the situation in that country as the most important problem facing us.

The question asked of each person in the latest survey:

"What do you think is the most important problem facing the country today?"

The results, when grouped into general categories:

MOST IMPORTANT PROBLEM

Racial problem	47%
International problems	35
Unemployment	6
High cost of living	3
Other problems	16
No opinion	5

The above table adds to more than 100 per cent because some persons named more than one problem.

A second question, asked of all persons who cited a problem, has proved to be a good barometer of party strength in presidential years.

The question:

"Which political party—the Republican or Democratic—do you think can do the best job of handling the problem you have just mentioned?"

This question, which has been asked regularly since 1940, has closely reflected the actual outcome in presidential years, when asked at the end of presidential campaigns.

When those who express no opinion, or say there is no difference between the two parties, are divided equally between parties, the Democrats emerge with an advantage of 63 per cent to 37 per cent today.

The Gallup Poll

HM 261 B

Jobs and Integration Are Top U.S. Worries

PRINCETON, N.J., June 2 If candidates for political office across the Nation address themselves to the regional problems currently worrying people the most, they will find two issues dominating the rest—integration and unemployment.

Integration is cited most often as the top problem by people living in three of the four major regions of the country. In Far West, unemployment is seen as the biggest problem.

Personal interviews were conducted with a representative cross-section of adults across the Nation on the following question:

"What do you think is the most important problem facing this section of the country today?"

Here are the top five problems today in each region:

EAST

1. Integration	36%
2. Unemployment	27%
3. High cost of living	8%
4. Slums, housing, urban renewal	6%
5. Education	3%
Others	12%
No opinion	19%

MIDWEST

1. Integration	24%
2. Unemployment	19%
3. High cost of living	8%
4. Slums, housing, urban renewal	4%
5. Education	4%
Others	33%
No opinion	19%

SOUTH

1. Integration	41%
2. Unemployment	16%
3. High cost of living	3%
4. Education	3%
5. Need to attract more industry	4%
Others	19%
No opinion	21%

FAR WEST

1. Unemployment	28%
2. Integration	12%
3. Water shortage	11%
4. High cost of living	8%
5. Education	6%
No opinion	10%
Others	29%

(Tables add to more than 10 per cent since some person named more than one prob lem.)

The Gallup Poll

HM 2618

Public Puts Priorities On Tax Cut, Rights Bill

PRINCETON, N.J. — If Congress acts on the tax bill and the civil rights measure as its first order of business in 1964, it will be in accord with the public's wishes.

In the Gallup Poll's annual measurement of the "public's agenda" for Congressional action, the following question was asked of a Nation-wide sample of American adults:

"Suppose you were writing your Congressman or Senator about the things you think Congress should do when it meets again this January — what would you like to see Congress do"

In this survey completed just prior to the beginning of the second session of the 88th Congress — the area of tax reduction was found to be uppermost in the public's thinking.

In addition to the public's perennial plea for lower taxes opinion in the current survey was found to favor passage of the specific tax cut bill now before Congress.

Action on the civil rights front is called for next by the public for congressional action. In third place is medical care for older persons.

The next most frequently mentioned areas are, Federal expenditures, Federal aid to education, foreign problems and unemployment.

"Putting the Bible back in the schoolroom," handling juvenile delinquency problems, less Federal governmental control, uniform divorce laws, fair housing and legalized gambling are among other areas mentioned.

The Gallup Poll

HM 26B

Race Relations Worry Mounts Over 3 Months

PRINCETON, N. J., May 19 Worries over race relations increased considerably in the last three months, and this domestic issue now ranks in the public's mind with keeping peace in the world as the Nation's top problem.

Here is the question asked, and the latest results compared with those from the earlier survey, reported in early March:

"What do you think is the most important problem facing this country today?"

	Today %	March %
Racial problem	41	29
International problems (Russia, threat of war)	41	44
Unemployment	9	14
High cost of living ..	5	7
Other problems	11	15
Don't know	5	6

(The above tables add to more than 100 per cent since some persons named more than one problem.)

To measure the political implications of what the United States is most worried about today, interviewers asked all persons who mentioned a problem, no matter what it was, the following question:

"Which political party do you think can do a better job of handling the problem you have just mentioned—the Republican Party or the Democratic Party?"

The following table compares the latest results with those reported in early March:

	Latest %	March %
Democratic Party	40	39
Republican Party	16	16
No difference	44	45

The Harris Survey

Students' Rights Drive in South Is Disapproved by Public, 2 to 1

By Louis Harris

By an overwhelming 2 to 1, the American public views with disfavor the efforts of Northern students to push for civil rights for Negroes in Mississippi.

At the same time, an even larger majority—72 to 28 per cent—favors President Johnson's sending Federal troops to the State to restore peace if violence broke out. Even among white Southerners, most resistant to the use of Federal force, 52 per cent favor such action in such a case.

A carefully drawn cross-section of Americans was also asked if it favored or opposed the President's use of Federal troops in Mississippi this fall if State authorities resisted current court orders to desegregate schools in Jackson, Biloxi and Leake Counties. The result: 78 to 22 per cent in favor of the use of troops if necessary; white Southerners support the move by 54 to 46 per cent.

Further questioning reveals that Mr. Johnson might stand to derive political benefits from the forthright use of Federal power to quench an outbreak of violence or enforce school desegregation. Four times as many voters said they would think more of him than said they would think less of him.

The use of troops, however, could lose votes for the Democratic President in the South—as much as a third of his present 60 per cent rating below the Mason-Dixon Line.

Despite Southern defections, and despite general opposition to the current student movement, the survey shows conclusively that the American people would rally behind the President in a showdown over Federal law enforcement of court desegregation orders.

Americans throughout the country were asked: "This summer white and Negro students are going to Mississippi to organize Negroes to vote: Do you generally approve of this move or disapprove of it?"

	Total Public
	%
Approve	31
Disapprove	57
Not sure	12

Thus, on whether or not the students should have gone to Mississippi in the first place, a majority of the Nation joined the South in its expressed opposition. Only Negroes and big city residents of the North favored the movement.

Once the threat of violence and bloodshed emerged, however, the weight of public opinion shifted drastically to support the use of Federal troops to maintain peace and order.

"White backlash" has not assumed fearful proportions many attributed to it earlier this year, a Harris analysis for Newsweek magazine shows. *Page A2.*

Americans were asked: "If Mississippi broke out in shootings or killings this summer, do you think President Johnson should send in Federal troops to keep peace and order, or do you think local and State police should handle the situation?"

	Total Public
	%
Send in Federal troops	71
Not send troops	20
Not sure	9

In the East, West, and Midwest, majorities of close to 8 in 10 would favor such action. The South, not surprisingly, was lowest with a bare majority in favor.

When asked if the President's sending of troops to Mississippi, either to enforce the school desegregation order or to end bloodshed this summer, would make them think more or less of Mr. Johnson, Americans gave him their support:

If President sent in troops	Total Public
	%
Think more of him	55
Think less of him	13
Make little difference	32

Politically, the effect on Mr. Johnson would be to shore up his already strong position among Negro, Catholic, and Jewish voters, and voters in the East and West. The South division on this issue: 35 per cent would think more of the President; 33 per cent would think less of him; and the remaining 32 per cent would would make no difference one way or the other.

Majority of Americans have supported previous Presidents when they called in Federal troops to back up court integration orders: President Eisenhower in Little Rock, Ark., and President Kennedy in Oxford, Miss. However, no President has ever taken such action in an election year, let alone less than four months before Election Day.

The Gallup Poll Reports:

Most Voters Would Favor Strong Pro-rights Candidates

By GEORGE GALLUP
(American Institute of Public Opinion)

PRINCETON, N. J.—If political party loyalties were no consideration, six out of every 10 Americans would prefer a candidate who takes a strong stand in favor of civil rights over one who takes the opposite position.

Among white persons living in the South, however, a majority would prefer the anti-civil rights candidate over his "opponent," assuming both men were from the same party. On the other hand, white persons outside the South would overwhelmingly side with the candidate who takes a strong stand in favor of civil rights.

The civil rights issue may well become a "hidden" issue in this year's presidential campaign, as the religious issue was in 1960 — not debated openly by the candidates but still a potent factor in the minds of voters.

To gain some insight at this time into the role the civil rights issue may be playing in the political thinking of the nation, Gallup Poll reporters put this question to a broad sample of adults:

"If two candidates of your own party were alike in all respects except that one candidate took a strong stand in favor of civil rights and the other a strong stand against civil rights, which man would you be more likely to prefer?"

Here are the views of all persons interviewed:

WHICH CANDIDATE PREFERRED?
(Nationwide)

Candidate favoring rights	60%
Candidate against	25
No opinion	15

Here are the views of white persons in the South, and outside the South:

Southern Whites Prefer:	
Candidate favoring rights	31%
Candidate against	54
No opinion	15
Northern Whites Prefer:	
Candidate favoring rights	65%
Candidate against	19
No opinion	16

No marked differences are found on the basis of a person's political affiliation, as seen in the following tables:

(Nationwide)

	Rep. %	Dem. %	Ind. %
Candidate favoring rights	58	62	58
Candidate against	28	24	21
No opinion	14	14	21

Virtually no difference is found between the views of all persons interviewed and those of persons who could be classified as likely to vote this November, as seen in the following table:

'Likely Voters' Prefer:
(Nationwide)

Candidate favoring rights	61%
Candidate against	25
No opinion	14

POLLS FIND SHIFT ON INTEGRATION

30% of South's Whites Now Accept Biracial Classes

7/19/64

The attitude of white Southerners toward school integration hs modified in the last two decades, two sociologists reported yesterday.

Public opinion polls conducted last December showed that 30 per cent of the white Southerners accepted school integration, they said. Previous polls had found that in 1942 only 2 per cent endorsed school integration and that in 1956 the figure was 14 per cent.

Among white Northerners, 75 per cent now accept the principle of school integration, as compared with 61 per cent in 1956 and 40 per cent in 1952.

The social researchers were Dr. Herbert H. Hyman, professor of sociology at Columbia University, and Paul B. Sheatsley, director of the Survey Research Service of the University of Chicago. They reported their findings in an article on "Attitudes toward Desegregation," which appears in the July issue of Scientific American.

1,200 Adults Interviewed

The July article was a sequel to one written by the two sociologists for the magazine in 1956. Both reports used material collected by the National Opinion Research Center of the University of Chicago since 1942.

The most recent opinion surveys were conducted in June, November and December, 1963. Each involved interviews with a "representative sample" of 1,200 to 1,500 white adults.

Acceptance of residential integration, the article said, increased from 35 per cent in 1942 to 64 per cent last year among all whits. Among Southerners, the increase was from 12 per cent to 31 per cent; among Northerners, it was fro 42 per cent to 70 per cent.

To the question, "Do you think there sho[illegible]e laws against marriages between Negroes and whites?", the article reported, 80 per cent of the Southerners and 53 per cent of the Northerners answered in the affirmative.

Change on Intelligence

A striking example of changing opinions concerned the question of Negro intelligence, the authors said. In 1942 only 50 per cent of the white Northerners said they thought that Negroes are as intelligent as whites; last year the figure was 80 per cent.

In the South, only 21 per cent of the whites believed in 1942 that Negroes "can learn things just as well if they are given the same education and training"; last year the figure had risen to close to 60 per cent.

"In the minds and hearts of the majority of Americans the principle of integration seems already to have been won," the sociologists concluded. "The issues that remain are how soon and in what ways the principle is to be implemented."

Newsweek 7-13-64 p24.

THE NEGRO REVOLUTION—U.S. ATTITUDES NOW

Just before the civil-rights bill became law in Washington last week, public-opinion analyst Louis Harris and his nationwide polling staff surveyed America—North and South, black and white—for current views on the U.S. Negro's accelerating drive to improve his lot and life. The findings:

	TOTAL NATION	WHITE SOUTH	NORTHERN WHITE MINORITIES	NEGROES
BELIEVE MOST NEGROES WANT TO:				
Take over white jobs	58%	56%	63%	29%
Move into white neighborhoods	43	42	50	15
Take over politics	35	44	35	13
Take over white schools	25	34	24	1
Marry whites	23	32	25	4
Have sex relations with whites	23	29	23	2
BELIEVE IT IS WRONG FOR:				
Unions to refuse Negroes membership	83	69	86	99
Churches to refuse Negroes membership	79	45	78	95
Employers to refuse to hire Negroes	76	48	82	98
Restaurants to refuse to serve Negroes	69	27	77	98
Neighborhoods to refuse to rent or sell homes to Negroes	45	22	48	96
Social clubs to refuse to admit Negroes	41	17	45	81

Newsweek—Bresnan

THE 'BACKLASH' ISSUE

By LOUIS HARRIS

What is the mood of America, white and black, as the ten-year-old Negro revolution enters its most portentous summer yet? The civil-rights bill is now the law of the land, yet even as it was signed into law there was terror in Mississippi, strife in Florida, and an increasing rumble of discontent from Negroes in the North. For months, the newspapers have talked of a "white backlash," and this catch-all phrase for white resentments and apprehensions, real and imagined, has in turn fed the rumors, the fears, and the confusion.

What is the potential and how great the danger of the backlash? What effect might be expected on the Presidential election if the rest of the year is marked by violent racial strife? How far are Southern bitter-enders prepared to go to defy the civil-rights law? What would be the reaction, North and South, if the President were forced to send Federal troops to the South to enforce the law there? Our latest poll for NEWSWEEK suggests two main conclusions: 1) the civil-rights question will be the overwhelming single domestic issue of the 1964 political campaign; 2) the white backlash itself exists, lurking more or less menacingly in the background, but it is not yet a major force in the land.

This assessment, however, could change radically, and those Americans who realize this best are the professional politicians. They point to the 43 per cent vote that Alabama's Gov. George Wallace rolled up in the Maryland Presidential primary in May. They had an attack of jitters again last week when relatively liberal North Carolina chose racist-supported Dan Moore over liberal L. Richardson Preyer as Democratic candidate for governor. Moore won, 62 per cent to 38.

Our latest poll also shows that, throughout the nation, President Johnson is favored over Sen. Barry Goldwater by 76-24, and that the issue that could most radically alter (though not, as of now, change) the outcome is civil rights. The poll also offers this reaction to the recent distressing events in Mississippi: a clear majority of U.S. citizens, white and black, North and South, are eager to avoid bloodshed and open conflict at almost any cost. This shows itself in two directly opposite ways:

■ By a thumping 65-35 per cent, Americans across the nation said they opposed the trek of Northern students to Mississippi to help register Negro voters. Main reasons for the opposition: don't provoke violence, give local authorities a chance to keep order. Hobart Schafer, a 44-year-old Detroit machinist, typified the response: "It's too much like taking the law in their own hands. Some are going to be killed."

■ But once the threat of violence appears, an even larger majority feels that there should be no hesitancy on the part of President Johnson and the government in Washington to throw troops into the breach. By 72-28 per cent, the American public wants the full weight of Federal authority used to keep peace and order. By an even higher margin—78-22 per cent—people would support sending in Federal troops to Mississippi next fall if local officials refuse to cooperate with court orders to desegregate schools. Even a majority of whites throughout the South —54 per cent—now seem to favor the use of troops if necessary.

The poll clearly shows there are four groups who experience the civil-rights struggle with particular intensity. Each is different; together they hold the key to this American dilemma.

1—*The White South.* Here is the haven of bitter-end opposition to much that the rest of the U.S. has come to accept. Actually, 60 per cent of the white South (13 states, 38,402,994 whites), vs. 67 per cent a year ago, mainly in small-town and rural Dixie, can be classified as opposing change.

Most white Southerners are against the civil-rights bill, think the pace of civil-rights progress is too fast, deny Negroes the right to demonstrate, oppose serving them in restaurants, think they are different and inferior.

The outlook for the white South: the extreme bitter-enders are becoming more vocal and also are likely to become more violent. However, only five Southern whites in every 100 defend arming the KKK against civil-rights "invaders."

2—*White Minority Groups in the North.* Governor Wallace carried the

steel-worker districts of Gary in Indiana's spring Presidential primary; the Poles, Hungarians, Slovaks, and Italians registered protest against Negro "pushiness." Today, 61 per cent of these urban minorities feel that Negroes are getting a better break than their own fathers and grandfathers received as immigrant outsiders. What is more, two out of every three feel that most Negroes want to take jobs held by whites. In automation-squeezed job markets, this looms to these groups as a distinct and direct threat to their livelihoods. But most of all, the root of this white minority backlash is the deep resentment that Negro pressure tactics, thought to be reserved for the white South, are now being turned on them.

It would be a mistake to assume their opposition is to Negro rights. Indeed, 70 per cent of them favor the civil-rights bill; 60 per cent feel the pace of racial progress should be faster rather than slower; 66 per cent recognize the right of Negroes to demonstrate; 64 per cent would deny that Negroes are in any way different from whites.

The outlook for the Northern white minority groups: the gap between overt action and the lip service they pay Negro rights could lead to trouble. They are specific on their resentments, general on their stated convictions. They believe that unreasonable demands are being made upon them.

3—*The Suburban Dwellers.* This 24 per cent of the population has mostly fled fairly recently from the big cities. Physically, they are usually removed from close association with Negroes, other than domestic servants. They tend to feel that the pace of civil rights is too fast, that Negroes are moving in on white jobs (though obviously not their own), that Negroes are getting "too uppity for their own good," that it is not wrong to refuse to sell houses to Negroes in white neighborhoods, that it is right to restrict membership in social clubs. Mrs. Edith Gage, 36, of Bloomington, Calif., sounds an increasingly heard note: they (the Negroes) have a right to join social clubs, she says, "but no right if it is out of their class. There are definitely classes among the white people of America. We don't push in, why should the colored?"

Fundamentally, more than half the suburbanites feel that Negroes must be kept in their place. Yet they protest vigorously against Southern attitudes and claim they are moderate on all things, including civil rights.

Suburban dwellers reflect the mood and tenor of the gentleman's agreement as applied to the Negro revolution. Most resent being called bigots and claim they have no sympathy for Governor Wallace—and even for Barry Goldwater because of his civil-rights views. But suburbanites are the strong silent partner to overt anti-Negro sentiment, and could be aroused this summer and at the polls next November.

4—*The Negroes.* There are some signs Negroes (10 per cent of the population; 8 per cent of the electorate), are more jumpy than a year ago: more than 7 out of 10 now, compared with 6 out of 10 in 1963, think racial progress is too slow. But this impatience is not born of desperate frustration or of broken promises as some militant Negro leaders claim. On the contrary, Negroes want the pace accelerated because they now have higher hopes for progress in the struggle than ever before.

Martin Luther King Jr. is even more the hero of the movement (91 per cent positive), and the NAACP is still the only mass Negro organization to make any headway (86 per cent positive). Deep and bitter resentment and criticism is reserved for Muslim Cassius Clay (76 per cent negative) and Malcolm X (72 per cent negative). Leaders teaming up with either will invite open hostility from Negroes. Politicians like Harlem's Rep. Adam Clayton Powell are now much worse off than a year ago (slipping from 68 to 52 per cent favorable). Nor have the militant groups, such as SNCC or CORE, made meaningful impressions on the black masses.

Newsweek—William Cook

Atlanta picket: Who's for whom?

The outlook for the Negro group: in the North and South, Martin Luther King can demand support and receive it. So will the NAACP. Negroes are militant for results now; they are unimpressed by shouts of one self-appointed leader outdoing another with claims of militancy. The rank and file wants negotiable forms of progress from white and Negro leaders alike. This new turn represents one of the brightest hopes for peaceful progress.

What is the potential impact of the Negro Revolution and white attitudes toward it on the U.S. election? The survey shows that Mr. Johnson's current overwhelming 74-26 margin over Senator Goldwater would not be drastically cut, even by great defections in areas where the civil-rights issue is most abrasive. As of now such defections, at most, would send the Johnson vote down to 63 per cent of the electorate, still a landslide.

The Bête Noire: The 26 per cent of Americans who now intend to vote for Goldwater are strongly anti-Negro. In Atlanta recently, an anti-Scranton picket made just this point (photo). Seven out of 10 Goldwater supporters oppose the new civil-rights law; by 3 to 1 they feel the pace of civil rights is too fast; by 2 to 1 they fear Negroes moving in on white jobs; more than any other group, they believe that Negroes want intermarriage and sex relations with whites; they tend to think Negroes are inferior. Goldwater voters (70 per cent of whom live outside the South) tend to see the civil-rights movement as one vast power play, designed to take over the reins of government. Martin Luther King is their *bête noire.*

The civil-rights issue is likely to cost Mr. Johnson votes.

- The white Northern minorities: if confusion over Negro objectives, resentment over their tactics, and latent fears over jobs and housing intensify, Mr. Johnson's current 71 per cent majority here could shrink to 58 per cent.
- The suburbs: if Goldwater gains respect in America's suburbs, Mr. Johnson could be cut from his present 61 per cent hold to 46 per cent.
- The white South: although sentimentally for native son Lyndon Johnson 59-41 per cent today, there are possibilities of slippage. Fully 30 per cent of this LBJ group say they would defect over the use of U.S. troops in Mississippi.

But there is a general inference from the poll that goes far beyond any immediate impact on this year's elections. This is that the Negro revolution seems to be regarded increasingly as a permanent part of the U.S. scene. This is another way of saying that it is gaining acceptance, and certainly the survey's findings on the white attitudes in general, and the white backlash in particular, bear this out. The white backlash, in short, has so far not assumed the fearful proportions that many were attributing to it earlier this year. This is not to deprecate either its existence or its potential. But for the moment, the potential remains unrealized and therefore unexploited. This, the survey suggests, is the way an overwhelming majority of Americans hope it will stay.

REPUBLICANS:

Barry's Blitz

For nearly a quarter of a century, the resonant voice of Republican conservatism has proclaimed adamantly that it knows what the U.S. voter wants and can give it to him. But ever since Wendell Willkie was thrust upon them in 1940, the Republican conservatives have been outshouted at convention time.

Not this year. Last week, with only a fortnight remaining before the gavel comes down in San Francisco, the signs were all but unmistakable that this was the year when the voice of Republican conservatism was finally going to be heard and heeded, and the event that made this seem surer than ever was a decision made by Everett McKinley Dirksen of Illinois. No one could question the Senate Minority Leader's grasp of history, his sure sense of power, or his mastery of arithmetic. And last week, Ev Dirksen concluded that the Republican future belonged to Barry Goldwater. "This thing has gone too far," he said, and added that not even the last-minute intercession of Dwight Eisenhower could avert the inevitable.

Blithe Spirit: Even the briefest survey of Bill Scranton's third frenetic week on the campaign trail lent credence to Dirksen's summation. As the Pennsylvania governor barnstormed the country, darting into the South, pleading futilely for support from Dirksen's own pivotal Illinois delegation, and then flying on West, he radiated energy and blithe confidence. Henry Cabot Lodge, his new ally, spoke portentously of unfolding developments. But as the week unfolded, it was Goldwater—not Scranton—who seemed to be riding the crest to the Cow Palace in San Francisco.

Scranton was nearly everywhere—and got nowhere. Goldwater deftly picked his spots and coined convention capital at every turn, first in New Jersey, seemingly a Scranton bastion. Just the week before, the Pennsylvania governor had won the backing of prestigious Sen. Clifford Case; fully two-thirds of the state's 40 delegates were on his side. But after hearing Barry—who slipped in a side door of Trenton's Stacy-Trent Hotel to avoid a swarm of Negro pickets bickering with his partisans—the delegation denied Scranton the psychological boost of a preconvention commitment. To Republican moderates, the caucus was a depressing sign of Scranton's weakness. And the Negro demonstrators were a reminder of what a Goldwater ticket would mean to the party.

The governor's Southern scouting trip provided fresh disappointments, too. His reception in Charlotte, N.C., was tepid and his breakfast with the delegates yielded no sign of a bolt from the Goldwater ranks. Scranton had higher hopes for Atlanta, his next stop. All but two of the state's 24 votes had been pledged to Goldwater last March, but advance man Richard Butera, a young Pennsylvania real-estate agent, reported burgeoning moderate sentiment. Hoping to capitalize on it, Scranton strategists devised a plan: after the governor's flying visit, six of the Georgia delegates were to wire Barry asking to be released.

Scranton sped up to the Dinkler Plaza to find the street jammed with cheering Republicans. Blocked as he tried to shoulder his way to the lobby, he clambered up on the roof of his limousine for a short speech, then dropped to his knees to pump the hands of admirers. But the delegates inside the hotel were less enthusiastic. Goldwater agents had got wind of the Scranton gambit and checked it, leaving the governor with only one delegate for his troubles and the inevitable question at the press conference that followed. Would he support a Goldwater ticket in the fall? "Oh my heavens, yes," Scranton replied without hesitation. "I've made this very clear."

The Divide: Undaunted, Scranton flew off to Knoxville (where his visit failed to jar Barry's hold on Tennessee's 28 delegates). Watching him go, an aide sighed: "Tomorrow we cross the Rubicon—Illinois."

And Illinois proved indeed to be a grim divide for the governor and his faltering stop-Goldwater coalition. Scranton's tacticians knew from the start that they could rally underground anti-Goldwater forces in the Midwest only if a big state like Illinois would show the way. Dopesters gave Goldwater no more than 40 of Illinois's 58 delegates. Shooting for a breakthrough among the rest, Scranton stalwarts wangled the governor an invitation to appear (along with Goldwater and Harold Stassen) before the delegates. But once again, Barry's boys were one step ahead.

Days before Scranton set foot in Chicago, Everett Dirksen and other pragmatists in the party set the stage for his downfall. Working without fanfare, Rep. Edward Derwinski, Goldwater's state campaign manager, joined the regulars in plans to spring a surprise roll-call vote once the delegation had heard the candidates. Scranton got word of what was in store long before his chartered Convair touched down in Chicago. But by then it was too late to turn back. "All we could do," muttered one staffer, "was to show the colors." Scranton's stiff upper lip never quivered. Facing a genuinely enthusiastic lunchtime crowd of more than 10,000 at the corner of State and Madison streets, he invoked Lincoln and Taft and shouted: "The great senator from Illinois, Everett Dirksen, has often said that when he faces a difficult prob-

Newsweek—Jeff Lowenthal

Dirksen in Chicago with Goldwater (left), Percy, and Scranton: Crossing the Republican Rubicon

LBJ INTEGRATION EFFORTS

PUBLIC OPINION NEWS SERVICE

For Release ☞ NOT EARLIER THAN: WEDNESDAY, FEB. 26, 1964

'After Three Months . . .'

LBJ Draws Less Criticism than Kennedy on Integration Efforts

30 Pct. Say Johnson Pushing 'Too Fast'; 50 Pct. Held This View of Kennedy's Efforts on Race Issue

PRINCETON, N. J., Feb. 25 — At the present time, President Johnson is steering a course in the area of civil rights which is more favorable to his political prospects than was the case with the late President Kennedy.

Thirty per cent of the nation's adults today say the Johnson Administration is pushing integration "too fast." This compares with 50 per cent who held this view about the Kennedy Administration in mid-summer, during a period of frequent racial demonstrations.

When Kennedy's popularity rating was at its all-time low point—57 per cent last October—a "cross-analysis" of persons who criticized his Administration for moving too fast with those who said they disapproved of the way Kennedy was handling his job as President indicated a close relationship between these two views — particularly among white Southerners.

In a survey completed just prior to the passage of the Civil Rights bill by the House earlier this month —but reflecting Johnson's efforts to bring this legislation to a vote— the following question was asked of a national sample of adults of both races:

"Do you think the Johnson Administraiton is pushing integration too fast, or not fast enough?"

The results:

Too fast	30%
Not fast enough	15
About right	39
No opinion	16

By way of comparison, opinions on the Kennedy Administration in an August survey divided as follows:

Too fast	50%
Not fast enough	10
About right	26
No opinion	14

Whites in South

About one person in two among Southern whites thinks the present administration's rate of speed is too fast. Twenty-eight per cent of Northern whites hold this view, as the following tables show:

SOUTHERN WHITES

Too fast	49%
Not fast enough	3
About right	32
No opinion	16

NORTHERN WHITES

Too fast	28%
Not fast enough	13
About right	40
No opinion	19

While opposition to the integration efforts of the Kennedy Administration was found to the greatest extent among white persons in the South last summer, nearly half of all Northern whites during this period thought the Administration was pushing integration "too fast."

Early Impressions Of LBJ Administration

In a Gallup Poll conducted during the first few days of the new Johnson Administration, public opinion was on the side that integration would not be pushed so fast as it had been under the Kennedy Administration, as follows:

Integration will be pushed faster	16%
Not so fast	29
About the same	43
No opinion	12

NORTHERN VIEWS ON CIVIL RIGHTS

PUBLIC OPINION NEWS SERVICE

For Release NOT EARLIER THAN: WEDNESDAY, APRIL 15, 1964

Surveys Find Anti-Integration Views Not Confined to South

Northern Whites Show Opposition To Mixed Schools, Neighborhoods; Favor 'Public Accommodations'

By GEORGE GALLUP
Director, American Institute of Public Opinion

PRINCETON, N. J., April 14 — It is not necessary to analyse the vote given Alabama Gov. George Wallace in the recent Wisconsin primary election to discover whether there is much anti-integration sentiment in the North.

Survey results during the last year have established that such feelings are by no means confined to the South.

While negative sentiment is held by sizable proportions of white Northerners on certain civil rights issues, a recent survey found seven out of ten white persons in the North in favor of the key "public accommodations" section of the Civil Rights Bill.

75 Per Cent Would Move

On the other hand, a survey conducted in June, 1963 found 75 per cent of Northern whites saying they would either move or would consider moving from their own neighborhood if Negroes came to live there in large numbers. Eighty-six per cent of Southern whites held this view.

At the same time, white parents in both the North and South were asked if they would object to sending their children to a school where half of the children were Negroes.

Among Northern whites, 33 per cent said they would object, while 78 per cent of Southern whites held this view.

The means by which the Negro has fought for racial equality—"mass demonstrations" and "sit-ins" — have met with the disapproval of many Northerners.

In a survey reported in July of last year, 65 per cent of the whites in the North said they believed that mass demonstrations would hurt rather than help the cause of the Negro. This view was held by 73 per cent of white adults in the South.

Civil Rights Barometer

One of the most reliable barometers for gauging public sentiment on the civil rights issue has been the question:

"Do you think the present Administration is pushing racial integration too fast or not fast enough?"

In mid-summer of last year—at the height of racial tension in the nation — almost half (48 per cent) of white persons in the North said that the Kennedy Administration was pushing integration "too fast." Seventy-three per cent of Southern whites shared this view.

Earlier this year — in a survey completed just prior to the passage of the Civil Rights bill in the House —28 per cent of Northern whites thought the Johnson Administration was pushing integration "too fast." About half (49 per cent) of Southern whites were of this opinion.

RACE RELATIONS IN NEXT 6 MONTHS

(22)

PUBLIC OPINION NEWS SERVICE

For Release ☞ NOT EARLIER THAN: FRIDAY, JUNE 5, 1964

Majority See Racial Tensions Worsening in Next Six Months

57 Pct. Think Relations Between The Negro and White Races Will Get 'Worse'; 17 Pct. Say 'Better'

PRINCETON, N. J., June 4 — At the present time, many Americans would have to go along with the prediction of some Negro leaders of a "long hot summer ahead in race relations."

Nearly six out of every ten people (57 per cent) interviewed across the nation think relations between Negroes and whites during the next six months will get worse before they get better.

On the other hand, 17 per cent predict that the situation will improve over this period. Another 16 per cent see no change and 10 per cent of persons talked to in this survey express no opinion.

In the current survey, the following question was asked:

"Do you think relations between the Negro and white races will get better or worse during the next six months?"

The national results, including the views of both Negroes and whites:

Relations will:	
Get better	17%
Worse	57
No change	16
No opinion	10

Political Implications

The public's current outlook on the racial scene for the next six months has important political implications in this election year.

Surveys have indicated that the popularity of both Presidents Johnson and Kennedy has been related to the public's views on the way their administrations have dealt with the civil rights problem.

Just a year ago, President Kennedy made his famous nationwide plea to end racial discrimination. In the period following this speech, his popularity dropped off sharply in the South, although remaining high in other parts of the nation. Kennedy's national popularity rating dropped off steadily as complaints grew over the speed with which his administration was dealing with integration.

As further evidence of the impact of the racial issue on political attitudes, Sen. Barry Goldwater, a strong advocate of States' Rights, came out well ahead of Kennedy in Gallup Poll trial heats last summer in the traditionally Democratic stronghold of the South.

Johnson's over-all popularity with the American public also depends to some extent on attitudes toward his handling of the civil rights problem.

As reported in late May, 75 per cent of persons interviewed across the nation approve of the way Johnson is handling his job as President.

Only about one person in seven among those who approve of Johnson's performance in general say that they disapprove of his handling of the civil rights problem.

But of those who express overall disapproval of the job being done by Johnson, two out of every three disapprove of his efforts on the civil rights front.

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BERKELEY, CALIFORNIA

July 28, 1964

Mr. John Stewart
Legislative Assistant to
Senator Hubert H. Humphrey
Senator Humphrey's Office
U.S. Senate Office Building
Washington, D.C.

Dear John:

It was good to hear from you so soon after our pleasant session at Glacier National Park. I am only sorry that I could not spend more time with you and the very attractive group of newspaper men.

You will recall that I noted the importance of the police in the current civil rights picture, particularly in maintaining the peace and minimizing provocation through their intervention. I believe that far too little has been done by way of separating the police from the contending interests in the civil rights dispute and preparing them for a role which reflects their impartial enforcement of the law. Indeed, the police in my experience have welcomed the opportunity to free themselves from the pressures exerted by the contending powers and which often require them to be subservient to such non-legal considerations as custom, tradition, power constellations, and outright myths and personal notions of right and wrong. I would like to see the Office of the Attorney General spearhead a volunteeristic program of education and training through regional institutions for top police officials and other law enforcement personnel. I have pioneered in such efforts stemming from my preparation of the first manual for police entitled "Police and Minority Groups," prepared in 1948 for the Chicago Park District Police and which has become a standard reference for police departments all over the country. I am enclosing copies of three papers which I prepared for specific institutes, which indicate some of the kinds of material which should be emphasized. I direct your attention especially to the July 1963 article in the publication Police Chief and the account of the handling of Washington

D.C. swimming pool situation in the article "Notes on Race Relations in Mass Society." I am also enclosing a copy of a program planned for October 1964 which sets forth some of the kinds of considerations that should be included in a broad program in this area.

It seems to me that it would be tremendously important at this juncture to launch a national program of instruction and training through the cooperation of the federal government, state governments and foundations, to provide, on a voluntary basis, the information, insights, strategems, tactics and procedures necessary to the management of the public order aspects of civil rights by law enforcement agencies. This could be done on a regional basis through the good offices of a half dozen major universities and I would be glad to be of whatever personal service I can in setting forth the substantive and procedural elements of such a program.

With very best wishes, I am,

Sincerely yours,

Joseph D. Lohman
Dean

JDL:ag

NOTE ON RACE RELATIONS IN MASS SOCIETY

JOSEPH D. LOHMAN AND DIETRICH C. REITZES

ABSTRACT

Current research about racial relations is based on two dubious assumptions: that particularistic theories are necessary and appropriate and that human behavior in situations of racial contact is determined by individual attitudes. But in modern mass society individual behavior is increasingly controlled by deliberately organized collectivities. As concerns homeownership, wages and working conditions, and commercial transactions, the individual's racial attitudes are subordinated to and mobilized by definitions of the situation supplied by organizations.

The basic sciences slowly and continuously feed their findings and generalizations into the world of practical affairs, but in recent years crises in technology and social relations have been making extraordinary and urgent demands upon scientific knowledge. One such crisis is that precipitated by racial contacts.

Racial relations are no longer a domestic problem which can be solved at national leisure. They have developed into a problem which greatly affects our relations with other countries. The weaknesses in our domestic race relations provide an extremely effective propaganda tool for the Communists in undermining America's status in those parts of the world which are predominantly nonwhite. This, of course, is the greater portion of the world.

Tragically enough, much of the current research in race relations is of limited usefulness in the face of the "American dilemma." We are in need of more adequate generalizations if our basic knowledge about racial relations is to be employed to implement democratic values.

The shortcomings of our knowledge about racial relations center in two basic and interrelated notions about human behavior in modern society. One is that any specific social relation as such can be theorized *in vacuo;* thus, that *special theories* are appropriate and necessary to an explanation of the behavior of individuals in situations of racial contact.

The other notion is that human behavior in such situations is, for the most part, definitively structured by the attitudes of individuals as such. In consequence collective manifestations of racial relations are interpreted from the perspective of the individuals who constitute the group. And hence the corollary has been adduced that all changes in race relations are brought about through the manipulation of individual attitudes. It is the theme of this paper that these subtle and far-reaching assumptions are questionable and that, moreover, they are limiting much of the current social research.

The behavior of individuals in situations involving contact with members of other racial and ethnic stocks must be regarded as a specific aspect of general human behavior, and, correspondingly, the understanding and analysis of such human behavior are dependent upon the adequacy of our more general theories of human nature and society. They must be related to the social structure inside of which behavior is taking place.

Modern society is increasingly characterized by the fact that individuals participate in specific social situations not as singular and unchanging entities but by playing specifically differentiated roles (i.e., as homeowners, workers, shoppers, merchants, etc.). Such role-playing comes less and less frequently under definitions provided by traditional folkways and mores. It is increasingly structured and defined by the demands and requirements of organizations set up for the purpose of realizing specific objectives. For the most part, the interests of individuals as homeowners, workers, or

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merchants are now realized within the framework of such institutions.

Mannheim has stressed this aspect of modern society in observing that individuals

> are compelled to renounce their private interests and to subordinate themselves to the interests of the larger social units. . . . The attitude produced by competitive action between antagonistic individuals is transformed into a new attitude of group solidarity *though the groups from which it derives are not all inclusive*. . . . The individual today . . . is gradually realizing that by resigning partial advantages he helps to save his own *interests*. . . . Today the individual thinks not in terms of the welfare of the community or mankind as a whole but in terms of that of his own particular groups.[1]

In recent years greater attention has been focused on the fact that we no longer live in a society that is meaningful or understandable in terms of traditional "practices" or established routines of social etiquette. In our time the human community has come to represent, for the most part, great impersonal aggregations of individuals. We live in what has been referred to as "mass society." The term centers attention upon those aspects of current collective life which give it a new meaning and emphasis. It refers to organizations of people who are not held together by informal understandings, beliefs, or practices. However, the immensity of their numbers introduces wide differences of background and opinion; even of disagreements and overt conflict. The groupings are increasingly deliberate, in response to specific needs, and are acting toward the realization of specific interests. The increasing evidence of dependence in modern society upon such deliberately organized groups has been noted by Mannheim:

> [The] stage of spontaneity . . . of groups does not last very long, as in mass society it has to be succeeded by a stage of *strict organization;* for, of the achievements of modern mass society only those can endure which are sponsored by definite organization.[2]

The activities of such deliberately organized groups are necessarily centered in specific interests of individuals and hence are seldom, if ever, inclusive of the whole range of interest and activity of even a single individual. It follows, as Mannheim points out, that "mass society tends to produce the most self-contradictory behavior not only in society but also in the personal life of the individual."[3]

Thus, two observations can be made regarding the nature of modern society. First, that there are a decreasing number of homogeneous, social, or cultural units of which it can be said that their membership directly mirrors, and hence is the individual counterpart of, such collectivities. On the other hand, we observe social life as exhibiting a constant condition of flux, mobility, and change, giving society the appearance of a shapeless mass, whose form and organization are achieved through deliberate and calculated association. It is within the framework of these social developments that the specific phenomena of racial relations should be examined.

In this view of the matter, a view of race relations which centers upon the concept of individual attitudes is severely limited. While there are some situations in which the behavior of persons toward others can be explained individual *qua* individual, in terms of specific attitudes, in the major and significant areas of social life—namely, jobs, business, and the community—this conception is not adequate. Thus most situations of racial contact are defined by the collectively defined interests of the individuals concerned and do not merely manifest their private feelings toward other races, for example, Negroes.

Thus, the residential neighborhood is the special locale in which individuals attempt to realize such specific interests as personal and social deference and the protection of

[1] Karl Mannheim, *Man and Society* (New York: Harcourt, Brace & Co., 1940), pp. 69–70.

[2] *Ibid.*, p. 134.

[3] *Ibid.*, p. 60.

property values; in the commercial districts and in neighborhood shopping centers, it is profits, value received, and convenience; and, on the job, it is wages, security, and working conditions. In terms of these several kinds of interests, the activities of individuals are mobilized and collectively shaped in modern mass society. Of necessity, these interests bring individuals together in organizations and cause the members to reflect in themselves, as individuals, the *raison d'être* of the collectivities. These deliberately organized groups structure and define the situations for the individual and offer him ready and available definitions of behavior. Individual behavior is, for all practical purposes, made a fiction. Hence a distinctly personal attitude toward minority groups may be of little consequence in explaining an individual's behavior.

The reality is the social fact: the key to the situation and the individual's action is the collectivity, and in our time the collectivity is increasingly of the nature of a deliberately organized interest group. The collectivity even supplies the individual with a well-formulated rationale which makes meaningful and even personally justifies his activity; for example, in the acceptance and rejection of minority groups. Thus it is more frequently the policy, strategy, and tactics of deliberately organized interest groups, rather than the folkways, rather than the individual dimensions of personal prejudices or racial amity, which control behavior in specific situations.

It is important to point out, however, that the organizational or collective influences do not work merely as external pressure or force. In the process of accepting collective definition of the situation as to race as in other respects, the individual creates certain self-conceptions, taking over and internalizing roles which are in accordance with the definition of the situation as provided by the collectivity. Since these roles become personal possessions, a part of the self, they are, in effect, principles of conduct for the individual, an authority in their own right. But they do not necessarily reflect general racial attitudes and are frequently even at variance with generalized sentiments and feelings about specific racial groups. They can and do vary with an individual's behavior toward the same object in situations which involve a different self-interest and thus a different self-conception. For example, a person may have a "general attitude" of dislike toward Negroes. But, under certain circumstances, in his role as "property owner," he may join with others to use violence in preventing a Negro from moving into his neighborhood.

However, the same person at the same time may be mobilized and disciplined at his job by his labor union's definition of the situation. In his role as a "union steward," he may even be sympathetic with a Negro who had been insulted by the refusal of a white girl to dance with him at a union dance. Yet he is not necessarily aware of the apparent contradiction. Indeed, his experience is a common one, for it is a distortion of the reality to refer his behavior to some generalized attitude or frame of mind. The question of consistency, which arises when an explanation is sought in individual psychology, is irrelevant in the above context.

What often are characterized as attitudes or tendencies to act are better understood as social myths. These myths, or false beliefs, are, of course, of considerable social significance, since they are an instrumental aspect of the recruitment of individuals in deliberately organized groups. The myths which he adopts and reiterates enable the individual to justify discrimination, both to himself and to others. This is particularly important in a democratic country like the United States, where the individual feels compelled to conform to the ethical tradition expressed in the "American creed."

Since these myths have no basis in fact, they are subject to challenge and exposure. But the destruction of a myth, however, does not necessarily have an effect on behavior, since myths function, in the main, to rationalize actions and are not usually themselves the basis for action. If a myth

becomes suspect, it does not follow that a new myth will replace it.

A number of the current racial myths are so ubiquitous and so much taken for granted that they are like the very air we breathe. Their significance in the mobilization of individuals is self-evident, but it is an oversimplification to treat them conceptually as attitudes.

The following are of special current significance in race relations:

1. The myth that acts of racial discrimination are caused by the belief that other races are inferior. This myth is reflected in the other correlative that formal education will bring about changes in racial practices and that logic and information can improve race relations.
2. The myth of "separate but equal"; that absolute equality can be achieved under a system of segregation.
3. The myth that it is impossible to accomplish any change in the tradition-bound South.
4. The myth that we cannot legislate beliefs; that we must conquer individual bigotry and prejudice before we can change the shape of race relations. These notions are the basis for the myth that law cannot be effective in the area of racial relations; we cannot legislate morals.
5. The myth that there is a rank order of rational change; that certain relations must be modified first and others only later.
6. The myth that violence is inevitable if ever and whenever changes in race relations are effected.
7. The myth that in time of crisis we must make progress slowly. It follows that the democratic struggle over the globe can be fought independent of, and without reference to, the local struggle.

The significance of these myths for our research is that behavior is hardly to be understood by studying merely the individual and his generalized attitudes or verbalisms. The individual must be studied in terms of his identification with collectivities, and the terms and conditions of his participation in them, and so the collective framework must be identified and understood before his behavior may be understood. Hence it is of the utmost importance that our studies be oriented toward the collective life, which in our time is characterized by the emergence of the formal and deliberately organized group.

This point of view is the product of the empirical experience and research in various law-enforcement agencies, in a number of situations of community tension, and in a detailed study of segregation in Washington, D.C., which was published in the report, "Segregation in the Nation's Capital."[4]

The Washington study particularly points to the necessity of analyzing racial segregation and discrimination in terms of organizational structure. As it developed, it became increasingly clear that an explanation of the pattern of racial segregation could be found neither in the individual attitudes of the people in Washington nor in the frequently expressed statement that Washington is a "southern city." However, the dynamics of the situation became evident when approached in the perspective of the organizational power structure of Washington.

This power structure applied with like relevance and force to other aspects of race relations in Washington. The racial employment practices of governmental agencies are of three kinds: (*a*) exclusion of Negroes from employment in any job categories (but Negroes are acceptable for the most menial work which whites will not accept); (*b*) segregation, Negroes being employed in other than menial ranks, but only in the lower routine jobs and in separately established units; and (*c*) integration, jobs being open, in principle at least, to Negroes at all levels on equal terms.

There is a tremendous circulation of government employees among the several agencies in Washington, but a person in one agency may be exposed to a quite different pattern of race relations in another agency, if transferred to it. This is the common experience of Washington governmental em-

[4] Joseph D. Lohman *et al.*, "Segregation in the Nation's Capital" (Washington, D.C.: National Committee on Segregation in the Nation's Capital, November, 1948). (Mimeographed.)

ployees. Moreover, while top-policy directives for the several agencies are the same, actual practices among the agencies differ according to function, internal bureaucratic traditions, and the interpretation of organizational motif by key personnel. The rationalization that differences in practice reflect the disposition of the working force to accept or reject the Negro were widespread, but the evidence that wholesale reorganization from within, or internal redirectives by authoritative personnel, could, overnight, change the policy in an agency was equally ubiquitous.[5]

The same considerations apply in other areas of Washington's social life, public accommodation, housing, and private employment. In each of these critical points of racial contact evidence is plentiful that the terms and conditions of such contact are a function of the interaction of organized collectivities. It becomes increasingly clear that it is irrelevant and an oversimplification to regard bigotry or intolerance or the individual's disposition to accept or reject Negroes as such as the controlling conditions.

The Washington study encompassed the entire community, with a corresponding emphasis upon its organization and structure. Another study designed to throw light upon Negro-white interaction in three situations involving white industrial workers was conducted in Chicago. They were (1) the residential neighborhood; (2) the industrial work situation; and (3) neighborhood shopping centers.[6]

The subjects of the study were selected so as to fulfil these requirements, respectively: (1) residence in a neighborhood area of Chicago which was known to be strongly opposed to the acceptance of Negroes; (2) membership in an industrial union which had a clear-cut and definitely implemented policy of equality of whites and Negroes (Negroes in this union were admitted without reservation as to race and were elected to and held office as union stewards and executive board members; at the time of the study the position of vice-president was held by a Negro); and (3) the white individuals did most of their shopping in stores which served Negroes on the basis of complete equality.

In all three situations it was discovered that the individual's generalized feelings and attitudes toward Negroes were inadequate to explain actual behavior. Such generalized feelings were systematically repressed and subordinated in the face of more specific interests. Thus, in the work situation, the specific interests of wages, working conditions, and job security were identified with the union, and hence the union's position on racial questions was in control. On the other hand, in the neighborhood, such interests as personal and social deference as well as protection of property values were identified with the objectives of the local improvement association. Consequently, the civic organizations' position of completely rejecting Negroes as potential neighbors were determinative.

It is of particular interest to note that there was no statistical correlation between acceptance or rejection of Negroes on the job and acceptance or rejection of Negroes in the neighborhood. That is, there was no evidence to support the common belief that persons who show a high degree of acceptance of Negroes on the job will necessarily show a low degree of rejection of Negroes in their home communities.

These findings have been operationally validated in a number of situations where programs have been inaugurated dealing with outbreaks in race violence. Two situations which were given considerable attention by the newspapers were the following.

In 1949 the Department of the Interior was challenged on its policy of nonsegregation in the public swimming pools of Washington. The immediate result was violence

[5] William C. Bradbury, Jr., *Discrimination in Employment in the Federal Government*, Part V, *Segregation in Washington* (Washington, D.C.: National Committee on Segregation in the Nation's Capital, November, 1948).

[6] Dietrich C. Reitzes, "Collective Factors in Race Relations" (unpublished Ph.D. thesis, University of Chicago, March, 1950).

at the Anacostia pool. As a result the pool was closed for the remainder of the 1949 season. Throughout the winter of 1949–50 there was widespread discussion in Washington about the announced policy of the department to again open all the pools without segregation. In April, 1950, the *Washington Post*, in an editorial, stated:

> Secretary Chapman has taken an arbitrary stand, in our opinion, by insisting that the six swimming pools under control of the Interior Department be operated on a nonsegregated basis. . . . The Interior Department could not keep the pools closed all summer without producing a justified explosion in the community. Nor could it operate all of them on a nonsegregated basis without provoking new racial tension and risking worse disorders than occurred last year. The Department has done its duty in laying down the general principle of nonsegregation, and it can continue to make its influence felt by requiring a gradual approach to that objective. But it cannot take an adamant and extreme stand without injuring the cause that it seeks to promote.

Better race relations are not fostered by dictation in such matters to local committees, nor by the sudden enforcement of rules that are certain to incite interracial animosities. In the absence of agreement, the best thing the Department can do is to turn the pools over to the board for operation in accord with its more realistic policy.

In the meantime, however, the National Capital Parks had conducted a training program of its personnel impressing upon the personnel their duty to follow the official policy.[7] Particularly in the case of the police, their professional status was stressed. No direct attempt was made to change their individual feelings about Negroes. The results can best be judged from another editorial of the *Washington Post* which appeared in September, 1950:

> The completion of the first full year of nonsegregated swimming at the six Washington pools controlled by the Interior Department affords an appropriate opportunity for sober reexamination of what has been an overheated community issue. Total attendance at the six pools during the summer months of 1950 was 235,533; of this number, about 90,000 swimmers were colored and about 146,000 were white. No disturbance or unhappy incident of any kind occurred in the course of the season.
>
> The orderliness of the program is attributable in large part, of course, to the care and intelligence with which it was administered by National Capital Parks. Adequate police protection was provided, and the police officers assigned to this duty were trained specifically to deal with its problems; in this connection the Metropolitan Police, who took extraordinary care to see that order was maintained in the areas around the pools, deserve a share of the credit. The record demonstrates conclusively that nonsegregated swimming can be handled safely and harmoniously in Washington provided the leadership is sympathetic and sensible. Trouble is likely to arise only if, as was the case in 1949, some organized group attempts to foment it.
>
> The lesson of the summer's experience, in our judgment, is that nonsegregated swimming is here to stay; that it can be conducted safely and harmoniously under level-headed leadership; and that along these lines increased swimming facilities should be made available for use next summer. The experience is a credit to the community's good sense. It is a credit especially to the church and civic groups which worked to prevent trouble and to prepare the community for orderly acceptance of the new practice. The outcome is all the more gratifying to *The Washington Post* because last spring we shared the widespread fear that the community was not yet ready to accept nonsegregated swimming without a recurrence of violence.

Similarly, after a serious racial disturbance in Chicago in 1949, known as the Peoria Street Incident, the police lieutenants and sergeants of Chicago were trained in the proper handling of racial disturbances. The results of the course are reflected in the following letter sent by the Chicago Commission on Human Relations to the mayor of Chicago:

> About 8:00 P.M. on Sunday evening April 16, 1950 an accident occurred at 63rd Street and Carpenter involving two automobiles, one driven by a Negro woman and the other occupied by a white couple. The occupants of both automobiles reportedly settled matters amicably between themselves. It appeared that both were equally at fault. However, a crowd quickly gathered, tension rose and fighting began among the bystanders with sides quickly taken along racial lines. The area around 63rd and Carpenter is very mixed,—63rd Street has for a long time been a dividing line for the Southward movement of Negroes in the Ogden Park community. There are a number of bars along the street, and there have been interracial incidents in this area in previous times.
>
> Police officers from the Englewood station arrived at the scene quickly. The sergeant in charge sensed the potential danger and unhesitatingly requested reinforcements to help clear the streets. . . . This operation was swift and effective. Commission representatives went immediately to the scene, and by the time they reached there, which was less than 20 minutes, the area was found completely under control with no crowds gathered and with no visible sign of tension.
>
> This was the first interracial incident on the streets where a crowd gathered and fighting occurred since your statement of City policy of November 30 which called for immediate dispersal of any such crowds. It is also the first incident since the conclusion of the Training Program in Human Relations given by Professor Lohman to the Captains and Lieutenants of the Police Department. We can state flatly that the operation on 63rd and Carpenter completely fulfilled your instructions as to police policy and also carried out the basic principles of dispersal which were presented by Professor Lohman.
>
> We believe you should feel a genuine sense of pride in the performance of the Police Department in this incident, which prevented any disorder on a larger scale by the swiftness of the action in handling it. We feel that you should be also pleased because this police operation took place in the Englewood community where tensions between racial elements of the community are at an intensified level.
>
> The Commission on Human Relations commends highly this fine example of adequate and efficient police work.

In both the Chicago and the Washington incidents the situations were radically redefined after a sharpening and clarification of public policy and of the role of the law-enforcement agencies in the implementation of it. Considerable apprehension had existed, and with good reason, as to the role of the police and their disposition to countenance acts of violence in opposition to Negroes.

In the absence of a clearly stated and unambiguous policy, further complicated by an absence of a definition of the professional role of the police in such incidents, other organized and conflicting interests take control. This ultimately produces violence. After a program of training of the police, which stressed their role and responsibility in the maintenance of law and order without reference to their personal feelings and beliefs, a new collective fact emerged and took control. The training of the police was not designed to effect changes in their personal attitudes and prejudices but solely to redefine and set forth their role as professional law-enforcement agents in the implementing of public policy.

The performance of the police showed marked differences in these varying collectively defined situations. And similarly, the public's conduct reflects the definition provided by authoritative and unambiguous statements of policy.

It would be a mistake to assume that significant changes have taken place in the racial attitudes, so called, of the individual policemen in Washington or Chicago. Similarly, it is idle to attempt to explain the seemingly contradictory racial behavior of government employees, or urban industrial workers, in terms of their personal feelings and sentiments. In modern mass society the group continues as the essential reality in human behavior, but the relevant and controlling collectivities are, increasingly, deliberately organized interest groups.

CHICAGO

[7] The program of consultation and instruction was undertaken by the senior author at the invitation of the Department of Interior, under which agency the National Capital Parks function.

ADDITIONAL ARTICLES OF INTEREST
IN
MINORITY GROUPS: RACIAL ETHNIC, AND RELIGIOUS

12. **Bell,** "Crime as an American Way of Life."
13. **Bell,** "The Racket-Ridden Longshoremen."
22. **Berreman,** "Caste in India and the United States."
24. **Bettelheim and Janowitz,** "Ethnic Tolerance: A Function of Social and Personal Control."
47. **Coleman,** "Social Cleavage and Religious Conflicts."
61. **Davis,** "Caste, Economy, and Violence."
77. **Du Wors,** "The Markets and the Mores: Economics and Sociology."
78. **Eisenstadt,** "The process of Absorption of New Immigrants in Israel."
84. **Finestone,** "Cats, Kicks, and Color."
90. **Gans,** "Park Forest: Birth of a Jewish Community."
108. **Hacker,** "Women as a Minority Group."
128. **Hughes,** "Queries Concerning Industry and Society Growing Out of Study of Ethnic Relations in Industry."
129. **Hughes,** "Social Change and Status Protest: An Essay on the Marginal Man."
140. **Kennedy,** "Single or Triple Melting Pot? Intermarriage Trends in New Haven, 1870-1940."
142. **Killian,** "The Effects of Southern White Workers on Race Relations in Northern Plants."
149. **Kohn and Williams,** "Situational Patterning in Intergroup Relations."
152. **Kornhauser,** "The Negro Union Official: A Study of Sponsorship and Control."
171. **Lieberson,** "Ethnic Groups and the Practice of Medicine."
178. **Lohman and Reitzes,** "Note on Race Relations in Mass Society."
182. **Mack,** "Ecological Patterns in an Industrial Shop."
215. **Park,** "Human Migration and the Marginal Man."
220. **Parsons,** "The Theoretical Development of the Sociology of Religion: A Chapter in the History of Modern Social Science."
222. **Pfautz,** "Christian Science: A Case Study of the Social Psychological Aspect of Secularization."
225. **Pope,** "Religion and the Class Structure."
249. **Schneider and Dornbusch,** "Inspirational Religious Literature: From Latent to Manifest Functions of Religion."
253. **Seeman,** "The Intellectual and the Language of Minorities."
299. **Vander Zanden,** "The Klan Revival."
316. **Wilson,** "An Analysis of Sect Development."
318. **Wirth,** "The Problems of Minority Groups."
319. **Wirth,** "Types of Nationalism."

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LAW ENFORCEMENT AND RACIAL AND CULTURAL TENSIONS

New Dimensions in Race Tension and Conflict

For law enforcement officials and correctional personnel

Hotel Claremont, Berkeley

October 8-10, 1964

Thursday, October 8

8:00 a.m. Registration

9:00 Welcome

Stanley Mosk
Attorney General

10:00 New Developments in Race Tensions and Conflict in the Metropolitan Community: 1964

Joseph Lohman
Dean, School of Criminology
University of California

12:00 noon Adjourn

2:00 p.m. What's Going on in the World of the Negro?

Loren Miller
Judge, Municipal Court, Los Angeles

3:00 What's Going on in the World of Spanish Speaking Americans?

Herman Gallegos
Associate Director, Youth Opportunity Center
San Francisco

4:00 What's Going on Among Other Minorities?

Stanford Lyman
Assistant Professor of Sociology
Sonoma State College

7:30 Panel: De Facto Segregation, Race Tension, and the Police

Cecil Poole
U. S. Attorney, San Francisco

Dr. Neil V. Sullivan
Superintendent of Public Schools, Berkeley

Robert H. Cole
Associate Professor of Law
University of California

Howard Jewell
Assistant Attorney General
State of California

Friday, October 9

The Movements

9:00 a.m. School Strikes

Lawrence A. Landry
Chairman, ACT, Chicago

10:30 Employment Demonstrations

Thomas Burbridge
Chairman, National Association for the Advancement of Colored People, San Francisco

12:00 noon Adjourn

2:00 The Sit-ins, Sit-downs, Lie-ins, and Stall-ins

Frank Quinn
San Francisco Human Relations Committee

3:00 Civil Disobedience: Philosophy and Tactics

Norman Jacobson
Associate Professor of Political Science
University of California

7:00 Banquet

Saturday, October 10

The Police in Situations of Tension and Conflict

9:00 a.m. Strategies of Prevention

Oroville Luster
Director, Youth for Service, San Francisco

10:30 Police and Community Relations: the San Francisco Experiment

Dante Andreotti
Lieutenant, San Francisco Police Department

12:00 noon Lunch

Speaker to be Announced

1:30 Can the Movements Remain Non-Violent?

Joseph Lohman

2:30 Experiences in Africa and Europe in the Management of Racial Conflict

Leo Kuper
Professor of Sociology
University of California, Los Angeles

(Alternative title: "From Liverpool to Johannesburg: the European and African Experiences Compared")

The Police Chief

OFFICIAL PUBLICATION OF THE
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JULY 1963

NEW DIMENSIONS IN RACE TENSION AND CONFLICT

By DEAN JOSEPH LOHMAN
School of Criminology
University of California
Berkeley, California

This paper by Dean Lohman was one of the major program features at the Conference on Police Responsibility in Race Tension and Conflict, organized by the Southern Police Institute, University of Louisville, Louisville, Ky., April 8-10, 1963. Space did not permit its inclusion in our June issue.

THE time is past when you can make a police officer by merely picking any man not known to be a criminal, pinning a star on his breast, and giving him a gun and a club. That used to be the manner in which the police officer was invested with authority. The only difference between him and the average citizen was that he was given a brief sermon the day he went in and he was given his authority. That time is long past.

THE PROFESSIONAL POLICE OFFICER

You cannot investigate crime, deal with sophisticated criminals, deal with the complicated problems of traffic in our major cities, or with the complexities of licensing, unless the patrolman as well as the promoted officer has knowledge and understanding which is far beyond that of the average citizen. You cannot do a job of law enforcement in communities like Chicago, New York, or Atlanta with just an ordinary citizen in uniform.

Today's police work requires a man possessed of the skills, training, and information which make him no longer act or feel like Tom, Dick, and Harry in the community. In his work he must, so to speak, be above the fight, be above the issues, be detached and objective, a professional in his field. Not only must he have these qualities—he must be recognized by others as having them. He must have the confidence and the skill which makes it possible for the rest of the community to say that what this man does is right and in the interest of the community. When this occurs, we are dealing with policemen who are professional in the fullest meaning of the term, and are respected as such.

When we speak of "professional" people we usually think of lawyers and physicians, or perhaps of teachers and accountants. The outstanding characteristics of such persons are of two sorts:

First, by virtue of their completion of certain educational programs, and of their passing official examinations, professional people are recognized as having distinctive kinds of knowledge and skill. These are types of knowledge and skill in which the average citizen feels deficient, and he employs the professional persons for the use of their abilities in the form of advice or other services.

Second, a professional person is expected to be dedicated to the service of high ideals. He is supposed to operate under a superior code of ethics. He is a person with whom other citizens are willing to entrust their most vital interests and possessions—their health, the minds of their children, their finances, their legal rights and even their personal honor. The public expects the professional man to be fair, to be honest, to be scientific in his attitude, and to be devoted to the public interest. The professional person is expected to serve each of his clients to the best of his ability, without partiality or prejudice; but rather, in an objective and unemotional manner. In fulfillment of the trust that is given them, professional persons are expected to maintain superior standards of responsibility. To this end, the professional organizations establish standards of ethical performance, as well as standards of competence. Professional persons take pride in these standards, which they expect members of their profession to meet.

With the growth of large and crowded cities, and with the development of modern methods of production, transportation and communication, our laws and the problems of their enforcement have become vastly more complex than formerly. Police methods and techniques have been continuously revised to meet the new demands placed upon them. Still, new needs emerge. There is, of course, a lag, of varying duration, between

the manifestation of requirements for a new police function, and the development of techniques and assignment of sufficient qualified personnel to meet the requirements.

To meet new needs in police work a growing number of specialized police details are designated in large city police departments. For example, there are arson squads, narcotic units, juvenile detachments and traffic patrols. Members of each such component become expert in their field. Each of these specialists is in time recognized by his fellow police officers as employing certain distinctive skills and knowledge.

But complete reliance on specialists in police work has obvious drawbacks as well as advantages. The proportion of each specialty which represents the optimum distribution of personnel resources is still the subject of professional debate in police circles. One clear principle emerges from the debate, to which all participants agree. This is, that all policemen, from the patrolman to the specialist, and to the members of the various echelons of command, are expected to know more and more of the vast array of specialized knowledge and techniques which have come to make up the totality of police work. All police officers, by being held responsible for distinctive abilities and knowledge to meet the demands which the public places on them, are forced to become professional. Indeed, the basis for requiring professionalization in modern law enforcement is such as no longer to be distinguishable from the basis for requiring professionalization in law and medicine. The kind of dedication and the degree of specialized ability which are required of physicians and lawyers are also required of police officers.

Police departments throughout the country are finding that they cannot be effective in law enforcement unless they achieve and maintain the standards of professionalism in police personnel which are required by the problems which they face. The importance attached to this task is reflected in the increased establishment of training schools within police departments. It is also indicated by the growing participation in regional law enforcement training centers, such as the F.B.I. Academy, the Southern Police Institute at Louisville, the Michigan, New York, Pennsylvania and other state schools, and the accredited law enforcement courses in many universities, colleges and junior colleges.

Police departments have found that the element of professionalization, with its development of technical competency, is not something that just happens with on-the-job experience at police work. It can be acquired only through combining the accumulated experience of experts in the police field and the basic sciences which relate to the professionalization of police work. The achievement of professional calibre by a police officer requires intensive study and effort, both on and off the job. Periodic assignments to a regular training program on the job, with adequate instructors and teaching material, is the most practical and economical means by which a police department can establish and maintain professional competence among its staff personnel.

The pace of new invention, population changes and movements, new legislation, and a continuous flow of social and economic changes in our world, make training and the improvement of standards a continuing problem for every police authority. There is nowhere to be found a police department which can rest on its oars and assume that its personnel is equal to every task and challenge that may arise. Sometimes the fact that a department has been successful in handling a given problem on one occasion means only that it was fortunate enough to stumble on the right procedure at the right place and the right time, rather than that it had a fund of plans, techniques and notions which put it, so to speak, "on top of the problem."

There no longer is place for traditional smugness and self-satisfaction if a police department is, in fact, to be ready and equal to the ever-increasing problems which will surely confront it.

A police training program consists of something more than mere indoctrination. By this we mean that it cannot consist only of "laying down the law" as to what is good and what is bad. In order to be capable of coping with the changing problems which he will have to confront, today's police officer must be installed with a fund of basic knowledge and understanding of the conditions underlying these problems. The properly trained officer will, indeed, possess practical skills and techniques, but he must understand the effects and implications of the use of this practical ability as well. This, in order that he may be able to decide which skills or techniques are appropriately applied at a given time and place.

It is this understanding of fundamental principles which distinguishes the competent professional person from the mere technician. This is true in police work, as it is in medicine, the law and other professional fields. The present discussion is designed to further the competence of police officers in one particular aspect of police work—that of dealing with the complex problems of human relations. To this end, I would like to suggest a few of the essential influences which are transforming the world about us and which impose upon us serious considerations which are a necessary condition of our performance as law enforcement officials if we are to measure up to our technical and ethical obligations as members of a profession.

UNIVERSAL ASPECTS OF HUMAN RELATIONS

The contacts between the various races and nationalities have been multiplied a thousandfold in the world of today. We live in a world in which the boundaries of racial and nationality groups are constantly changing. In the year 1800, the major racial and nationality groups were separated by oceans and continents; today they intermingle and are separated only by a few blocks in a city street. When this Nation was founded, it was proper to say that racial and political frontiers were one and the same. However, in our day the racial frontiers of the world are *within* nations rather than *between* nations. They are in the streetcars and elevated lines; the beaches along the lake front; the small parks where the differing nationalities and races meet in seeking recrea-

tion; in restaurants and movie theaters; in the assembly lines of large industrial concerns; and in the slaughter houses where men of different color, religion, and even language work together. Within our public and parochial schools, there are children who daily mingle with one another whose parents can remember an existence in which there were no strange faces or customs. Industrial changes of the past 150 years have brought men together in the factories and shops of our urban centers from every corner of the globe and of every racial, ethnic, and religious origin. The expansion and growth of America has necessitated a vast migration of North and South Europeans, of colored races from Africa and the Orient. They have been brought together out of separate cultures and isolated social worlds into a relationship which has necessitated the interpreting of their strangeness and difference to each other.

The various nationalities and races intermingle daily, united by common and related functions within our mechanized and interdependent civilization; divided, however, by the fact that our grandparents, or even we, have emerged from differing and alien cultural backgrounds so that we do not dress, eat, and live alike and, most important, do not look alike. The derogatory and insulting names which are applied to various groups—"wop," "chink," "pollack," "hunky," "kike," "cholo," "chili picker," "jib," "nigger," "hillbilly," "cracker," "red neck"—are an indication of the importance that is attached in our society to those things that make a man different from his neighbors. However, these notions of our superiority to those who are in any respects different from us close our eyes and minds to the fact that such differences may be superficial and without the significance that we assign to them. Indeed, we may find ourselves blinded to the compelling fact of our utter interdependence, our shared plight, and our common fate in the destiny of civilization. Self-evident as is this dependence of every group within the nation upon all the others in time of war, it is nonetheless true in time of peace. Moreover, we profess ourselves to be a democratic society and, as such, we necessarily assume that differences as to race, nationality, or religion should be tolerated and mutually respected in the face of our common human destiny.

UNIVERSAL ECONOMIC INTERDEPENDENCE

The kind of an economic world in which we live depends for its existence upon the cooperation of the many different groups that combine to make it up. Each of these groups has its contributions to make in the total functioning of our society. All of us have our jobs to do and, unless we can do them with a minimum of friction and conflict, the very fabric of society will be so rent and torn as to be beyond repair. Indeed, it is questionable whether a democracy can even continue to exist unless it develops a means for peacefully mediating these differences. The basic idea of a democracy—namely, that many private and group differences can be tolerated and utilized for the general welfare, is thoroughly in accord with our complex economic interdependence. However, we must face the fact that ours is a competitive society. Not only individuals but also nationality and racial groups are in competition with one another as they strive individually and collectively to improve their economic and social status. It is almost inevitable that such competition for jobs, a place to live, access to higher social position, and the struggle for a generally higher plane of living will bring about some measure of conflict; and each in our separate ways will seek to retain whatever superior advantages we may already possess. It is out of this competition that conflict may arise, and the outsider, the newcomer, the stranger is often stigmatized as inferior. Indeed, the notion is widespread that those designated as inferior racial and nationality groups are entitled only to a lesser share of the rewards of our society. The struggle to improve ourselves and to secure preferred positions is constantly going on. There is implicit within the struggle the possibility of overt clashes and riotous outbreak, the resort to open warfare between racial and nationality groups. It is obvious that such a condition would not only destroy our democracy but would also make impossible the functioning of our delicately balanced and interdependent industrial system.

This situation is of unquestioned seriousness to each and every member of American society. However, it is of even greater significance for those individuals and authorities with whom the whole community has lodged the responsibility for maintaining civil order and protecting individual rights and liberties. Not only are they charged with securing the community against riotous outbreaks, but they are the ultimate guarantors of our individual liberties. This thrusts upon the police authorities the need for an extraordinary exercise of caution and judgment in order that their actions will not prove to be a source of further aggravation and hostility. Unfortunately, the conduct of police officials has not always been above reproach. Unwarranted police conduct which aggravates tension will only be minimized if the individual police officer has a complete sense of personal and social responsibility. This must be associated with an understanding as to the possible consequences of employing various and alternative measures.

DEMAGOGUES AND SPECIAL INTERESTS

Our intensely competitive social and economic life is further complicated and aggravated by the presence among us of many disturbing elements. There are individuals and groups who have a deliberate interest in fanning the flames of nationalistic and racial hatreds. Often, they are interested in setting up scapegoats amongst the various nationality and racial groups. By this means, they are able to divert attention from their own questionable purposes. The idea of racial superiority and inferiority has become a powerful and dangerous weapon. It is used by groups seeking to divide the population on economic questions. During political campaigns, this same device of "divide and conquer" has

been used to direct the public's attention away from the real and basic issues. Unsupported charges hurled at a minority group may be decisive in a political campaign or a labor dispute. There are cunning and irresponsible leaders who are interested in intensifying racial, religious, and nationalistic hatreds. In the chaotic situation which would ensue, they propose to make their bids for power. Only then do their venal and questionable objectives become readily apparent, but then it is often too late.

The very security of the democratic way of life resides in effective safeguards against the loosening of racial, religious, and nationalistic hatreds. It follows that the civil authorities must themselves be ever alert against the irrational and emotional incitements of race baiters and religious bigots.

THE ROLE OF THE POLICE OFFICER

The role of the police officer in these explosive situations is admittedly a difficult one. On one hand, as a person he is a product of the same social experiences to which all of us are exposed. It is likely, therefore, that he has absorbed some of the feelings and antipathies toward minority groups that are so tragically widespread in our society. As a person he would be almost superhuman if he were not in some degree influenced by the prejudices which are so abundant in American society. However, it must be stressed that, as an officer of the law and as a member of the police profession, he stands as the symbol of the impartial authority of society. There rests with him the task of peacefully mediating the antagonisms and conflicts between various segments of the community.

The police officer is confronted with a most difficult task in the fulfillment of his high purpose. He must bring under control his personal sentiments and prejudices and subordinate them in a truly professional spirit. In this manner, and only in this manner, will he be able to treat fairly and impartially with the contenders in any dispute. The private views of an individual policeman may be of such a nature as to make questionable his capacity for fairness and impartiality. However, the fact remains that as an officer of the law his private views as regards the Negro, the Jew, the Catholic, the Oriental, or the Mexican must not compromise the discharge of his public duty. He must refrain from expressing private notions in discharging the duties of office. This entails a capacity to distinguish between his own rights as a private citizen to his private convictions and his responsibilities as a police officer.

THE POLICE OFFICER AND HUMAN RELATIONS

Traditionally, the police officer has been viewed by the great mass of upright and respectable people as their champion in the continuous war with the lesser proportion of the population who live "on the other side of the law." This is the "cops and robbers" conception of the policeman which all of us have experienced in childhood. It is a view which not only oversimplifies the role of the police in dealing with criminals, but neglects the newer and more extensive areas of modern police functions.

Today, even the "upright and respectable" members of our communities are involved in differences of opinion and even in overt conflict with which the police must frequently deal. The issues between labor and management, between one racial group and another, and between religious and nationality groups often initiate hostilities from which the police officer himself cannot escape because he and his family may be personally involved with one or another of the conflicting groups. But it is equally obvious that, as an officer of the law, the policeman should, indeed must, remain neutral. His job is to administer the law so that the conflicts are settled short of a breach of the peace.

The job of mediating human relations through lawful and order-preserving procedures is the new function of the police officer with which we are concerned. The principles which are arrived at apply with little modification, however, to the handling of any disorderly grouping of people which irresponsibly threatens to break the peace of the community.

It should be emphasized that the police are often faced with problems in handling human relations which reflect the failure of the community to solve more basic problems. Race problems may be associated with the movement and re-distribution of population throughout the nation, the fact that houses are in short supply, the presence in the community of excessive numbers of unemployed or disadvantaged workers, or the failure to provide adequate public facilities for all elements in the community. Because these failures have occurred, and may continue to plague us for some time to come, the consequences of these failures become responsibilities of the police departments.

Although the police cannot themselves remedy the basic causes of their problems in human relations, they are nevertheless charged with keeping these problems under control. By control we mean that order is maintained, or is restored where it has been violated, and that the rights of individuals are protected in accordance with the law. It follows that the law is the cornerstone of police action.

For every police officer in the United States, the law which most frequently affects human relations is Federal law. In addition, there are laws within specific states and municipalities which have special application in these jurisdictions. These laws often are only an adaptation of Federal statutes to the lesser jurisdictions, but they are frequently different from or even in conflict with Federal law. It can readily be seen that if the police officer is called upon to enforce the particular laws applicable to the jurisdiction in which he operates, he must first of all enforce the local law, and leave to judicial and legislative bodies the problem of resolving conflicts and incompatibilities in the law.

Police officers, like other citizens, may have different points of view. They may like or dislike any particular

laws of their community. However, for police officers and, indeed, for all law enforcement agents, the law is not something to take exception to or depart from. Nor should the police permit themselves to act like legislative bodies and change the laws as it pleases them. Rather, the law is, and must be, something from which the police officer procures a clear definition of his responsibilities.

In the vast and complicated problems of human relations the police are in constant danger of becoming involved as participants on one side or the other. They are constantly being pressured to act in behalf of this or that interested group, or to respond to the call of this or that power-holding clique. This often has the effect of putting the police "on the spot." When, as is often the case, the larger community focuses its attention on a local incident, the police find themselves identified as partial or as special pleaders. This can happen from either side of the fence in a human relations conflict, and the police must ever be on guard lest they be unwittingly "sucked in" to such a partisan position.

This interest in recruiting police authority and police action for one side is not a monopoly of the persons who propose better treatment or equality of treatment for minority groups, nor is it on the other hand a monopoly of those who feel that minority groups are being given undue consideration. It is not a monopoly of business, nor is it a monopoly of labor. Either side in any mass conflict situation is moved to win to itself and its cause the good strong arm of the police department. There is only one sound position for the police, in view of this ever present partisan pressure. That position is that *the weight of authority of the Police Department should be placed on the side of the law and of the community, and not on the side of any parties to a dispute.*

There are many cities in which it is accepted without a question that the effective way to police a city which has a multiplicity of minority groups is by allocating the members of the police department of the several minority groups to the areas predominantly settled by those groups. There is the belief that a Negro officer is just the man to police the Negro communities, that an Italian officer is just the man to police the Italian community, and that a Polish officer is just the man for a Polish community. At first glance this practice may seem to be in accord with good police practice since these officers are closely identified with the residents of the area and are familiar with their customs. However, this frequently results in questionable police practices.

When a police department deploys its personnel on a nationality and racial basis, it is likely that law enforcement is to be subordinated to considerations of race and nationality. If something develops in an area settled by a racial group, such practice assumes that one should assign a member of the group in question to go down there and "take care of it." This usually means that such a man becomes a law unto himself in that area. The result is a "double standard" in policing—one

standard for the community-at-large, and another for each racial or national community. As a matter of fact, some of the most hated police officers are members of minority groups solely concerned with policing areas settled by their group. One such officer, unwisely placed, insufficiently directed, and with distinctly private notions as to what his job is, may bring the wrath of the entire community down upon the police department. He breeds disrespect and lack of confidence in the law rather than contributing to its effective enforcement.

Every police officer, be he of Italian, Irish, Negro, Polish or other origin, by virtue of his uniform, is a symbol of the law and represents the whole police department. Every act of an officer has meaning and significance beyond the individual. It has a consequence for every other man who wears the police uniform. It should be remembered that individual members of the community have their experience with men who symbolize an entire police department. Members of the community are prone to generalize about the police department on the basis of their experience with each officer. If a police department is well trained and well supervised, and if its officers conceive of themselves as members of a professionalized force—one with pride of accomplishment and purpose—the national descent of the officer who is assigned to a particular area makes no difference. The laws of the municipality, the state and the Federal government and the regulations of the police department, should be enforced in identical fashion by every officer in every comparable situation. The major resource of any police department is not the national or racial composition of its personnel, but their skill, competence and integrity.

We are aware that many forces in the community make it difficult for a police department to adhere to the principle of identical policing for all areas and all groups. It may never be officially suggested to a police department that they should have a double standard of policing. However, differences sometimes do develop in the police handling of members of different racial, national, religious, economic or political groups. These differences may be initiated by reason of politics, of naive and sentimental notions as to how different groups behave, or by virtue of just plain differences in the respect generally given in the community to certain persons and factions. Insofar as double standards enter the picture of the way in which the city is policed, there is a danger of terrific repercussions arising on a minority group basis.

The handling of a routine incident, for example, a disturbance in a tavern, an automobile accident or a hold-up, can acquire a totally new character if inferences of partiality on the part of the police are drawn from the manner in which it is handled. Minor incidents can, and often do develop into major disturbances because of failure of the police to avoid any semblance of partiality. The police should be aware of how their actions are being interpreted by those around them. Even if police action is being misinterpreted, and a partiality is assumed which was not intended, this fact may have significance as far as subsequent human relations in that area are concerned.

It has happened, not infrequently, that a police department has converged upon a situation, without the capacity to arrive at an appropriate understanding of what it is, has taken action in it, has left the scene, and then is asked: "Why did you not take action to prevent this serious disturbance? You knew about it." What is required is the ability to assess the human relations aspects of any situation. For this the police officer must be especially sensitized. This consists of alerting the police to the factors in any incident which will permit of its being handled as just another incident and prevent the gathering of potentially hostile people.

The difference between a minor incident and a collective affray may be found in the capacity of police officials to adequately assess and treat a minor incident before it mushrooms into a quite different kind of affair. In short, effective policing can make of a minor incident a past event rather than a gathering of hostile and quite unmanageable people. Inasmuch as we have the knowledge and experience to train the police to make such judgments and take appropriate action, a major riot today is inexcusable.

The field of human relations is one of the newer areas in the professionalization of police departments. It is a problem area which can no longer be taken for granted. In any of our great metropolitan communities it has become almost a daily affair for the police department to be confronted with the necessity of dealing with incidents involving aggravated relationships between racial, religious or other groups. The problems of human relations have become chronic because of the failure of the community to solve its more basic problems. It is unlikely that in the immediate future solutions of our more basic difficulties will make possible a reduction of racial, religious and other inter-group tensions. Human relations problems will continue to require the kind of preparation for day by day handling which is now given to the more common types of problems with which police departments are confronted.

HUMAN RELATIONS IN THE UNITED STATES

For a police officer to learn techniques of dealing with problems of human relations without also having some understanding of the background of these problems, would be like his learning to shoot a pistol without learning the particular situations in which he has to restrain from pulling the trigger. In human relations problems, as in handling his gun, the officer who acts without understanding can jeopardize the reputation of the whole force. Any official should know something of the background of his problems if he is to deal with them successfully. The police officer, like the ship's captain, must act with reference to the iceberg that is hidden under the water—not just what he sees on the surface.

The field of human relations is one in which there is a vast mixture of science and pseudo-science. It is often difficult to separate the two. It is customary to argue about the causes of conflicts in human relations, and about the effectiveness or ineffectiveness of various ways

of dealing with these conflicts. Such arguments must be based on principles or facts, but the last place to get a fact is from someone involved in an argument. What he gives you is very likely to be either a half-truth or a complete myth. Yet there are facts which can be ascertained.

By way of background to the concrete discussion of police work, I would like to set forth that which is factual and relevant about human relations in the United States today. We would also like to clear the air of some common myths which may block thinking about what the police can or cannot do in handling human relations. A fact is a piece of information which has been arrived at by careful observation and which can be, and has been, checked by others, so that there is not much room for intelligent difference of opinion about it. One mass of facts of vital importance in its effects on police problems in the United States today consists simply of recent changes in the population of our country and especially changes in the population of our major cities.

THE CHANGING SOCIAL SCENE

The problems of crime control in general and law enforcement in particular are always an incident of the changing social scene. It has been observed by a thoughtful scholar that any community or society has just about as much crime as it deserves. Which means that not only the amount of crime but its particular expression is a projection of basic processes and changes in the life of the community. The dimensions and substance of community life are in such wholesale and radical transformation in our time, it behooves us to pause and reflect upon the influences that are sharply modifying the conditions of our contemporary community life, and posing new problems, for the agencies of law enforcement.

I know that all of you will entertain these introductory remarks as designed to afford an opportunity for each of you to share in the spirit of good will and determination in bringing these problems under control. There is no one of us who sees law enforcement, I'm certain, as an agent against any section of the community, but, rather, in serving the community as a whole, is disposed to protect and secure any and all of us in our rights and in our prerogatives. Yet all of us, I'm quite certain it could be said, have slightly different views of what is going on, what is happening. All of us are men of good will. All of us want to secure to the minorities their rights and privileges. But each of us think differently about what the central issues are.

I am reminded here of a story that is told of the lion hunter who, going forth into the veldt each time, was always fearful he would become faint of heart when he encountered the lion, not be able to shoot fast enough, and the lion would get him. One day he went forth on one of these expeditions. Lo and behold, when he saw a lion there happened what he had been fearful would happen. His knees failed him. He dropped his gun, fell

to his knees and did the only thing under the circumstances he could do, he closed his eyes and began to pray. Nothing happened for a time, so he cocked one eye open and there was the lion out in front of him also on his knees, also presumably praying, at least he was in that posture. And so the hunter shouted "Hallelujah! We both apparently believe in the one true God, obviously we can talk this thing over." And the lion, as lions will, opened his eye and looked at him and said, "Yes, I'm praying. I don't know what you are doing, but I'm saying grace."

There is a lot of grace being said these days; there's a lot of solicitous concern for ourselves as we propose to serve the interests of those who are vexing us and who present us with problems.

There are basic changes, going forward in the community and these changes are transforming our problems as they come to us as law enforcement officers. Some years ago, in 1955, to be exact, a careful student of housing, Coleman Woodbury, authored an interesting little article in the *American Journal of Public Health*, and in that article appears the following quote: "The central cities of the United States will become increasingly the place of residence of new arrivals in the metropolitan areas, the place of residence of nonwhites, of low income workers, of younger couples, and of the elderly. The suburbs will become even more the residence of middle income families and of those of better paid workers—particularly those families in the middle stages of the family cycle."

What he indicated at that time is apparent to all of us today. Cities, in short, are becoming the residence of lower class Negro groups. And the whites are moving to the hinterland. This wholesale resettlement has been coincident with problems of housing, problems of income, etc. These specific features of discontent and underprivilege are separately and together an expression of radical changes in population and population distribution. These central features of the time which are commonplace to all of us are the context inside of which we must identify our problems and if we so identify them it may be possible that we will see them quite differently than the lion hunter and the lion. In any event, if there are those amongst us who expect groups in the society to act differently than they currently do, this will only come about if there comes about a necessary condition for that change. This is to say that our own attitudes towards them have been changed. For the view we have of the minority groups is a necessary condition of the attitude they take toward us. And, if we see them only as persons who are troublesome and difficult and with shortcomings, without reference to the conditions by which their behavior has come about, then we will not be disposed to act in such ways as to invite any kind of response other than hostility, anger, and indeed outright violence.

Our society is a mass society with mass characteristics. We've witnessed, in our time, the eclipse of face-to-face relationships, the destruction of privacy. We are in an age of fleeting and physical contact. There is an emphasis upon uniformity and, by the same token, superficiality. For the emphasis is upon looking alike rather than necessarily "being alike." Our contacts are fleeting, so our information is for the most part a passing information, a surface information. At the same time there is encouraged and there has come about a chronic non-conformity. What appears to be uniformity turns out to be merely the facade in terms of which weighty, important differences are promoted and covered up between various groups in the society under the condition of our new mass experience. Different and deviant behavior is encouraged, extended, and is a chronic condition of the time. It is in this context that we must see our problem. For example, if we are disposed to regret youngsters do not act as did their elders or as do their elders, or that they do not act as we did when we were youngsters, let us be advised that the conditions for their instruction and education are different in their time than in our time.

The second feature that I would call to your attention again is the commonplace of the day, what has been referred to as the population explosion, with its new patterns of age distribution and population composition. The United States is at one and the same time, paradoxically, getting older and younger. It is being enlarged at its extremities. Higher percentages of people in their senior years are living to riper ages; higher percentages of people are in their junior years as the result of the increasing birth rate and the cut down in the death rate. What has happened here is that persons in the ages of dependence are increased in proportion to the whole, for those in their senior years need more the services and attention of their fellow man as do those in the tender years. Youngsters need programs in education, welfare, recreation. They are not producers, they are consumers. And people in their senior years need health care, need economic security, they need all the things which they are less competent to provide for themselves because of their diminished earning capacities. I do not offer this as an argument for a particular kind of political formula. I simply remark at this juncture upon the sense in which America is becoming a very different kind of a society as a result of these changes in the composition and character of our population. We are getting at one and the same time younger and older. The dependency ratio—for example, the ratio of those who consume to those who produce—is radically changing. There was a time when the producers outnumbered radically the consumers. For every 100 of the population there are 70 who were in this older and younger category. Seventy, old and young, in the consuming years. In 1930, the dependency ratio went up to 73, in 1960 it stood at 91, and we are rapidly approaching a period in the next decade when it is very likely that we will have more mouths than we have hands. And as we have more "mouths" than we have "hands," reflecting at the moment the drive towards automation, the question arises, who are the "mouths" and who are the "hands?" For this brings us to another aspect of our problem: That even as the population explosion has gone forward, with different proportions of the age groups to the whole, there has

come about a redistribution and reorganization of communities, according to a new community context. The emergence of the metropolitan community, creating new problems in law and order, new conditions of contact between the races, new problems in the accommodation of the population through the provision and organization of shelter, new problems in the mediating of residents to work and to play, mass transportation.

These changes, it is clear, bring on something more than a mere increase in numbers on the part of the population. They are something more than a new residential location of the population. Implicit in what I have suggested is the creation of a totally new set of human relations. One of my former teachers of many years back who is an authority in the field of anthropology suggested race problems are one thing when they involve a few on one side and many on the other. They are quite different things when they involve many people on both sides. And the contrast between what is happening in the South and what is currently happening in the North is essentially a function of this transition of the problem through the fact of numbers. For the metropolitan community has attracted to itself, in terms of its requirements, in terms of its industry, commerce, and the new technology, disproportionate amounts of the marginal groups. They more than others have felt the effects of the revolution in population, the revolution in technology and health, in medicine, bringing people to their senior years. And so it is that consumers are disproportionately represented amongst these new groups who are coming into their own in this new day in which there is not only world emphasis on the egalitarian ideal but also an assertion of right, of privilege, and of new proportions.

We are in the midst of a population crisis that threatens our traditional way of life and it will become increasingly aggravated between 1962 and 1975. Between 1940 and 1960 our population increased by 48 million —from 132 million to 180 million, in twenty years. The same rate of growth will produce 215 million by 1970; 260 million by 1980; and 380 million by 2000. And if these would seem to you to be like talking about timeless periods of history, I would remind you that the year 2000 is just 37 years away. Certainly the fruit and import of these trends are already upon us today. The changes in the composition and distribution of the population have brought on the changes in the social problems that vex us. They have given to law enforcement new features that are familiar to all of us. Delinquency and teenage crime has now become the almost overwhelming substance of crime in America. Over 60 per cent of the major crime in America, by official statistics, is produced by persons 18 years of age and under. And if the development of the influences in society at large and its impact upon that section is to continue, we can expect a 44 per cent increase in delinquency and crime in the age group 15 to 19, simply by reason of the proportional expansion of that section of the community without even posing added problems of that age group. This we are not warranted in doing, since there are disproportionate members of

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the minority group represented in this section of population.

The needs of young people for services will also increase and if not met will make for even more serious problems than we are currently experiencing. So I say, it is not just a mere population growth. We are not confronted by the mere increase of geographical area; we are not merely vexed by the overlapping and conflicting of our authority and jurisdiction. We are party to a whole new set of social, of human relations. There is even greater impersonality and detachment within the social life. There is a progressive condition of alienation and estrangement in vast sections of the population that are becoming numerically important in new places in the society. It is interesting to note the new views in this affluent day of those who are economically underprivileged. We've come to the point now where we recognize that a family of more than two finds itself in difficulties trying to maintain itself with an income under $4,000 per year. Well over 60 per cent of the non-white population in the United States is within the group whose incomes by family unit are under $4,000 per year. They are experiencing the discordant notes, the difficulties which the society has faced trying to produce an upward trend for all. There is an accent on the formal as against the informal controls. Less and less can we rely upon the natural processes of community life as a means of affecting control over the members of groups. And so there comes to the police, the courts, the correctional agencies, more and more of the responsibility for establishing whatever kind of order the community is to achieve. There is greater heterogeneity, greater parochialism, if you please, as people get lost within the blind alleys of society. And race throughout all this has become a power phenomenon, not only on a world front but within the society itself. Race is a different fact when it is a fact of numbers.

Let me comment now about trends and circumstances which suggest what the fruit of these processes have been.

Between 1950 and 1960, the twelve largest cities of the United States lost over 2 million white residents. In that same period when two million of the white residents moved beyond the formal municipal limits into the broader metropolitan regions, they gained almost exactly the same number of non-white residents. Two million Negroes moved in to the places evacuated by the two million white residents. There was until very recently in our society the generally understood fact that as cities grew, people had economic and social success—they came as foreigners from another land, they moved into the heartlands. The older portions of these great cities, had social and economic success and their young people moved on in the widening circle of residential resettlement toward the middle class suburbs. And everyone who has lived in America has noted, particularly the police, the sense in which many of the problems of law and order were concentrated on the trials and tribulations in particular neighborhoods of these groups in transition. But these neighborhoods of

transition have now burgeoned into veritable cities in transition. They no longer pinpoint in terms of a few areas one of these great urban centers, the places where the immigrant groups are first accommodated and then move on. Vast sections of the city have been occupied by the new immigrant group—cities like Baltimore, Detroit, Cleveland, Chicago, Washington, D. C., St. Louis—as much as a third of the city is made up of these new immigrant groups. And so the transition is a transition of cities rather than transition of neighborhoods.

The population of the United States has always increased. Between 1940 and 1960 our country grew from 131 to over 170 million people. Even more important than this increase, as far as police problems are concerned, were the changes which occurred in the makeup of the population and in its location within the country. The major trends were: First, the growth of metropolitan cities; second, changes in the racial and national identity of the people who make up our population; third, shifts of people from one region to another, and the greatly increased ease and frequency with which people move about the country.

The consequences of these trends were a new way of life for many people. Diverse groups with conflicting customs and interests suddenly found themselves side by side. There were changes in the relative wealth and power of various groups. From these many changes have come special problems, such as housing, which throw groups into competition with one another, and thereby become police problems.

THE GROWTH OF CITIES

In 1790, when our population was counted as 3,929,000, less than 5 per cent of the American people were living in towns and cities with over 2500 population. By 1960, this percentage had increased to over 60 per cent. Some experts estimate it will be over 90 per cent by the end of the century.

The growth of cities results mainly from the increased efficiency of agriculture. In 1900, for example, it took nine farm families to support one city family. In 1950, just fifty years later, things had been reversed to the point where one farm family could support nine city families.

The productivity of the individual farm worker has increased by leaps and bounds with mechanization. Between 1940 and 1960 the number of tractors on American farms increased by over sixty per cent and the number of horses and mules decreased by over fifty per cent. The effect of farm mechanization on farm labor needs is vividly illustrated by the mechanical cotton picker, a recent development, which enables one person to gather the cotton which formerly required 40 human cotton pickers. In 1950 we had half a million fewer farms than in 1940, although we had the same amount of land in farms. The size of the average farm increased 21 per cent. The number of people working on farms (including owners, tenants and laborers) de-

creased by over 12 per cent between 1940 and 1960, despite the overall increase in U. S. population.

The consequence of these farm developments in the United States is the increase of the city and town population. Living in a city means a new way of life for people. In the country we see only the same people—our immediate family and neighbors—almost all of the time, every day. We know who they are and how we should act towards them. Human relations in the country generally are less complex than they are in a big city.

In the city we work with one set of people, we live with others, we travel and shop with others, and we are in contact with still other people in our leisure time activities. In most of these contacts we are dealing with total strangers, or with persons whom we know only casually. We are pretty much strangers to them and they are strangers to us. This is especially true when we are newcomers to a city or to a neighborhood within a city.

City people are constantly having to adjust to new developments, new fads and fashions, new rules and regulations. When gathered in groups, as strangers, they are not bound by what people expect of them as individuals, as they might be by their reputation in a country neighborhood, or as they would be if they were with close friends or relatives. City people, repeatedly throughout almost every day, have to "size up" the rules of a situation. They adjust their behavior accordingly. They do it automatically without much thinking about it. That is why they will act one way at home, another way at the office, another as customers in a store, another at church, another at a tavern, another at a ballpark, and another way in a street car.

POLICE GOALS IN HUMAN RELATIONS

The basic condition which characterizes the professional police officer in the field of human relations is that he operates under the law. In short, a law enforcement agency worthy of the name not only carries out the law but functions in accordance with the law at the same time that he enforces the law.

The sovereignty of law is the public's protection against the unfettered power of officials. This is what we mean "by the rule of law." In democracies it is insisted that law is preferable to the unlimited discretion of even good rulers, for any extreme powers given a good ruler are likely to remain should he be succeeded by a bad ruler. Furthermore, it has been truly said that power corrupts, and that absolute power corrupts absolutely. Excessive grants of power to good rulers often, in time, turn them into bad rulers, as they gradually find that arbitrary use of power is easier than negotiating with, or persuading, anyone with whom they have disagreements.

The law consists of standards and commands expressed in thousands of statutes, decisions, regulations, and in constitutions. These standards and commands can be arranged harmoniously from the very broad constitutional provisions down to the specific regulations under which a policeman can say: "I legally think John Doe has committed a felony and it is therefore my legal duty to arrest him."

The policeman who conforms to law is the living embodiment of the law. He is literally law in action, for in action law must be specific. He is the concrete distillation of the entire mighty history of the law, including the constitution itself. *The meaning and value of the entire legal system are determined by the police officer's specific acts or omissions.*

When the law is the law of a democratic society the conduct of the police officer becomes the living expression of the values, meanings and potentialities of democracy. Democratic law is ethical law. It expresses and encourages equality and human dignity. It disciplines officials who otherwise lack definite standards to apply regularly and consistently. It provides for freedom of speech, press, and religion, fair trial, and other democratic liberties. On the positive side, it provides for orderly, fair and reasonable methods of arriving at decisions, and of reviewing decisions—including decisions of government policy as well as judicial decisions, such as the decision as to whether a man is innocent or guilty.

If the police officer conforms to law, he becomes the most important official in the whole vast structure of government, able to facilitate the progressively greater realization of democratic values. How serious an obstacle, therefore, is the thoughtless attitude of much of the American public toward the police! Intelligent Americans, and the police in particular, have a major job to do. First, they must understand the meanings of police service in a democratic society. Then, by their joint efforts, they must maintain a police force that is capable of discharging its duties in a manner which strengthens the democratic way of life.

Democratic societies, like all other societies, require order. Unlike other societies, they need a distinctive kind of order, namely, one that is not imposed by an uncontrolled force. The police, in a democracy, must not only know the most effective techniques for maintaining order, they must know techniques which maintain order in a manner that serves to preserve and to extend the precious values of a democratic society.

Writings on the police, particularly surveys and studies by various commissions, abound in adverse criticism. They erroneously assume that police services can be improved by blaming and scolding. The difficulty with that approach is not so much the fact that it is unfair to the police, but that it does not investigate the basic causes of any defects in police service. Nor does it provide a definite policy to guide in the improvement of a police establishment.

Our discussion of the police and the public in a democracy is intended to provide a definite policy for the evaluation of police work. This policy applies particularly to the specific police practices for preserving law and order in human relations. The policy, in sum, is *to maintain order in ways that preserve and advance democratic values.* This policy can be expressed as a

number of specific questions. To be able to answer a loud and ringing "Yes!" to the following questions should be the goal of American police work:

1. Do the police take preventive measures to reduce criminal attacks and to check early symptoms of disturbance or riot?

2. Do the police conform to the laws requiring them to protect all persons from attack—regardless of the racial, religious, nationality, political or other identification of the attackers or of their victims?

3. Do the police enforce all laws equally against all offenders, regardless of social status or group affiliation?

4. Do the police policies and practices, including public relations, encourage self-control by the citizens of the community?

5. Are the police held legally responsible for their illegal conduct?

6. Do the police always function as police officers, or do they assume judicial, legislative or supreme executive powers?

MISCONCEPTIONS AND MYTHS ABOUT POLICE

There are a number of misconceptions affecting the police functions which at this point in our police experience must be examined and corrected. I shall mention a few in passing and dwell upon some others at greater length.

1. The inevitability of violence.

Violence is not inevitable, but when believed, it is a self-fulfilling prophesy.

2. The police must enforce the social custom and tradition of the community as well as the law.

The police derive their authority and responsibility from law and only the law, not custom, tradition, a declared faith or truth, or the beliefs and interests of a particular powerholding group.

3. The myth that you cannot make people good or change their values by means of law.

This is, indeed, the way in which much of our progress has been made.

4. Demonstrations are ipso facto an instance of disregard for law and should be nipped in the bud.

No law or action under law should be invoked against a group that would not be invoked against a group representing a majority. Demonstration whenever possible should be tolerated and viewed as subject to regulation, within the law. There are two current objectives of protest groups in demonstration:

a. *Civil Disobedience:* Challenge of law for the purpose of testing the law.

b. *Challenge of the morality of a law:* The sit-downs. Both can be regarded as subject to a controlled and regulated procedure and require effective understanding by police as well as communication with the leaders of such groups.

5. The myth that racial incidents are always a result of fixed attitudes and opinions.

The role of provocateurs and the individually unruly elements must be seen as controlling.

6. The myth of a rank order of priority of social change, departure from which will produce violence.

Changes do not occur in a fixed sequence and the police should not be persuaded to depart from *law* enforcement on that account.

7. The myth that an American community can have no human relations conflict if it has not had it before.

The changes of the current social scene are pervasive to the society and are capable of engendering similar effects through similar conditions throughout the society.

8. The myth that in crisis we must move slowly and direct legal authority against legitimate requests for change.

In crisis we must exhibit our fullest capacity for change.

A myth is an idea which can be and has been checked, and which when checked is found to be false, but which is generally accepted without question simply because no one bothers to check up on it. Myths may be just as important as facts, in many ways, because people act or fail to act according to what they believe is the situation, regardless of whether what they believe is fact or myth. *Myths are reality to the people who believe the myths.*

It is well for police officers to know the most common myths in the human relations field. This is important, first, in order to be sure that the police officer himself is not duped by any myths. Secondly, by recognizing common myths the police officer will understand the thinking of those who accept the myths as reality.

The several myths which we will discuss all have about the same effect. They provide persons with what seem to be plausible explanations for events, and they usually justify whatever policy the believer is accustomed to pursuing, regardless of the effectiveness of that policy. Myths thereby eliminate further interest in investigating the facts. Puzzled by the problems in regulating human relations with which they are confronted, and ignorant of what can be done about them, many laymen and even some professional persons in authority readily accept glib myths. These myths sometimes become justifications for doing nothing, even when action is urgently needed.

1. *The Myth that violence is inevitable.*

Perhaps the most dangerous myths in the human relations field are those which imply that violence is inevitable when two groups are in conflict. This myth takes many forms. Sometimes it is stated that trying to prevent violence will only make more violence. Sometimes it is argued that if one lets violence run its course, things will be settled—the beaten side will withdraw. In any form, these myths deter authorities from taking the decisive steps needed to prevent violence.

The defect of the "let things run their course" philosophy which is expressed in these myths is that in human relations between large groups, the course which is run by violence is from minor disturbances to greater and greater mass riots and violence. And if, in a large riot, one side is decisively beaten (which is usually not the case), the causes of the conflict still remain. The beaten side simply mobilizes more and more of its people, stirs them up emotionally to a greater and greater intensity, and soon new outbreaks occur. This is partly because the precedent of violence being permitted gets people to thinking that it is a permissible way to settle differences—the only way, rather than calling on the courts and the legislatures to decide the issues.

It has been demonstrated over and over again that letting a disturbance run its course never settles things. The local neighborhood fracas, if unchecked by legal authority soon becomes a major area disturbance and ultimately a city-wide affray. More and more people become involved the longer the violence is tolerated. Once an inter-group fight becomes large and prominent, the police have a big problem on their hands, and a lot of "heat." It is much better for the police if the law against violence is laid down early. It is a lot easier to establish order at the beginning than later. People *can* be forced to recognize that their differences will have to be settled in court or in the political arena—that they cannot settle them on the street.

The myth of the inevitability of violence is often associated with a "Let-George-do-it" attitude. This may reflect an official's fear of failure; he thinks: "Why should I stick my neck out?" Actually, failure is inevitable if this attitude is taken. And the failure is likely to be of such a dimension as to lead to widespread clamor for a drastic "shake-up" of any agency which takes a do-nothing attitude; heads *will* fall. The fact that violence can be prevented by effective action based on adequate preparation and training has been demonstrated so widely that once failure occurs, it is hard to explain it satisfactorily. It has become inexcusable. The expression "the police were powerless", which is used after a situation has gotten out of hand, is now taken by the press and the public as a reflection on the police as well as on the situation. Thus, fear of failure leads to failure. These are the painful facts. They need not be painful, however, because they need not occur.

2. *The Myth that all of our behavior in dealing with members of a particular group is determined by our fixed attitude, prejudice or opinions about that group.*

The myth that all of a person's behavior in human relations is governed by a fixed attitude, prejudice, or opinion, leads readily to the notion that continued illegal hostile behavior between the groups is inevitable. Therefore, this myth may promote official inaction. Official inaction, we will again and again demonstrate, only tends to make human relations disturbances take a more and more violent and irresponsible form.

Unfortunately, many well-intentioned people had a part in promoting the idea that fixed attitudes govern behavior in human relations. It was assumed that if people say hostile things about a group, they were bound to act violently towards members of that group. It was convenient for some investigators of human relations merely to have people fill out questionnaires about what they thought about other groups. While the answers to such questionnaires are interesting, and indeed valuable, it is erroneous to assume without testing that generalized

answers to questionnaires indicate how people will behave under all circumstances.

Practical experience, as well as the scientific study of human behavior, belies the fixed attitude approach. As we indicated earlier, one of the facts about human relations in the United States, particularly race relations, is that a variety of attitudes exist simultaneously. The way a person acts at any given time depends on what his interests happen to be there, what he anticipates will follow his behavior, and the state of his feelings and emotions at the moment. These are dynamic things, changing from time to time and from situation to situation.

Conditions around a large Chicago industrial plant will serve to illustrate the mythical idea that people are always governed by one fixed attitude on a race. The white workers in this plant come predominantly from areas of the city settled by working people, the major proportion of whom own their own homes. The notion that settlement by Negroes in that area would depress property values has disturbed these people, even though real estate studies of white areas where Negroes have settled indicate that property values have gone up, due to the high rentals which the Negroes have been required to pay. At any rate, acting on the fear that Negro settlement would reduce their property values, these workers have been very resistive to any efforts of Negroes to purchase or rent in the neighborhood. In view of these ideas, it is understandable that outbreaks of violence have followed events which people thought were preparations for Negro settlement there.

These same white workers, on the job, behave quite differently toward Negroes. The plant has an established policy of hiring any man for a job who is capable of doing a good job, regardless of his race. Workers of the two races are intermingled, being divided only by their different levels of skill and by different assignments rather than by different racial background. The union at the plant likewise has no racial restrictions with regard to membership nor with regard to holding office. It has been a rather effective union in procuring better working conditions for its members and has enjoyed a high level of participation and support. The same white workers who are involved in aggravated racial tension in their home neighborhood, in connection with their properties, have friendships or disputes with fellow workers on the job, and cooperation or conflict over union matters, along lines which cut across racial differences. . . .

This serves to illustrate the willingness of individuals to accept changes in the way in which a situation is defined. Contrasting illustrations could be cited from accounts of educated and presumably Christian men who were opposed to violence but who were carried along by lynching mobs when the authority and viewpoint of the mob dominated the scene. While we have certain firm attitudes which affect our behavior, and not everyone will join a mob in an act of murder, our conduct in any particular situation is likely to be strongly influenced by the actions of the group of which we are a part and by the leadership which is provided by per-

sons in authority there. Sound leadership by those with legal authority can always prevent illegal authority, such as that of mob leaders, from becoming firmly established.

3. *The Myth that acts of discrimination towards members of a particular group are caused by a belief that the group is inferior, and the accompanying Myth, that only slow education to change this belief in inferiority can end violence between groups.*

Much of the literature on relations between racial, religious and nationality groups is concerned with actual or alleged inequalities between the groups. Sometimes the writers show us how scientific studies reveal differences between racial or nationality groups in scores on mental tests, in crime rate, in disease frequency, and in many other things. The literature then discusses the question of whether these differences must be explained by heredity or are due to differences in education, income, opportunity or other circumstances. Sometimes the literature presents evidence that presumed differences between groups do not exist at all or are less pronounced than is generally assumed. Finally, the literature may show that where differences are revealed in the average ability of different groups, the variations within each group are so great that we would be mistaken most of the time if we described an individual by the average characteristics of his group. Of course, we all know some whites that are more stupid or of worse character than some Negroes, regardless of whether or not we think most Negroes are more stupid or evil than most whites.

All of the above findings of science, which most people can observe in everyday life without the aid of science, are frequently presented to us in the belief that one must first educate people out of their ideas about the inferiority of other groups before we can get them to stop fighting over discrimination against members of a particular group. This is one of the more difficult myths with which we have to deal. . . .

What we want to emphasize is simply the fact that the behavior of the average person, in most of his dealings with members of other racial, religious or national groups, is really not governed by whether or not he considers the group inferior. What governs most of our behavior are the habits which we build up and the expectations which we develop as to the consequences of particular types of behavior in particular situations. If we go in a store in the North, or on a streetcar, or to other places in which equal rights are firmly established by custom and are backed by the authorities, we grant members of other groups equal rights regardless of what we think about the inferiority or equality of their group as a whole in ability or character. Where other practices are firmly established by law and custom, the public acts accordingly.

The illustrations cited in our discussions of the violence and fixed attitude myths, and many illustrations to be reported, support this notion that belief in another group's inferiority has little to do with our conduct towards members of that group in concrete situations. People behave as the rules of behavior require in a particular place and circumstance. Police departments must support whatever rules of behavior are prescribed by the laws of their particular community, and not any other rules of particular individuals or groups. In fact, in a democracy, where we have the rule of law, whether people believe other people to be superior or inferior in ability or character has little to do with what they recognize as the other people's legal rights.

4. *The Myth that you cannot make people good by laws.*

Another common myth is the glib pronouncement that "you cannot make people good by passing laws." The truth is that all of our laws are set forth to distinguish and emphasize what is good and what is bad. However, the implication of the expression that you cannot make people good by passing laws is not that the laws cannot be passed, but that the laws which define standards of proper behavior cannot be enforced. It is argued that whatever moral standards a person has are fixed and will not be changed just because a government has passed a law. This argument usually ends with the old theme of waiting for a slow process of education to occur before trying to enforce the law. Thus, we see, most of the myths about human relations are interrelated.

Laws are not passed in our country in order to change a person's private beliefs. *They are passed to regulate his behavior towards others, particularly his public behavior.* The laws in our statute books define the standards of conduct which are acceptable in business transactions, in public meetings, in work relationships, and in many other kinds of inter-personal conduct. The need for laws arises when differences of opinion exist about proper standards of behavior, particularly when a few people deviate from the conduct which most people consider proper, and when the behavior of these few damages or seriously offends other persons. Usually laws make a major contribution to the actual education of people, since the laws show us what most people consider to be bad things to do. Laws, in a democracy, tend to define and publicize the standards of conduct which the majority of people desire.

There may be some truth in the observation that it is difficult to enforce laws with which a very large number of people disagree, or to which the majority give only "lukewarm" support. The difficulties of enforcing the Prohibition Amendment and anti-gambling laws are often cited in this connection. Part of that difficulty arose from the fact that these laws affected *private as well as public* behavior; people felt that their taking a drink or placing a bet was a private matter which did not damage anybody else. People, however, adjust quite readily to those laws which, it is clear, affect the public interest rather than just purely private behavior. Increasingly, the legislatures and the courts have emphasized the necessity for recognizing social and human relations as matters of profound public interest. . . .

When a law is passed, the police officer's responsibility is to enforce the law to the best of his ability, regardless of what he thinks of its suitability. To do otherwise is to default in one's responsibility as a police officer and is incompatible with the oath of office.

City councils and state legislatures are defining the appropriate standards of public behavior day after day. Police officers everywhere are charged with carrying these legal standards into effect, and, as we know, most citizens are law-abiding and are not interested in disobeying the laws.

5. *The Myth that there is an order of priority in which changes in human relations must be made, and that any effort to change things in other than the "proper" sequence is doomed to failure.*

One twist in the myths which are passed by those who are despairing in the face of violence in human relations is the argument that if you try to prevent this violence, you are not doing first things first. Some people are always trying to seem more "fundamental" than the next person. If one enforces a law about orderly conduct at strikes or in public transportation they say this effort is futile—you should first change the economic situation. We have already discussed the frequent refrain that one must first educate people differently. Other arguments are that we cannot do anything about practices in violation of law until we change the conditions of family life in the United States, or get people back to religion, or eliminate the fear of war from the world. . . .

The job of the police officer in this changing world is to maintain law and order. He cannot ignore violations of the law in any sphere on grounds that he is waiting for someone to correct the conditions which "cause" the infractions. The police department which seeks solace in some convenient myth in order to ignore problems in law enforcement or in the maintenance of order will reap the whirlwind. Small problems of the police increase to major problems and ultimately to public disasters whenever the problem behavior is met by no effort at control and prevention.

6. *The Myth that an American community can have no human relations conflict because it has never had it before.*

The changes that are taking place in the United States guarantee that every community in the United States will sooner or later be affected by these changes. It is just a question of when the waters will lap against their doors. When we talk of such things as over two million Negroes coming out of the South in nine or ten years, we are not talking of a tiny trickle. Two million are a lot of people. When the city of Chicago, which had a population of non-Whites of 282,000 in 1940, had 509,000 in 1950, and no one knows exactly how many more since 1950, we are talking of something which affects Gary, Indiana; Kankakee, Illinois; Dubuque, Iowa and Benton Harbor, Michigan as well. We are describing a tidal wave of changes in human relations which reaches into places never reached before. . . .

The town of Cicero, Illinois had no human relations conflict in anyone's memory. Then it had a major riot in 1951. The town of Savannah, Georgia, had no human relations problems. Then a huge atomic energy plant was started and thousands of new people moved in. These people and the Federal government began large scale operations in accordance with employment and human relations patterns completely alien to Georgia practice and tradition. The effects of this plant on human relations spread into scores of towns and into at least two states.

There is now no American community where police forces are justified in complacently assuming that they will have no human relations incidents or conflicts. Where the police are unprepared, the beginning of trouble occurs unnoticed. Before anyone realizes that any problem exists, the problem becomes a crisis. Then the question arises: What do you do in a crisis?

7. *The Myth that in time of crisis you must move slowly.*

The most apparent myth of all the mythology in the human relations field is the myth that in time of crisis you must move slowly. Only where there is no crisis can one afford to move slowly. It is true that times of crisis call for sound judgment in order to prevent disaster but, above all, they call for action. He who is untrained and unprepared may aggravate a crisis by acting wrongly, but he will also aggravate it by failing to act, or by acting too slowly. It is the threat of a major riot which creates a crisis in human relations. To move slowly when riots threaten is to invite riot.

The full answer to the myth that you must act slowly in times of crisis lies in the analysis of disorder and in an understanding of its control. Such an analysis is necessary for the sound judgment which is most needed if one is to act swiftly in time of crisis, for one must also act effectively. ☆

John Stewart
from
Joseph D. Lohman

SAN FRANCISCO POLICE DEPARTMENT
COMMUNITY RELATIONS UNIT

REPORT OF TRI-DISTRICT GENERAL PUBLIC MEETING

POTRERO-NORTHERN-PARK POLICE-COMMUNITY RELATIONS COMMITTEES

HALL OF JUSTICE AUDITORIUM, DECEMBER 11, 1963, 8:00 P.M.

Guest Speaker: Joseph D. Lohman, Dean of School of Criminology, University of California at Berkeley

Chairman B.C. Coleman opened the meeting and led the group in the Pledge of Allegiance to the Flag. A period of silence was observed in respect to the memory of our late President John F. Kennedy. Reverend Waldo Williams, Associate Minister of the Macedonia Missionary Baptist Church recited the invocation.

Present:

Section Chairmen	
Mr. Leland Guth, Chairman	Golden Gate Park Police District
Mrs. Mary Scharff	San Bruno-Silver Terrace Area
Mr. James E. Wilton	Golden Gate Park Police District
Mr. Herman Aron	Northern Police District
Mr. and Mrs. Alton Jones	Bayview Area
Mr. Edward Collins	Northern Police District
Mr. William Angeloni	Crocker Amazon Area
Mr. Thomas Cleary	Crocker Amazon Area
Mr. Robert Del Tredici	Potrero Point Area
Mr. Roy Cline	Hunters Point Area
Mr. and Mrs. Wm. Montgomery	Potrero Hill Area
Mrs. Julester Grant	Sunnydale Area
Mrs. Lois Bergstresser	Northern Police District
Clergy	
Reverend W.T. Adams	Second Union Baptist Church
Reverend Waldo Williams	Macedonia Missionary Baptist Church
Reverend E.A. Vosseler	Temple Luthern Church
Members of the School Department	
Dr. William J. Cobb	Human Relations Officer, S.F. Unified School District
Mr. John W. Welch	Polytechnic High School
Mrs. Marie D. Welch	Abraham Lincoln High School
Mr. John Summerfield	Polytechnic High School
Mr. Leslie Russell	Child Welfare Department
Guests	
Miss Gertrude Kanner	Golden Gate Neighborhood Center
Mrs. Geraldine Fullwood	National Council of Negro Women
Miss Helda Flemming	Western Addition Council
Miss Jean Hamlet	Catholic Youth Organization
Mr. Gordon E. Misner	Police School, San Jose State College
Mr. Jeri Rothshield	Police School, San Jose State College
Mr. Peter M. Bower	Buchanan Y.M.C.A.

Other City Agencies

Mr. Charles Faulkner	S.F. Recreation & Parks Department
Mr. Joseph Misuraca	S.F. Recreation & Parks Department
Mr. Ben T. Okada	S.F. Juvenile Courts

Police Dept. Members of the Committees

Thomas J. Cahill	Chief of Police
Capt. Charles Barca	Commanding Officer, Potrero Police Dist.
Capt. F. P.Harrington	Commanding Officer, Northern Pol. Dist.
Lt. High Conroy	Park Police District
Lt. Dante Andreotti	Commanding Officer, Community Rela.Unit
Officer Manus Duggan	Park Police District
Officer Peter Zelis	Southern Police Station
Officer David R. Roche	Community Relations Unit
Officer Hadie Redd	Community Relations Unit

The Chairman then introduced Thomas J. Cahill, San Francisco's Chief of Police. The following remarks from the Chief are quoted in part: "May I express my appreciation for the mutual effort that has been put forth by the Community Relations Committees to solve the problems that are with us, and for their efforts to make this a better city in which to live. The shadows, brought about by the death of President John F. Kennedy, still linger about us, and will continue to do so until the sunshine of the future dispels them. We must dedicate ourselves to the thought that President Kennedy did not serve this nation in vain. He gave of himself in order to serve us when he could have otherwise lived a life of ease and luxury. In San Francisco we have experienced problems and we will continue to have problems; we pray that we can handle them in the future as we have been able to do in the past. If we can open our hearts and learn to love one another we can solve our problems and approach the coming year with a totally different viewpoint."

The Chief concluded his remarks by thanking Mr. Joseph Schneider for his time and conscientious efforts during the past year to provide the public address systems at Community Relations meetings.

The Chairman then presented Lieutenant Dante Andreotti, Commanding Officer of the Community Relations Unit, who introduced the guest speaker of the evening, Joseph D. Lohman, Dean of the School of Criminology at the University of California at Berkeley. The following text of Dean Lohman's address is quoted in essence:

"I wish to congratulate Mayor-Elect John Shelley for his decision to retain Tom Cahill as Chief of Police. If we were to identify the leaders of crime syndicates in the United States during the past forty years we would find a total of about four names representing these syndicates in the contry. However, during this same forty year period the citizens of our country have had occasion to place in office and remove some 25 chiefs of police. Thus we can see that there is continuity in the underworld but not with the citizens. I am happy to see that the citizens and the Mayor-Elect of San Francisco have abandoned this outmoded concept that the Chief of Police must be changed with the change of political administrations.

"The efforts of the Police Department in San Francisco represent an imaginative method of bridging the gap between our citizens and the police. This activity defines the role of the police in positive rather than in negative terms. What are confronting us today are the products of a different time and place who are ready to bring upon the present scene a condition of action which they insist must be met, and which the world is not disposed to do. One-third of the population of our cities today was not born or raised in the cities. The people representing this one-third came for the most part unprepared to live in the cities. Again as much as one-third of the population of the cities in the United States are born either in foreign lands or are the sons and daughters of those born in foreign lands. We have been disposed to meet the problems of these people solely by instrument of law and order. The policeman's lot is, in the last analysis, predisposed as to whether the people are with him or against him. When they are against him his lot is not only unhappy but impossible. The police can only enforce the laws of the community if the people support them.

"What was once the problem of the marginal youngster or the underprivileged has of necessity to be redefined. It will not be redressed at all if we speak of it only as a problem of a few. This problem is so great that we must define it in collective terms rather than in terms of the individual. Between 1950 and 1960 the twelve largest cities of the United States (and this includes San Francisco and Los Angeles) lost over 2,000,000 Negro citizens. This cannot be spoken of as being the traditional transition of neighborhoods. The numbers are so great, the area so immense that we must characterize this as something different. That which confronts us today can no longer be called a few neighborhoods in transition. We are in truth confronted with a change of such proportions that we must indeed see that our cities are in transition. When officialdom speaks of spreading slums they must coin such new phrases as 'the widespread gray areas of the cities.' The existence of slums is now equated with someth more than geography as it was in the past. These areas are not inhabited by one single ethnic group.

"We will not get anywhere with the problems of today if we are less than candid. We must share such confidences with one another so that we can speak plainly and frankly. When law enforcement officers today refer to teenage delinquency and crime they are required most frequently to refer to juvenile delinquency amongst the non-white population. I am not suggesting that there is any relationship between ethnic identification and delinquency, but I am suggesting that we are confronted in our time with the happenstance of crime amongst particular minority groups, which are subjected to those conditions that make amongst them delinquency and crime readily apparent. When welfare agencies talk about increasing caseloads, when we debate the question of illegitimacy and the excessive expenditures of funds for aid to dependent children, what is the ominous undertone? -- minority groups! Whether anyone tells us these things or not, this is the dialogue; this is what is being talked about. Our cities are not absorbing these minority groups as fast as the minority groups are moving in upon them. The cities are too often occupied with such things as upgrading real estate values and too often disregard the essential human values. We hope that these people will learn in their own way, hope in their own way and somehow or other compose themselves to this new way of life. We have begun to recognize in San Francisco and in other cities that it cannot happen fast enough in such ways as to make it possible for us to eliminate our difficulties.

"In Los Angeles County the Negro population jumped sixfold from 1940 to 1960, from a population of 75,000 to a population of 464,000. In Chicago in 20 years the increase jumped from 277,000 to well over 825,000; 80% of the Negroes in Chicago live in communities in which 80% of the people are non-white; 89% of the whites in Chicago live in communities that are only 5% non-white. You may ask how this can be distinguished from our experience in the assimilation of other ethnic groups. The point is that none of the others had the point of identification that the Negro has, and his experience in the past is unparalleled in comparison to other ethnic groups. The goals, and the roads to those goals are available to the minority groups today. The earlier relationship of white with the non-white in the history of this nation established conditions of family disorganization, low status, absence of dignity, obvious and apparent conditions of servility, attendant promiscuity and even the chronic and persistent embracing of violence. This is self-borrowed out of an earlier superordinated and subordinated relationship.

"The insensitive relationship between the suburb and the city, the insensitive relationship of those who are well adjusted within a community to those we find on the other side of the fence, all of these are instances of our failure to recognize our different conditions as each part of the same whole. That is why the police appeal to the community as a whole and not only to those who are especially in need of police service. The police cannot be successful if guilt and shame are not on their side. A lot of us are disturbed by the fact that young people do not care any more, or are irresponsible or have no respect for law and order, and we make desperate appeals that they respect the law, and that they be encouraged to respect their elders. In short that they be encouraged to be respectful. It is a mistake to say that they are not without respect. It is a mistake to assume that they are not respectful. The issue is that they have been so isolated and left so much to themselves that they are only respectful to the standards of their peer groups. There is a sense of shame, there is a sense of guilt in the least of us, and it is a mistake to suggest that it is only present in our circle. It is there, but with reference to standards and norms that have escaped us. We must integrate these people if we expect them to respect the standards and norms of the rest of the community. Our young groups have lives that even the parents of these youths know nothing about. They have norms and values and criteria of success in which the rest of the community has not engaged, and to which they are responsive; and when the police find them in conflict with the law no amount of admonition or finger shaking can rival the authority and leadership of those groups. We must bring them into the circle of the law, and the only device by which this can be brought about is by the collective force of the community itself and by the non-police agencies of the community to introduce these youngsters to the standards and the broad life of the community so as to liquidate the sub-culture to which these young people en masse have been exposed.

"If you think that this is the condition of a small segment of the community I would advise you to look into the suburban areas to find the existence of sub-cultures that are unknown not only to the adults as a whole but to the parents themselves. The police cannot correct this problem, the police cannot make up for these deficiencies, the police can only be effective if the adult community addresses itself to these problems. The adults must be concerned with the welfare of the children, with their play life, and their education. The problem is with us now and has been for a longer time than we realize. Each of our neighborhoods is a part of the community as a whole, and each of us has some measure of that whole. We are living today in a mass society, a society that is characterized by impersonal relations, by detachment, by life amongst strangers where even our neighbors are strangers to us. Each of us is in some measure alienated and estranged from each other. We can only be related to one another by a deliberate and calculated effort.

"This was not the case in the past. In the cities we do not know each other nor are we disciplined by each other as we were in the countryside from which we came. Some time ago a psychiatrist, a psychologist and a sociologist studied the people who live in the high-rise apartments in midtown Manhattan. They reached these conclusions: 80% of them exhibited some type of mental or emotional disorder. The study disclosed everything from simple neuroses to schizophrenia. However, comfort was found in the fact that only 25% of the population had severe symptom classifications, and 58% of those subjected to the study were in mild or moderate categories.

"We are all part and product of something that is new, something that causes us to appear queer and abnormal. It is the standards that we measure ourselves by that are inappropriate. These people were not born in these high-rise apartments, they are part of the one-third of the people to which we referred earlier who came from the country. Somehow or other they do not act right in this context so they are diagnosed as queer and abnormal. The teenagers in this context require something more than merely being taken into custody or put into institutions. It is important to note the conditions of the community. We are paradoxically a nation of the very old and the very young. With our increasing numbers all of the age groups do not increase at the same rate or the same amount. A lot of people are living longer because of greater and better medical care. This is a very different kind of community than one to which we were accustomed in the past. We will not solve our problems by merely ordering and forbidding techniques; we will solve them by mobilizing the community and directing its attention toward servicing our population in such ways as to reduce its marginality so that it will be possible for the police to be successful.

"The real import of these police-community relationships is to focus the community on the mobilization of its resources and to call for the organization of services that can indeed deal with the marginal condition of these young people. With these conditions we see changes in our cities and changes in the social class structure with new groups at the bottom. Police cannot become social workers or educators. They do not have the time nor should they have the inclination to take on the obligation of the rest of the community. But because the rest of the community has failed, the image of the police has suffered. People have weighed heavily on the police on the assumption that because the police enforce the law they are at fault with reference to all those matters in which the community itself is lacking. There must be someone

to mediate the police and young people, not just in terms of discussion, not just in terms of public relations, but in terms of function. We must give young people an organization of our life, services that will make it possible for them to subscribe to the norms and values which are represented in the law. I was a law enforcement officer at one time, and one of the things that I learned as a law enforcement officer was that the majority of youths who were arrested were of school age and should have been in school at the time of their arrests. These youths were rejected by the social system of the community of which they were a part, and the school systems of which they were a part. The community of which these individuals were a part was served notice that deprivation generates hostile acts which are committed to secure for the individual gratification of his wishes and aspirations. The community merely struck back at them when the arrests were made. There are other ways to be deprived than not to have a roof over your head, or not to have sufficient clothing or food. In the great massive life of the cities where kids live in the streets you can be deprived psychologically by lack of stimulation andincentive. A man does not live by bread alone. You are aware, I am sure, that Americans have always had an excessive reliance on arrest and incarceration as a means of dealing with crime anddeliquency. The police can give security to the cities if there is indeed some measure of conditions to meet the needs of human existence. We cannot give people the answer to their problems merely by employing arrest and detention when what they need is bread and psychological substance.

"Many people, when asked why crime is on the increase or the reasons for the commissions of horrible crimes, respond by saying that police are not adequate to their tasks; put more men on the streets, we say. What do we do? We shrug out shoulders and for a few days put some more men on the streets because it is thought that this is what has to be done. Many people think that the single most important variable in the amount of crime is the deployment of the police. Law enforcement is not the only important variable in reference to the repression of crime. It is not as important, in fact, as the failure to deal with the other variables. From time to time we are shocked into action by the report of some horrible crime, and it is always the police who are held accountable. We arrest and detain many individuals, and then return them to the same groups who were the cause of their deprivation. There will come the day when we will take a very serious, calculated view of the removal of anyone from the community on the score that we may be exposing him to something for which we had not bargained.

"The heartlands of our metropolitan centers are becoming the provinces of our new minorities. Many of them have come out of segregated and discriminatory experiences in search of freedom and opportunity. In terms of residence they may find themselves more restricted than in the older pattern. The police are better aware of this than most sections of the community, and what is often attributed to them are the shortcomings of the rest of the community. It is not only crime that we must be concerned with, but the drift to the suburbs, the transformation of our central cities into vast slums. There are profound political implications in these movements. In many of our cities today the balance of political power is changed, and this may be for good as well as bad. To ignore the social and economic disabilities under which these populations are laboring and to try to contain their volcanic eruptions with repressive and only repressive, police measures can only have the effect of fanning the flames which are smoldering in the

in the core of our great metropolitan centers. We are at a critical juncture in American community development. The resettlement of the American community and the emergence of the new metropolitan distribution is not just a change in the numbers of our population, nor is it an enlargement of their geographical location.

"We are a part of a new massive community, a thing of which we are a part, and for which each of us has a responsibility. We are acquiring a whole new set of human relations. It is these human relations that are the task of education, welfare and political life. I would suggest that a society of people who live in a mass condition, which is a society that is committed to and living under the equalitatian ideal, and in the light of the distribution of people in this new metropolitan context, we must all see that we have community responsibilities. If we do not, this community of which we are a part will drive us in the direction of those that wield power at some remote point. The dilemma of today is the dilemma of everyone! We must certainly ask the leaders of the community of which we are a part, and ourselves, where we can accept responsibility forthe community and at what point. If we act in a way which does not give us identity with the community, we will be trapped by our language and fail to see how our communities are shaping our lives in the direction of the products which do not please us. Our communities are a new kind of community. Delinquency and crime are projections of this new kind of community. Crime is always the lengthened shadow of the community. So is it a term in reflection of the failure to see that community as an interactingwhole. In my judgment the failure to see that community is the major problem facing us today.

"The great problems in our communities are the way in which subcultures are being generated, subcultures of young people, subcultures of racial groups, subcultures of the lower class economic groups, and that they have a peculiar and special product. We will not treat that product only by repressive measures. Criminals are the projections ofthe groups of which they are the products. This is the relevant level of condition of action. This is the condition for education, for welfare, government, and indeed for law enforcement. Police-community relations programs only open the door to engaging the crime problem. The programs can and should divert attention away from the police as the prime factor with reference to the crime problem. By bringing these problems to all the community we may some day see the end to throwing stones at policemen and firemen."

TECHNIQUES OF ARREST AND CROWD CONTROL

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The tasks of dealing with human relations so as to preserve law and order involve the police in questions of tactical procedure and of techniques designed to create the optimum conditions for arrest and crowd control.

This in turn raises other questions of basic importance, for it is not simple police efficiency that we would seek to encourage, certainly not efficiency without regard for the acceptability of the means employed. Under the American legal system, we are concerned not only with securing the peace of the community but by such means as are respectful of the rights of every citizen. Hence, we must be certain that police practices are in accord with the procedural rights guaranteed to every citizen under the language of our Federal and State Constitutions. In short, in ways that preserve and advance the rights of all individuals and groups.

The law in these questions may be examined at several levels, since Federal and State laws, as well as municipal ordinances are involved. We will not attempt to deal with more than a few illustrative examples of laws below the Federal level since these vary so much from jurisdiction to jurisdiction. Insofar as the more localized legislation is merely an implementation of Federal law, which has paramount application throughout the United States, the Federal laws are of most basic importance.

The Fourteenth Amendment to the U.S. Constitution brought to the citizens of all local jurisdictions the protection of Federal law. This was accomplished in the first part of the amendment which reads:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the states wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

As interpreted by the Supreme Court in repeated decisions since around 1880, the "equal protection" clause means that no person shall be penalized differently from other people because of his race, nationality, religion or other group identification.

The "privileges and immunities" mentioned here are those "civil rights" covered in the first ten amendments to the constitution. The First Amendment, notably, provides for freedom of religion, of speech and of the press, and "the right of the people peacable to assembly". The Fourth Amendment protects citizens, and their property, against "unreasonable searches and seizures". The Sixth Amendment, among other things, guarantees the accused in all criminal prosecutions the right to "a speedy and public trial". The Eighth Amendment protects him from "cruel and unusual punishment".

The Fourteenth Amendment has also been interpreted by the Supreme Court to provide citizens with equal protection in rights not mentioned in the U.S. Constitution, by provided in State or local law. For example, a California law limiting the right to employ persons of Mongolian descent, and a Texas law limiting the rights of Negroes to vote in a primary election, have been declared unconstitutional. The Supreme Court in several cases has ruled that convictions of Negroes cannot be upheld where they were systematically excluded from juries, or where such violations of due process occurred as failure to provide adequate access to defense counsel or to procure witnesses on their behalf.

The Fourteenth Amendment has been implemented in detail by the Federal

Civil Rights Code. The following is the section on "equal rights under the law":

> "All persons within the jurisdiction of the United States have the same right in every State and Territory to make and enforce contracts, to sue, by parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to not other." (U.S.C.A., Title 8, Section 41)

This section of the Civil Rights Code has been repeatedly involved when it has been alleged that minority groups have been discriminated against by public officials. In the case of U.S. vs. Blackburn (24 Fed. Case. 1158) certain law enforcement officers were charged with conspiring to deprive certain colored persons of the equal protection of the laws, when these colored persons were the victims of crimes and outrages commited by offenders whose identity and whereabouts were known. The charge was that the law enforcement officers failed to arrest the offenders and bring them to trial because the victims were colored. Provision is made for a fine of not more than $1000 and imprisonment for not more than one year for such deprivation of equal rights under the law.

Provision is also made for recovery of damages by persons who were injured through being deprived of their civil rights. The pertinent section here reads:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, and in equity, or other proper proceeding for redress." (U.S.C.A., Title 8, Section 43)

A number of cases have appeared in the Federal Courts where action under the above section was brought because it was charged that discrimination had been practiced in the enforcement of an otherwise valid statute. In such cases the courts granted relief where it was shown that a State or municipality had adopted laws which appeared to apply to all persons alike, but which the

injured parties claimed were systematically enforced against only a particular race or class of people (Yick Wo vs. Hopkins,118 U.S. 356: Ah Sin vs. Whitman, 25 Supreme Court 756)

These sections have not been used as extensively as might have been expected by some at the time the measures were enacted. One reason for this has been that the Supreme Court, in interpreting them, has placed one qualification on the statutes. This qualification is that the official charged with the violation of these provisions can only be convicted if there is evidence that he "wilfully" committed the violation. This does not mean that he wilfully held a citizen as a prisoner too long, or beat him up, or failed to arrest an assailant of the citizen, but that he wilfully did these things or other things in order to deprive the citizen of his Federally protected rights.

State laws in the civil rights field include thoseagainst discrimination in private businesses which are operated for public use. These laws, which exist primarily in the Northern and Western states, ben discrimination on the basis of racial, religious, or other group affiliation in the provision of services by hotels, restaurants, clothing stores, taverns, theaters and so forth. Many states, such as Illinois, specifically penalize any issuance or display of literature declaring a policy of discrimination. There is further legislation in many states against discrimination in hospitals, at least for emergency treatment, and against discrimination in any state, county or city-owned facilities.

In May 18, 1954, decision of the United States Supreme Court banning school segregation was phrased to call for protracted hearings on the implementation of the ruling. The time extension was made in anticipation that conformance with this decision too would be associated with disorder and conflict, particularly if it were enforced crudely.

All laws and decisions which affect human relations between groups of citizens impose duties on the police. The duty to afford protection to members of a minority group in the occupancy of their property, or in their use of a public facility, is in accord with the traditional function of the police in guarding the life or property of any citizen.

These laws and decisions do not impair the principle that in our government all officials as citizens, are free to have their own feelings about various groups, their own likes and dislikes. But Federal, state and local officers, in administering their governmental functions are precluded by the Constitution and by the Federal Civil Rights Code from recognizing race, religion, nationality or other group affiliation as a relevant factor in their enforcement of the laws against citizens, or in their personal views, while acting in their official capacities, with respect to any other citizens, the officials must be blind to differences in the color, politics or other such affiliation of the citizens.

Legal Aspects of the Prevention of Riots and Disturbances

In order to operate so as to prevent disorder, the police establishment needs to know what legal basis upholds its operations, and what judicial controls such as fines, imprisonment, warrants and bonds -- will reinforce police actions. Any police official who recognizes and respects the rights of the individual, and who is anxious to preserve and advance them, will realize that the essence of correct and responsible police action is rational discussion and friendly interpersonal relations. If assigned to a potential riot scene, such a police official would be especially concerned with preventing mob action, a mob promotes unreasoning hate and violence as a means of deciding an issue. What legal backing could such a police official procure in this situation?

The first need in determining which legal controls to apply in a concrete situation is to recognizewhat type of crowd disorder you are dealing with. The simplest type of aggressive mob situation is that which is in the earliest stage of collective excitement with milling or action just starting. Such a mob is still localized. It is bent on getting at specific people or property in a particular place.

The need for prompt dispersal of even such a localized mob was recognized in our oldest Common Law. The justice of the peace was required to read the Riot Act, and to demand the dispersal of the mob. Those who failed to leave the mob became felons. The statutes of some states impose similar duties on specific officials today, for example, "... any member of a city police force and any member of the state police... in the name of the people.. to command all the persons so assembled immediately and peacably to disperse.."[1]

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1. Mich. Comp. Laws Sec. 750-521 (1948). Also see Ala. Code tit. 35, Sec. 163 (1940); Cal. Pen Code Sec. 726 (1949); Ill. Ann. Stat. c. 37, Sec. 446 (1935); Mass. Gen. Laws c. 269, pl (1932): New Y. Criminal Code Sec.106.

The police officer neglect to suppress a riot is a crime in many states.

The law, in many states, also preserve the Common Law tradition of empowering peace officers to summon citizens to assist them in law enforcement, and makes it a criminal offense to refuse to comply. These laws suggest that prompt action by a single policeman, familiar with his legal powers and duties, might often nip rioting in the bud, and that the "show of force" can make unnecessary the "use of force". The police officer need not literally read a riot act, but acting with confidence and sound judgment, based on the authority and guidance which the law provides for him, he must effectively oppose the mob with fear of the authority of the law. This was the purpose of the Riot Act in Common Law.

Nowadays the recruitment of a posse is often impractical and may even

be dangerous. Promot actions by the police is certainly preferable. Only where riots develop to the stage of social contagion and become widespread in a large area, with no specific objective, may newly deputized but carefully selected peace officers be a useful adjunct to a police force.

The supplementation of police units by units of the National Guard or the branches of the Armed Forces is much preferable to this, however, as it has the advantage of providing a show of clearly official and professional government force which achieves more respect than lay citizens can command.

A decentralized riot over a large area, generally involves small groups who often use the automobile for quick attacks and escape. This is guerilla warfare on a large scale and it threatens the most basis bonds of the citizenry to their government. This type of violence should challenge police leaderships to maximum police discipline and the best possible law enforcement. An officer who stands by while a vicious attack is being made is violating the criminal law and may himself be prosecuted as a criminal. An officer who arrests rioters of one group and closes his eyes to the aggressions of the other, is violating the equality of citizens before the law. He is encouraging violence, in which each group will try to more than get even in the pain and destruction which it imposes on the other group. The total destruction becomes catastriphic. Such a breakdown of the community can be prevented if there is full knowledge that the many legal penalties against police misconduct and nonfeasance will be increasingly demanded not only by the most injured parties in a riot, but by the police and executive officials as well.

The seriousness of mob disorders has been recognized in the law by the criminal penalties against two less serious situations which tend to create riots, namely, unlawful assembly and riot. In some states three or more persons gathered for an unlawful purpose constitute at Common Law an unlawful assembly. When such a group moves to carry out its criminal purpose

their action constitutes a riot, and if they carry out their purpose, their action constitutes a riot, either of which calls for criminal penalties. The statutes of many states preserve these Common Law distinctions with minor changes, for example, as to the number of persons participating.

Regardless of how grave mob violence and rioting become, the use of excessive force is illegal. There is no legal excess, however, to the show of force, which can eliminate the need for use of force. While it is true that a riot is a maximum challenge to the efficiency of police officials, it is also their greatest opportunity to demonstrate the effectiveness of professional police methods. The police force should be sufficient to disperse, remove or take into custody, as appropriate, rather than to do bodily injury. Of course, the latter may be made necessary in self-defense, and in the achievement of dispersion, removal or arrest, if the show of force is insufficient. Riot clubs and other special riot equipment, such as tear gas, are all designed to provide maximum physical pressure with minimum bodily injury. However, the need for using these devides is usually eliminated by the mere presence of an adequate number of uniformed police officers, properly trained and equipped to effectively order the members of the mob to disperse, and patrolling actively so as to prevent the mob's regrouping.

When a riot develops to large-scale aggressive violence, the house is already on fire. The principal objective then becomes to extinguish the flames by sound methods. Of necessity, the police will have to be selective in making arrests. It will be physically impossible to arrest all offenders, let alone to spend the requisite time in court. The situation therefore demands realistic decisions. If a choice must be made from a large group, not all of whom can be arrested, it is imperative that those arrested should be the most flagrant offenders. It is also imperative that no partiality be manifested in the selection of those to be

arrested, particularly where the participants in the disorder represent separate and distinct groups. Finally, it is necessary to assure the procedures which make the arrests legal, and capable of being upheld in court.

Special Problems in Arrest Practices

Turning from the legal duties to the actual operation of police forces, we find hige gaps in some areas. Such gaps between the ideals of the law and actual conformity run through our entire society, and include the decisions of judges and the actions of citizens as well as the functioning of police forces. The inconsistency of some police practices with the legal duties of the police are of outstanding importance because, unlike the courts, the police officer is the concrete living law as it meets John Q. Citizen every day.

Furthermore, a police department must recognize that it is but one arm of the machinery of justice. There are the courts and the legislature as well as other agencies of the executive arm besides the police. Wherever the problem of determining what law shall be controlling exists, as in the face of contradictory law, contrary interpretations, or overlapping jurisdictions, then the greatest contribution that the police authorities can make is to provide the machinery for introducing their problems to the courts for a decision. The police are then giving service to the notion of the rule of law, that these issues will not be decided on the streets. When techniques are developed in concrete situations which more or less automatically transfer these problems from the streets into the courts, where clarification with reference to the law can take place, the police are less exposed to the danger of becoming involved on one side or another in a difference of opinion. Furthermore, order is more easily maintained when the law becomes clear and definite.

From the viewpoint of efficiency, police lawlessness is the worst possible practice. It builds the wall between police and public higher than ever. Insofar as this wall exists, the police are denied information and sources of evidence which otherwise would be volunteered. Every experienced police officer knows the value of such tips and testimony. Disrespect for the police and for the law is demonstrated at its maximun when riots occur. If the police respect the rules of law which govern their particular jobs, and if they function impartially within the limits of those laws, they will win the public respect and support that can be such a great adjunct to the accomplishment of police goals. Detention must be kept to a necessary minimum, and must be transferred from police to judical authorization and control as quickly and completely as possible.

Combining Legality with Efficiency in Mass Arrests During Rioting

In the aggressive crowd, in the midst of a disturbance, it is difficult enough to make sufficient arrests and removals of agitators to stem the violence, without the additional "red tape" burden of properly recording and filing the basis for the arrest, in order to make it legal. Police departments can handle this problem most competently if they have special procedures, planned carefully in advance, for the processing of arrestees under mass riot circumstances.

It is important, to have a clear-cut concern that each arrest, and its exact circumstances, witnesses, and other legally relevent details are preserved in a legally adequate record. These operations must be carried out with precision despite all of the turmoil and despite the complicated intermediate processes in arrest and booking, whereever there is a mass situation. The distinctive requirement is the setting up of a procedure, in advance.

The history with reference to public disturbances generally is characterized by absence of this kind of precautionally concern. Because mob disturbances are of such proportions , because they create so much confusion, because they may involve joint jurisdictions and authorities, there often occurs a tremendous interplay of law enforcement personnel who make very vigorous gestures by way of coping with the situation, but have no definite effects.

Grounds for Preventive Arrest at the Earliest States of Mob Disturbances

Of the arrests and charges which a police officer can make in a mass disturbance, those for assault and battery, and for disorderly conduct, are the most frequently used. In this connection, the peace bond is a legal measure which deserves much wider use, since it can be employed before serious violence develops and spreads. At present it is used mainly in family disputes and in rural areas, but it is applicable to all types of situation where one person threatens another with injury to his person or property.

A number of other legal authorizations exist for checking mob actions in their very earliest stages. At Common Law, a privately made threat was not criminal unless it amounted to extortion under many modern state statutes "disorderly conduct" charges can be applied to a threat made in public in a manner which tends to provoke a breach of the peace, such as an insult or profanity towards another person in a public place. The Common Law crime of soliciting or inciting another person to commit a crime is much more serious than disorderly conduct, and incitement to riot is one form of that offense. The laws against conspiracy to commit a crime apply to incipient criminal conduct on the part of two or more persons acting collectively, and this has been the basis for conviction on charges of conspiracy to commit a breach of the peace. Police assigned to an area

where intergroup tension and friction are prevalent should be familiar with these legal controls which, if soundly employed, can prevent serious trouble from developing and will promote respect for law and order.

Minority Group Arrests

Police practices in arrests of Negroes and members of other minority groups in the United States constitute a special problem. By this we mean not that such arrests should be different from other arrests, but that they frequently are different. Wherever there is an irresponsible and reckless partiality on the part of police officers in dealing with minority groups, this not only violates the democratic principles of equal treatment under law, but can be a cumulative source of inter-group tension from which disturbances and lawlessness develop. Arrests of Negroes are especially noteworthy. The Uniform Crime Reports indicate that about six times as many Negroes are arrested as are native-born whites.

Part of the difference in the arrest rates for different racial groups reflects the actual criminal behavior of the groups represented. Insofar as this is the case, arrest is justifiable, and the justification is not affected by explanations for greater Negro crime, such as racial difference in economic means, residential opportunities, stable community organization and other resources. However, in the light of what we know about arrests of Negroes, it is likely that some of the statistics are not accounted for by higher Negro crime rates. Some arrests occur because Negroes, as individuals, are on the average relatively under-privileged and impotent in political and social influence.

There is an opposite aspect to the Negro arrest picture. This is insufficient arrest of Negroes, where the arrest is needed to protect Negroes from aggression by other Negroes. This discriminatory law enforcement nurtures crime in the Negro community. As criminality grows there,

however, it journeys elsewhere in the community for much of its prey. Finally, the respect of all Negroes for the law deteriorates if they are forced to the conclusion that it is "white man's law" only. There is a great need for more legal arrests, as well as for fewer illegal arrests, in most Negro districts.

Equal law enforcement by the police, in dealing with all racial and nationality groups, has a morale-building effect in the minority group which is of the greatest value in critical situations. Day-to-day law enforcement is the basic determinant of the respect which the law receives, and thereby, of the quality of law enforcement possible in dealing with race conflicts and riots.

Even more important are the effects on police officers themselves when they are forced to set their standards of law enforcement by considerations which are extra-legal. Let us take a good example of this the tolerance of vice areas in minority group districts. Sometimes sheer humanity, or the poverty of the people, are given as a reason for this laxity. But these are probably not the real reasons. The first effect of this situation on the police officers is that they form habits of making decisions as to what will be permitted here, irregardless of the law. They then become a law unto themselves. This is the vicious double standard of law enforcement which, if it starts in one place, is a habit likely to be carried over into all their police assignments.

A second effect of adouble standard of law enforcement for, let us say, a vice center in a minority group neighborhood, develops because those who patronize the gamblers and prostitutes come from outside the area. There then occur crimes which are marginal to the vice area. If their disorderly conduct, assault, indecency or more serious offenses are not curtailed in the vice area, you cannot avoid being permissive with them when their illegal conduct continues on the edge of and eventually completely outside of the vice area.

The police officer must maintain a single standard and keep himself clearly in the service of the wider community. If he does this, although particular groups of indivuals will come to him for assistance in their conflict with other groups or individuals, he can conduct himself in such a manner that those on both sides of the conflict will at all times regard him as operating in the interests of the community, in the name of the law. The police officer whose conduct suggests that one group and all other groups recognizing this, and eventually, because of this, the department is likely to have the entire community down on them.

The police officer must judge quickly what the danger of immediate disturbance is in a situation, and where there is such danger he must move first by the show of force against those threatening disorder, then, if necessary by the use of force against those threatening disorder. It should be remembered the police use of force need not necessarily be against a demonstrator it may be to protect the demonstrator. Where there is a legitimate gathering and the actions of the demonstrators, through provoking disagreement, do not challenge or violate the law, anyone threatening violence is in violation of the law. A crowd which is clearly threatening, where the demonstrators are not clearly inciting, should be dispersed. The agitators should be moved out and should be kept from regrouping. They should be arrested wherever they persist in attempting to organize violence, as well as where they actually commit violence. Whether the police officers agree with the ideas of the demonstration of the opposition is irrelevant. The only pertinent question is where the actors are in the words of the Supreme Court, builty of "assault or threatening of bodily harm.... truculent bearing....intentional discourtesy...personal abuse, "or clear and present menance to public peace and order." The police officer's acute judgment, in practical situations, is depended upon to give these

principles concrete meaning.

A prime value of our society is the sovereignty of the law. One basic principle of our law is that criminal law must be strictly construed. In freedom of speech, of plainly obscene language by the speaker or by someone in the crowd against the speaker is used, if there is a man-to-man insult in terms of common fighting words, or if the speaker or someone in the crowd is directly inciting immediately to commit violence or other definite crime, the duty to arrest the offending party is clear. Where the threat of violence is not manifested, where disagreement does not involve incitement or indication of violence, and where the crowd involved does not seriously impede traffic, dangerously congest a hall, or create any other danger, it may be appropriate merely to stand on the ready for signs of violence, but to let the fanatics howl as long as there are no such signs. The presence of calm officers protecting even fanatic speakers from a disagreeing audience--even if the police officer's opinions and feelings are those of the audience--provides an eloquent lesson in the dignity of the police. Again, the show of adequate force in readiness is essential to prevent the need for force.

A serious legal problem concerns arrest in a house or business establishment followed by search in the area which is under the arrestee's control. Two questions involved are first, of course, where there is reasonable grounds for a search, and second, where there is opportunity to obtain a search warrant without interfering with the success of the search. It is the second point which prompts dispute. A majority of the Supreme Court has held that the reasonableness of the search is sufficient justification for the search, even if there is not reasonable opportunity to secure a search warrant (United States vs. Rabinowitz, 339 U.S. 56, 1950). It is evident from the stand of the minority in this opinion, and

from the majority ruling itself, that where a search warrant can be secured without great loss in efficiency, it should be secured. Where there is a choice, the duty of the police in our kind of society requires them to follow that legal course which conforms most to the democratic values.

The flagrant reespasses of the King's officers were among the major causes of the American revolution. The federal courts and 17 states exclude evidence acquired by unlawful search and seizure, while the rest of the states admit it. Sharp differences of opinion arise in borderline cases. This emphasizes again the need for daily discipline by the police, and thoughtful conduct, so that neither their actions nor their failure to act bring discredit to the force.

The maintainence of order in today's world requires police experts and professionals who, must themselves be subordinated to public control. Without police experts we cannot solve the complex problems of aggression and disorder in our society. If the experts become insensitive to the law and to other forms of popular control, we are exposed to so-called efficient but assuredly not professional treatment. Police concern with dangers of violence, prompt police action to prevent violence, and only minimum legal use of force by officers of the law, all strengthen our way of life. They increase the mutual respect and support of the police and the public.

THE ROUTINES IN HANDLING HUMAN RELATIONS RESPONSIBILITIES

As a concluding note I would like to list and to describe briefly some of the functions and procedures that will be routine in any police department which displays maximum competence in handling its human relations responsibilities.

THE POLICE DEPARTMENT'S INTELLIGENCE FUNCTIONS

It is, of course, well known that the police are in important intelligence agency in connection with every type of police activity. The Bureau of Identification with its fingerprint files, the modus vivendi records, and the pawn shop detail, for example carry out vital intelligence functions for a police department in its fight against crime. In the human relations field also, the police have important intelligence functions.

The police department is in an unusual position to spot those localities in the community where tension is rising, and to make known the fact in responsible circles. We must have such knowledge in order to have adequate police planning, and in order to mobilize all possible resources to favorably influence the situations which cause us alarm. In this connection, it would be well if police reports were so designed as to reflect the state of mind of the community, and particularly of all separate corners of the community which come within the network of police coverage.

Every patrolman should be urged to report incidents involving intergroup hostility and tension. These should be reported as a matter of form and cleared in the central offices of the police department. Such a record should include the following items: (1) What took place? (2) What set off the incident, as far as can be determined? (3) Who were the parties to the dispute and what others seem to be involved or concerned? (4) What seems to be the mood of these parties --what next step is threatened or appears likely in the relationship between those who have an interest in the incident or are emotionally affected by it? (5) Other details. (6) Action taken.

This information should be carefully examined by supervisory personnel. These supervisors should alert their subordinate officers, and also keep in touch with other agencies which may be affected by the situation reflected in

other agencies in the community with whom to work on a prevention program.

The value of police intelligence service is not apparent overnight. It increases as the police functions in this field become widely known and respected, thereby eliciting the support and cooperation of other responsible agencies. If the reports on incidents and tension situations conclude with a record of actions taken, both the local police officers and by supervising officials, an examination of these reports after a year or so should reveal that many a crisis or catastrophe in human relations was probably averted by prompt and competent preventive measures.

The intelligence obtained by the police department in the human relations field can make the police a rallying point in the mobilization of all the agencies in a community which operate to maintain order in human relations. The central role of the police in protecting and securing the rights of citizens enables the police to indicate to other agencies of government, and to churches, schools, fraternal organizations, businessman's associations, labor unions, community clubs, and other groups, ways in which these agencies and groups can help preserve law and order. The police can, first of all, be an information agency for these other units as to existing law and regulation on human relations, and consequent police policy, Secondly, the police should be the major source of intelligence for other civic officials and agencies as to the areas of tension in human relations in the community, and the nature of the tension. This information service by the police helps to promote the good-will and backing of these agencies which will be especially valuable in times of crisis when the police must call for an unusual degree of public cooperation and support.

DEALING WITH TENSION - RULES OF THUMB

1. Once the true facts have been gathered, the police officer should act quickly. A q ick decision can anticipate and cut short the gathering of a hostile crowd. Furthermore, a ready disposition of an incident has the effect of checking the spread of rumor and the stirring up on tensions in an entire neighborhood.

2. The police officer should strive constantly to give evidence of a fair and impersonal attitude and conduct. Such an attitude commands the confidence and cooperation of the best elements in any gathering of people. Further, it reduces the likelihood that any party in a dispute will make the police department its target, thus seriously aggravating the police problem in keeping the disputants orderly and law-abiding. The police officer should not be "sucked in" to being a judge or a partisan in the disagreement between the parties of an incident; the police officer's job only is to see that their dispute is not settled by disorder or violence, that it go to the courts, if necessary, instead of being fought out on the street.

3. If the parties are excited and emotionally agitated, they should be separated and kept apart. If a crowd is gathering, one should endeavor to remove the disputants from the area, by persuasion if possible, by arrest if appropriate. Such a practice allows the passions of the antagonists to cool and prevents their excitement from being communicated to the more excitable spectators.

4. Indiscriminate and mass arrests have a most undesirable effect upon public attitudes toward the police. The procedure invariably involves many innocent people. The arrest of innocent bystanders creates an impression of incompetency, and of excessive and unbridled exercise of police power.

5. If an unruly crowd has gathered, adequate numbers of police should be mobilized quickly. A show of force is preferable to a belated and tragic exercise of force. One should recognize that any incident which passes

beyond the control of the police is only brought under control again with great difficulty. A cardinal principle should be that no situation should be permitted to develop to the point where control has passed out of the hands of the police authority. Hence, reinforcement plans should always be kept workable. The patrolman on his beat should be able to muster one or more squads promptly, and the squads should be able to muster as many platoons or larger components as is necessary for an ample show of force, and for the operation of active cordons to delimit and to dissipate the conflict situation.

"Rules of thumb", such as the above, should be familiar to every police officer, from the newest recruit who has been given his first trial assignment, to the veteran patrolman, and to every echelon of police command.

In these times of international tension, and of rapid economic and social changes and adjustments, the very future of American democracy hangs on our success in minimizing internal strife. The police, as the guarantors or public order and personal liberty in human relations, are on the front lines of the conflict between free world and slave world. However, the lines which the police are manning are not in the far-flung corner of the globe. The police lines are within the United States - in Dallas, in Los Angeles, in Boston, in Atlanta, in your town and in ours. Police have a leadership, as well as a directly preventive role tp play, wherever good Americans threaten to fight each other instead of standing together against the enemies which they have in common.

POLICE RESPONSIBILITY IN RACIAL TENSION AND CONFLICT

PROBLEMS AND TECHNIQUES OF CROWD CONTROL

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Conflicts in human relations become major police problems when such conflicts involve the gathering of people in crowds. Conflicts in which only a few individuals become entangled can be controlled relatively easily. Not all crowds, however, are involved in conflict. The major police problem is to recognize when a crowd is becoming dangerous, and to be able to render it no longer dangerous. This requires some understanding of crowds.

Types of Crowds

A crowd is any collection of individuals in the same area who share a common interest. Both peaceful and dangerous crowds develop in much the same way. It is useful to distinguish various types of crowd, because they do not all require police intervention. It is important to be able to keep a peaceful crowd from becoming a dangerous one. Generally speaking, crowds are of four types: casual crowds, expressive crowds, conventional crowds and aggressive crowds. Only the aggressive crowd is dangerous. The others are potentially dangerous, however, in that they may change and become aggressive crowds.

Casual Crowd. The casual crowd is illustrated by the group that gathers in front of a store window to watch a demonstration, or at an accident, or at an unusual construction feat. Such a group collects spontaneously and its members have no sense of unity. They come and go independently, as individuals. If they are blocking traffic or for other reasons should be dispersed, they

respond easily to a "clear the walk" or "keep moving" order.

In dealing with large casual crowds, as with all other very large crowds, one is most effective if the people are addressed by the police as individuals, in separate small groups, from different angles, rather than collectively. Only by the police treating the crowd provocatively, and as a unit, can such a crowd get the sense of unity which might make it somewhat dangerous, particularly if the participants have a strong interest in remaining to watch. Most of these crowds are no more than a minor traffic nuisance, and are not at all dangerous if left alone. They are of little concern to us here.

Expressive Crowd. The expressive crowd is often mistakenly regarded as dangerous and treated as though it were aggressive. It is important to avoid this confusion. An expressive crowd consists of people gathered together in some sort of expressive behavior such as dancing, singing, or worshiping. Such persons often release their emotional energy and feeling in the situation by making rhythmic noise and movement. As long as this activity is not clearly harmful to others, it is best to let it alone. For example, if a group of young people is jitterbugging in the street, or before a theater, it is not a cause for alarm unless it becomes hostile and its energy is directed toward damaging someone or something. If one interrupts the release of energy in purely rhythmic and expressive actions, one may actually provoke a crowd into aggressive and destructive pursuits, which it would not otherwise take up. If the crowd is reaching a size which seriously hampers traffic or which may be considered dangerous for other reasons, it is better to divert new people from coming to it than to start by moving out those who are already there. It is safer to start moving the audience before moving the participants, for the audience members have less of an emotional involvement in the activity.

Conventional Crowd. The conventional crowd is one that has gathered for a scheduled purpose, such as watching a ball game, a parade, or a demonstration.

In such a crowd each individual generally regulates his behavior in accordance with customs which are widely understood and respected for those situations. He remains in the seats instead of going on the field at the game, and he stays on the curb at the parade or conducts himself according to the plan of the demonstration leaders. Sometimes disorder develops from those in front blocking the view of those in the rear, but generally this can be straightened out by a prompt "down in front" order. Such a crowd is usually capable of regulating itself, although police should be on hand if the crowd is very large.

Conventional crowds can become unruly and aggressive as a result of their loyalties and oppositions to teams and players they are watching, particularly when the players become aggressive. We have all seen this happen at a disputed decision of an umpire. Even after play is resumed the loyal followers of the home team are ready to throw anything at the poor arbiter, or at a member of the other team whom they think has been favored. The practice of serving drinks in paper cups is a wise precaution at such events, and has developed because of the dangers of the thrown pop-bottle. One excited individual who thoughtlessly throws something, or who starts to run out on the field, is likely to be blindly followed by others, especially where his action expresses a widely held feeling in the audience. The more quickly and calmly any such unruly person is checked, the fewer the unruly persons one is likely to have.

Battling in the stands is familiar at athletic events, particularly at football and hockey games, but usually it is on an individual basis, and it is often related to the fact that the participants have had too much liquor. This is not especially dangerous, and the police officer is likely to get assistance rather than opposition in breaking it up. Where the crowd consists of large factions of the followers of each of the contending teams, and especially where they are differentiated on a racial, national, or religious basis, the situation

is much more dangerous. Here the conventional crowd can easily split into very dangerous aggressive crowds in conflict with each other.

Experience with high school student rioting at athletic events illustrates how conventional crowds get out of hand. The situation becomes especially serious only when it is deliberately disregarded by authorities. Ill-informed authorities often assume that ignoring such distrubances will lead to their disappearance. Instead, ignoring such incidents serves to legitimate violence, so that it becomes the expected thing. Those youths craving violence eagerly attend the events in order to enjoy the exhilarting experience of engaging in violence. Large scale police effort combined with active aid from the teaching staff and from student leaders has been necessary to check such drifts to violence after they reach extremes. At the scene, police tactics consisting of the display of concerted force, which inhibits would-be rioters, and picking out and removing the leaders in violence, curb them before they can get out of hand.

All conventional crowds of any size should be policed, and those which are especially threatening should be well policed. The restraining influence of the mere conspicuous presence of the police uniform has proven its worth on such occasions. Where they can be properly trained and inspired in the importance of law and order, ushers, teachers, student leaders and other responsible citizenry augment a police force in preventing disorder at conventional crowds. However, in any disturbances which may develop, primary responsibility and effectiveness rests with the police. When the disturbance starts, the professional police officer who knows how to act is less likely to provoke tension by his actions, nor to display the obvious lack of confidence in his authority which characterizes the well-intentioned but inexperienced and untrained recruit.

Aggressive Crowd. The aggressive crowd, often called the "mob", is the one crowd which presents an acute policing problem. Other crowds are only important to the police insofar as they are potential aggressive crowds. An aggressive crowd is one which is collectively bent on attacking someone or something. Unlike the casual and the conventional crowds, it is an acting crowd. Unlike the expressive crowd, its action has a questionable purpose. That purpose is to do damage. However, we must not assign a questionable purpose to many of the current efforts of peaceful and responsible demonstrations by minority groups. The damage may be to the members of another group, or to a particular individual, or to the property or symbols of that with which the crowd is in conflict. This conflict is not carried on in accordance with rules of law; it is usually in felonious contravention of the law. That is why the authority of the state and the security of the public hinge on the ability of the police to curb the formation and action of aggressive crowds. The remainder of our discussion will be concerned with these crowds.

The Formation of Mobs

Most individuals normally experience some aggressive impulses, hates and desires from time to time during almost every day, but they do not do anything violent to express their feelings. Lack of confidence in their power to attack the person who angers us, or fear of retaliation by others, particularly by the agencies of the law, or simply moral scruples against violence, inhibit us from expressing our anger in anything more than words. Even our unfavorable sentiments generally are not made directly to the person who angers us; we express our sentiments to our friends as unflattering opinions or gossip about other persons.

In any gathering of people there are likely to be a number of people of more than average excitability. They play a large part in mob behavior because

they communicate their own excitement to others around them. They are ready at slight provocation to vent their feelings by hostile or aggressive gestures towards a scapegoat. These are natural reactions in all of us. Frustrated and insecure persons, however, are especially quick to single out others on whom they can cast blame. Under the spell of the collective excitement of a mob they have a false sense of power which can make them completely unrestrained in their actions. Members of a mob, once excitement has reached a peak, can derive a tremendous thrill and satisfaction from beating up any person whom they identify with a group which they oppose, or from burning homes and pillaging places of business. Anyone who has seen a mob in action is well aware that it overrides reason. Its sense of power is like a tidal wave that sweeps over all even those who are resistive to it.

The steps in the development of an aggressive crowd can be identified. The first stage is the same for all crowds: it is the initial incident. A number of people are attracted by a striking incident or phenomena. The crowd does not assume an aggressive character until this incident acquires an aspect of conflict in which the onlookers can feel angry towards one or another party. The incident in attracting the crowd may be an auto-accident, but it can become complicated by the fact that one of the parties is White and one Negro. The incident itself may be a fight between two players representing hostile teams, or it may be an expression of resentment by a group of whites toward the presence of Negroes on a beach or in a park. Whatever the nature of the incident, if it is exciting, people will gather and mill about it, and if controversy develops, the onlookers are likely to take sides. In an incident involving different races, the Whites are disposed to line up with the Whites and the Negroes with Negroes, regardless of the merits of one side or the other in the original conflict.

As the above may indicate, the second stage in the formation of an aggressive crowd, as the milling process progresses, is the period of intensifying collective excitement. As an incident proceeds and people are attracted to it, they quite naturally brush and contact one another. They are likely to initiate conversation with each other, even to total strangers, passing remarks about the controversy. The activity is akin to what stockmen observe in a group of cattle or other animals before a stampede. They move around in rather aimless fashion, all the while communicating their excitement to each other. The general level of excitement steadily increases as the milling process continues.

A circular psychological process ensues in the milling process. One person communicates his excitement and his hostile mood to a second, who in turn becomes excited. The excited remarks and gestures of the second person stimulate a third person, whose excitement may be expressed towards the first person, whose excitement will thereby become further stimulated: all those present stimulate each other. If this process continues uninterrupted, the prevailing level of excitement and anger rapidly becomes so intense that it is difficult for any human to resist it. The complete attention of the participants is so dominated by the object of the excitement that they seem to be in a state of mass hypnosis. Thus, while the more emotionally unstable persons more readily initiate excited reactions to provocative incidents, in time even relatively calm and stable individuals are caught in the milling process and also are overcome with the prevailing emotional mood. Once caught in the spirit of the mob they begin to act quite differently than they would if they were alone or not under the influence of the mob. That is why mobs can be so extremely evil in their actions when they reach a peak of aggressiveness.

Individuals often find it difficult to understand how they could have acted as they did while they were part of a mob. This is illustrated by the experience of a group of boys in the Detroit race riots. Under the influence of the mood of

a mob, they went looking for "a nigger to kill". They finally encountered and shot in cold blood a Negro who happened to be waiting for a street car. Later, they were unable to explain how they had been moved to commit such a cold-blooded crime. In this they were being honest. In a calm mood, when a person is out from under the mood of the mob, it is nearly impossible for him to give a reasonable explanation for his acts as a member of a mob.

The final stage, as we may already have indicated, is that in which the collective excitement becomes expressed as action. Now comes a period of even more rapid social contagion. Whereas, in the initial incident, a localized event had attracted a group of people, and in the process of milling about while they watched they became increasingly excited, now new and larger scale events spread the collective mood throughout a larger area. More and more people become involved, first as spectators and followers and soon as participants, as they catch the mood of the mob. The people joining the mob at this point are often completely unaware of the precipitating event which started the mob. If they acquire any ideas as to what it is all about, the ideas are likely to be rumors in which the original event has been exaggerated out of all proportion, or completely new and fallacious notions have been introduced.

Social Contagion

The people joining the mob in its final stages actually have no interest in the original event. They are merely attracted by seeing large gatherings of people, and perhaps violent actions. They are impelled by curiousity. Even when they still have no idea of what it is all about, they are caught by the prevailing excited mood, and by the fact that "everyone is doing it". They soon are doing what everyone else is doing, regardless of the morality or point to what is going on. When violent police actions have to be employed to curb extreme mob killing and destruction, it is often found that the persons who are

taken into custody by the police or injured are relatively innocent bystanders, in the sense that they entered the mob at a late stage and never did find out what it was all about.

The collective excitement of a mob in a final stage can sweep whole cities, or even larger areas. Very similar spread of collective excitement in an expressive crowd is seen in the dancing manias which swept Europe in the Middle Ages, or more recently by the bobby-soxers who storm railroad stations and movie houses where they stimulate each other to the point of swooning in their excitement over a crooner or a movie idol. The manner in which these "crazes" of one kind or another are built up and spread across the whole country is very similar to the building up of a mob. In the major riots in the United States, such as that of Detroit in 1943 and that of the New York Harlem area in the same year, whole metropolises were involved in extremes of violence which lasted for several days. The number of dead and injured mounted to hundreds and the damage to millions.

Mobs in the initial stage do not come from somewhere, but develop in the situation around the provocative incident. As the mob progresses, however, they come from elsewhere. Here is where the agitators are significant to us--they converge upon the situation when it has commanded widespread public attention. Agitated personalities exist everywhere, and are intensified by the turbulent experiences of our times. The agitators descend upon the mob scene because, under the cover of the mob situation, they can "really go to town". Once it has started, they can agitate further and further incidents. This is in the stage of social contagion--when the mob mood is spreading.

After the riot got into full swing at Cicero, people came from forty miles away. What were they doing there? When the word is out, who comes? Is it people who mind their own business, and generally stay at home? No, these people are still at home, especially if their home is sufficiently distant that it does

not place them into direct personal contact with persons in the mob. The questionable persons go a long distance to join a mob. Vengeful teenagers, looking for a fight, perhaps basically even wanting to get into trouble, come on the run. The people who want to make a demonstration, who are often called "professional hate-mongers", grasp the opportunity to finally have some power to express their hostility in action. These persons are not likely to be at the initial situation in any numbers; if they were, it would be a matter of chance. They are not likely to know about the situation until it becomes a matter of general public knowledge. This takes a certain amount of time. That is why it is so important that the police who have an opportunity to handle a mob situation at an early stage, act promptly.

In any large metropolis there are radical extremists of all types, both of the left and the right, who express their distrubed personality needs by an excitement over racial and religious issues, which goes beyond concern with the social problems involved. Either making scapegoats of these groups or martyrs, they are attracted by inter-group mob situations as though it were a challenge to them to assert themselves. These people may sincerely picture themselves as leaders dedicated to high principles, but it is one thing to be rationally and morally idealistic, and another thing to indulge in irresponsible agitation. The excited agitator soon sacrifices standards of reason and morals for the sake of expressing his own sense of personal power.

Emotionally excited persons, because of the state of the world situation and turmoil within the nation, live in a continuous fever of excitement. They are readily susceptible to agitating rumors, which they make agitating. We live today, expecially in our large cities, in a world of strangers meeting strangers. The personality of an excited stranger is not known to us. We take his excitement as evidence of an exciting situation instead of just an expression of his own disturbed personal needs. There are always a few excited "strangers" in

our large cities who, because we cannot classify them on a personal basis, can literally "get away with murder" in unorganized crowd situations where individuals are unusually disposed to respond readily to another person's excitement.

These excitable people play a major role in the spread of rumor, especially since none of us are immune from contagion by rumor. After the initial incident in a mob disturbance, rumors play a major role in spreading and intensifying the excitement. By means of rumor the most excited persons not only agitate a situation, they tremendously compound it. In every major distrubance and riot there are always a flock of rumors about what is going on, which have little basis in fact, but which nevertheless play a major role in determining how people behave. In the Detroit riots there were stories ciruclating among Whites of Negroes raping a white girl on a bridge at Belle Isle, and there were stories among the Negroes of Whites having killed a colored woman and her baby there. Neither story had any basis in fact. Rape and sexual assault rumors, usually having no basis whatsoever, are an almost constant accompaniment of white mob disturbances directed against Negroes. There was an instance of an unidentified man's assault on a white woman secretary coming home from church on Chicago's near-West side which before long had people especially stirred up because it was being recounted as a horrible attack by a Negro on a nun.

Police are in a key position to break the chain of rumors. If they have not heard officially about a major offense in their district, it probably did not occur. If they hear a rumor and fail to challenge it, however, the rumor probably will be passed on as having received official police confirmation. A non-commital reaction to rumor is therefore not enough from a policeman. He must insist on the evidence, and deny the story otherwise. He certainly should deny allegations that whole racial or other groups are involved in an offense of which only a few individuals, if any, are likely to be guilty. No entire race, nationality or religion is organized to carry out a malevolent purpose collectively,

despite rumors which one hears about Negroes, Catholics, Jews, Puerto Ricans or other groups.

Rumors have the characteristic of being exaggerated, and of fitting our prejudicial expectations and emotional habits. That is how stories likely to be rumors can be recognized, and can be taken with particular reservation. Rumors are, however, valuable symptoms of unrest to the police officer. If he hears the same stories or types of stories with unusual frequency he should be wary that the people in the neighborhood are already in a condition of some excitement, and that mob action can develop quickly should any provocative incident occur.

Rumors prepare many unaggressive persons for mob action. They may bring people to the scene of a minor incident and cause them to act on the basis of a rumored major offense rather than on the facts of the situation. The 1949 Peoria Street riots in Chicago, in which several people were severely beated, automobiles were overturned and property was damaged, arose when the visit of Negroes to a White man's home led to rumors that the house had been sold to Negroes.

For the police officer to act violently on the basis of rumor alone would be for him to run the risk of committing a major infraction of the regulations or even of the criminal law. Rumors within police departments have been reported by several senior police officials as causing difficulty in dealing with human relations problems. These rumors usually had to do with various pressure groups threatening what they would do if police pursued a particular policy. Intimations that senior police officials were yielding to such pressures were usually added to the rumors as one officer told the story to another. Yet the yielding and even the alleged threats of the pressure groups themselves were entirely non-existent--the pressure groups had in no way communicated to the police or city officials.

Rumors and mob disturbances have the characteristic of running in clusters. They reflect the fact that an excited mood is usually sustained for some time

even if mob actions are checked. There is always an unusual danger of recurrence after one mob disturbance, particularly if the mob is not checked before an extreme degree of excitement develops and involves large masses of people.

The fact that mob disturbances run in clusters, often having a similar pattern for a while, is frequently taken as evidence of a pernicious plot. It is alleged that some extreme left or right wing group has been deliberately organizing the disturbances. Investigation usually reveals this not to be the case.

A few years ago we had a series of disturbances arising from the joint use of public swimming pools by members of Negro and White races. There was a disturbance in Youngstown, Ohio, one in Washington, D.C., one in St. Louis and one in Webster Grove, Missouri, all within a span of a few weeks. The question, of course, arose: "Isn't it kind of peculiar to get all of this business at once? Who's going around organizing these things this way?" These events, incidentally, were very carefully investigated to see if this was the case, and the findings revealed such a notion to be a gross oversimplification in these claims of similar incidents.

What occurred may be explained as follows. Because of our modern system of communications through the press, radio and television, the stirring events and mood with which people are confronted in one place are also faced by people in other places throughout the country. Once the people in one city are stimulated to a certain mood by a given situation, people in another city, faced with a similar situation, are likely to be stirred to the same mood.

A striking illustration was provided by the wave of prison riots which spread through the United States in 1952. While it was suggested that a grapevine must have connected the widely scattered institutions, no such secret channels of communication were necessary. Prisoners everywhere had access to public information media carrying running accounts of these events daily. Being in similar situations themselves, the prisoners took on the mood of the

prisoners about whom they read, and they thought that if some satisfaction was being enjoyed through rioting by prisoners elsewhere it could be gotten by them too.

A similar illustration of communication is provided by the spread of "panty raids" among college students in 1952. As a report from the Los Angeles Police Department observed, first they were reading about it with amusement as something that had occurred at distant colleges, then, before they knew it, they had several such raids on their hands at colleges in their own city.

This communicability of mob excitement makes it especially questionable nowadays to assume that any American community can have no human relations conflict because it has never had any before. The press, radio, and television, in addition to the mass migrations of peoples, have destroyed this isolation of even the most remote communities in the United States. Where communities were relatively isolated from the disturbed currents in public opinion at one time, they are caught in the stream today. There are always local issues and feelings which suddenly get identified with bitter issues being fought elsewhere, perhaps with violence, and a new way of action is suggested to what previously were peaceful local people. The local people suddenly feel they have a widespread backing in violent gestures which they would not have undertaken before.

Police Tactics to Terminate Mobs

The three stages which we have indicated, initial incident, collective excitement and social contagion, merge into each other. They represent broad stages distinguishable in what is really a continuous process. If the process is stopped at any stage, its development to the later stages will be prevented. Since the mob increases in numbers and in violence as it continues in this process of development, the earlier it can be stopped, the easier it is to stop and the less damage will have been done. That is why, when a crowd is aggressive, our

object is to terminate it, so as to prevent any danger of its further development. To think in terms of merely checking or controlling it at one stage is to run the risk of a major explosion at the first slip-up in controls. The milling process can go on for days, weeks and even months. It may vary in intensity, but unless a clear-cut authoritative stand is taken, milling will continually flare up if people are allowed to regroup and wander about any central object or area that has been a basis for mob excitement.

At the stage of the initial incident it is often possible for the police officer to terminate the disturbance by making a quick, yet accurate, evaluation of the potentialities of the incident. By taking immediate action, such as removing the parties who are the center of controversy, he can prevent the accumulation of many onlookers. By cutting short the crowd formation he can prevent the number of persons emotionally moved by the situation from becoming too large for him to handle.

A common fallacy of police officers is to assume that there are spontaneous but peaceful public gatherings on racial or religious disputes. The notion that because everyone is just sitting or standing and looking, everything is under control, is too frequently a fallacious impression. When night falls and someone says to the person next to him, "You know, we oughta wipe the joint out" or "I don't like that cop there, but we can watch him and get him on the side of the head", something has developed in the situation which was not there initially. Often the people who lead or organize public protest meetings over inter-neighborhood or inter-group disputes create something which they did not intend to create, but which masters them and victimizes every individual in it. Whether the people who attend are originally "bad" or "good" people has little to do with their conduct in an exciting, moving situation, with people prodding and agitating them. Young persons, particularly teen-agers, raadily respond to crowd stimulation to action. An older person can say "Kill the so-and-so", and have no intention of

killing anybody, but a teen-ager in an exciting situation can be told "Kill him!", and will take the suggestion literally.

The Detroit Police Force reports an incident in which the potentialities of a gathering were ignored. There was a housing project nearing completion in Detroit which had originally been announced as for white only, but was then announced as also open to Negro applicants. After much bickering back and forth, and effort was made to move Negro families in. Hostile gatherings were organized, one by whites and one by Negroes. The police department had orders to keep thom on opposite sides of a street, with the police patrolling the thoroughfare in the middle. All day each group tried to get at the other with the police stopping them. Soon the police, in the middle, became the targets of stones and missiles, instead of the group on the opposite side of the street. Finally someone noticed it was getting dark, and that the police could no longer duck the rocks and bottles being thrown at them. Then orders were given to clear the streets of both groups, and this was accomplished, but only by a major mobilization of police force and only after numerous casualties were suffered by police and public.

The post-mortem observation of a Detroit police officer who reported this incident was: Why did the police have to wait so long before they took what would have been a proper police action quite early, and would have been much easier at an early stage? Throughout the day, he reported, the people were growing into larger and larger crowds. Ugly words were being shouted back and forth, as feelings became higher and higher. Repeated skirmishes were broken up by the police department, but arrests and removals were kept to a minimum. An understanding of the stages in the development of mobs would have led to prompt recognition of the potentialities of the situation, and gatherings could have been dispersed when only handfuls of people were involved.

In this particular situation, an error on the part of the police was to place themselves in a position where they could become the primary target of mob hostility, replacing the original mob object. The notion of keeping the groups apart was based on the assumption that as long as they stood looking at one another it was peaceful and did not mean anything. This was a great mistake. What was happening to the two groups was that they were building up hostile attitudes towards an enemy, but for each group the enemy became not just the other group, but the police department. The project over which they were originally aroused, eventually became their secondary target. If the principle of dispersal was correcting the later stage, then the time to employ it was in the early stages, for if they had to disperse they would have been incapable of large scale attacks on the police.

There is no satisfaction of democratic values in allowing people to watch each other over a cordon of police. If the police are necessary, then the principles of government by law and the standards of order which democracy requires are best served if the hostile groups are not permitted physically to converge on the objects of their hostility, where direct action by force is likely to be attempted. There is no adequate rationalization for police tolerance of aggressive mobs in the name of democracy.

If one believes in democracy, one should look to the legislative bodies, the polling places, the courts, the free press and radio, and orderly meetings and forums, as the proper places for debate and decision on public issues. The First Amendment to the Constitution of the United States guarantees the right of the people "peaceably to assemble." We have underlined the word "peaceably". There are provisions in all cities for public gatherings, both on private and on public property, but in accordance with regulations and procedures designed to assure that they will be orderly. Unless they have some minimum degree of order, they cannot be democratic.

Commenting on this Detroit disturbance, Mr. George Schermer of the Detroit Mayor's Interracial Committee, stated:" Instructions to the police were not clear. The officers were then guided pretty much by the pressure of the white mob. Before the thing was over, several hundred Negro people and six white people had been placed under arrest for inciting to riot. This was an astonishing result because the white people, in this particular instance, had gathered as a mob, while the negro people were attempting to move in. I can't blame the individual police officer at the scene of the affair for what happened, because I am fully aware that the whole community had not made up its mind as to what it really should be doing there. Within two months, there had been community meetings and a clarification of thinking from the mayor to the city council, to the police commissioner, to the housing commissioner. That same police force gave complete and perfect police protection to the families as they occupied the housing units to which they were legally entitled, because by that time policy was clear."

Sometimes milling begins at a situation where a large number of people are expected to assemble, but no order has been established, and quarrels develop as to who should be first. This sort of thing develops around offices of the Collector of Internal Revenue as the deadline for filing returns approaches, and a system of lines and priorities is established to keep the clamoring taxpayers from becoming a mob. It is a familiar thing whenever a business, a theater or any other center gets an unexpected flow of business. It occurred in Milwaukee when the Braves put their 1954 tickets on advance sale for the first time - 15,000 loyal fans showed up. What is needed in this situation is authority and order, and the police officer should be prepared to quickly supply both. The following incident, also from Chicago supervision reports, indicates how one such situation was handled:

(Incident described)

In the above incident the officer had a practical understanding of the potentialities of the milling crowd. He realized that the milling had to be broken up before the crowd became hysterical and aggressive. What was needed was authority, and he supplied it. By creating lines he established rules and fairness; he made it possible for all persons there to be confident that if they were patient they would be taken care of. He thus transformed a milling crowd, threatening to become aggressive, into an orderly, conventional assemblage. Like every large conventional crowd, it then had to be patrolled to see that it never started to become a mob again.

When a crowd acquires unity and purpose, so that it is already starting to do damage, a single police officer may not be able to command everyone's attention and achieve order. The first thing which officers should attempt to do when arriving on such a situation is to try to take into custody and remove from the mob its most excited members. They are the ones who stimulate the rest of the mob most strongly, as they are attracting most attention from the rest of the mob. Once they are removed, it is easier to get the remaining individuals to disperse.

In removing agitators, or in any other authoritative dealings with a mob, it is important that the police officers make an adequate show of force. An adequate show of force can make unnecessary the use of force. This difference is important because it can make all the difference between success and failure in averting violence. From a practical standpoint, from the police officer's standpoint, it means the difference between getting the "heat"--the blame for a disturbance or riot which is sure to make the newspapers, and having the entire matter just another incident, and a source of praise from his superiors, perhaps from the newspapers as well.

By the show of force we mean, first of all, the mere presence of sufficient numbers of men in uniform. We mean secondly, that these men should seem alert,

authoritative and impartial; they should act with confidence, and with firmness, without seeming unnecessarily rough or inconsiderate. If this occurs, in combination with sound judgment as to what must be done, the use of violence is usually not necessary.

A police officer who assumes that he must use force to subdue a mob, or who starts off by grappling with individuals, not only puts his own safety and that of any other policemen in the area in jeopardy, but he excites and furthers the ugly tendencies of the crowd. He can become the new target of the crowd, replacing its original objective. It is of prime importance that the police act so as to distract and overawe the members of a crowd, to take their attention away from the agitators and to get them acting under the orders of the police. This can be done if the power of a show of force is appreciated, and if supervisory officers so arrange and instruct their personnel that reinforcements can be mobilized at any point in the shortest possible time and in sufficient numbers for the situation.

A police officer, to acquire professional capacity, has to learn to appreciate two things which make him different from what he was before he became a police officer. First of all, he has to appreciate the symbolic function of his uniform. Once he wears it he is immediately recognized by almost everyone as having more power and authority than an ordinary person. If he takes advantage of the respect which just the show of his uniform can inspire, he will have a power over other people which no degree of human physical strength could give to him. He has to act with the confidence that he will be respected, in order to be respected. If he acts in gestures of calm and confident command, he will be respected; if he acts in gestures of combat with the crowd, he will be hated and feared rather than just respected. In order to do this, in a mob situation, the police officer must divert the attention of the participants, perhaps a few at a time, from the center of mob interest to him. When he has

their attention, he must so manipulate them by his commands, in processes which will be described, as to not let them get attracted back to the mob interest.

The second thing which a police officer has to remember is that he is not bound by an Marquis of Queensberry rules in dealing with offenders. That is for an athletic contest, not for the work of police officers. A police department, if it enforces the law, should always be superior in numbers and authority to the demands of the situation with which it is confronted. We must have not just a few officers dealing with a lot of unruly people, but fully enough officers to deal effectively with any number of unruly people. If so many people have become unruly that they greatly outnumber the police in a particular area, then the police should so concentrate their forces as to be able to have authority in the area of their operation. By this, and by other measures such as the cordon, they can command situations. Such measures serve the larger public who have hired the police to maintain law and order. If the police officer is correctly trained and properly executing his responsibilities, he deserves to have overwhelming authority on his side, so as to avoid any possibility of his coming out second-best in any situation.

If a riot gets out of hand, then the local police must call on larger police units, or whatever additional forces are required. The National Guard were necessary to restore order in the Cicero and Detroit riots. It is interesting that in both of these cases, it became necessary to display a considerable troop unit with full combat equipment to stop rioters who had lost all respect for the police. However, in each instance the show of sufficient force for the situation did the job. The military weapons themselves did not have to be used.

The following incident, also related by a Chicago supervisory officer, illustrates the inadequate show of force and the premature use of force:

(Incident quote, p. 84 of PK District manual)

In this instance the police were represented in too little strength. They mis-

judged their capacities. They should have called for reinforcements immediately, and should have started not by plunging right through the middle of a tight mob, but by trying to isolate the mob from newcomers and to disperse it piecemeal in an unantagonistic manner, until adequate force and facilities were present to make the arrests and take complete command of the situation.

The attention of a crowd is usually centered on one point, generally front and center where the speakers or those most active in injuring or destroying are located. It is useful to start dealing with a large crowd by distracting those on the edge from the center of the crowd attention and leadership. Loudspeakers on a vehicle are of great value for this purpose. These can be introduced at the edge of the crowd, and at several points with very huge crowds. The people can then firmly, but calmly and steadily, be ordered to start moving away down specific streets in the area.

The sound truck, with its mechanically controllable colume, can take the attention of the mob from the mob leaders, and can usually completely drown out the leaders. By starting with those on the edge of the crowd, those who are least excited can be moved out first. This technique is often called "peeling the crowd off"--just as one peels an onion. The peeling process reduces the extent to which the leadership feels mass support, and it may shake their confidence. This makes it easier to remove the leaders once the crowd has started to disperse.

This sound truck technique has been used successfully at many riots and disturbances. Public address mechanisms are now standard equipment on an increasing number of police vehicles. The University of Illinois Police Force, the police at Revere Beach, Massachusetts, and police in many other localities where large crowds gather periodically, have found it wise routinely to install a double loud speaker and public address amplifier on ordinary stock squad cars. This device is useful for assuming authority and establishing order quickly in

large crowds, such as those which overwhelm some college towns at major football contests, and the massed bathers on a hot summer day at beaches near a large city.

A police cordon can prevent a crowd in the final stage, that of action, from roaming about and infecting a whole city with its wanton malevolent mood. In the Harlem riots, the cordon was used with great success. By throwing a cordon around a danger area, thousands of merely curious individuals can be kept out. Patrols can move outside the cordon to prevent them from regrouping. Meanwhile, those within the cordon, where the excitement is going on, can gradually be moved out through it. Letting people out but not in reduces the size of the mob action and prevents it from spreading. It is quite possible that a police cordon thrown quickly around the Belle Island area in Detroit would have prevented that riot from spreading throughout the city.

Inadequate prevention of major disturbances sometimes results when police officers think of a cordon as purely a negative device--to establish a borderline beyond which the crowd should not go. If the crowd is allowed to assemble along the cordon, but is prevented by the police from going further towards its primary target, it is likely to select secondary targets. In many riots the secondary targets become any individuals passing by the area who were of the opposed groups or whom excited individuals in the crowd designated as such. Very frequently the secondary target becomes the police itself, and the crowd mills and masses around the cordon line until it is capable of brushing the police aside. They then may have to be resisted by police weapons, which always has extremely unfortunate consequences for police public relations thereafter, since the members of the mob are not ordinary criminals.

The cordon should be thought of as a positive device. It is not merely a passive line of police officers, but a strategic belt or area of patrol within which officers are actively: (1) making a show of force; (2) keeping people

moving; (3) preventing hostile crowds from assembling. A cordon is not merely a formation--it is an active operation.

Mobile units are usually necessary to operate a large cordon. It is essential in the process that radio communications permit a quick marshalling of an adequate show of force wherever hostile crowds start growing, or wherever a break-through occurs. Particular attention should be paid to alleys and byways through which the more aggressive agitators or combative teen-agers may attempt to sneak. This has to be done before they form a sizable assaultive striking force within the cordoned area. Strategist arrests and removal of the leaders will do much to restore peace and order.

1) What role can Churches play in emphasizing morality of racial justice —

Plans ?

Methods ?

2] What lines of Communication can be established between White House & Civil rights groups —

3] Development or racial front which should be funneled to White House —

Humphrey –

Moyers
Mitchell
Hamilton
Dawson
Mrs. Clark
Rauh
Spike
Dalton Conan 2.

Aug 4, 1964

I. Appeal to Conscience of Am people –

Agitators written police depts.
– justice
– understanding
– people ~~the~~ want to do what's right

Human interest story on family in Harlem –
– going ahead with daily life, etc –
– trying to conquer difficult situation –

How do we portray job which we have done –
adulterating and contaminating
political Community –
Community organization

Mitchell – experiences in South Carolina –
Registration + voting activity – NAACP

Need to dramatize innate decency of Am people –

Moyers

Day of prayer for forbearance — Sunday —
decency and dignity

Moyers

Race problem - must be non-political
Economics all important
Communication between the races
Meeting of religious leaders at White House —
— Civil peace

Help is needed from community —
Positive report from Gov Collins on what
Civil rights act has done —
summary of accomplishments

Negro community is a peaceful community
and this story should be gotten
across —

Something substantive has to get out of meeting.
"Peace with Justice"
Moyers will be liason in White House
for religious leaders meeting

(2)

New York has not come to grips with problem
Problem will not be solved until
something drastic has been done.
~~Something~~ Someone has to say that
Slums have to be cleaned up. —

No meeting of minds on problem of moving
ahead with problem of civil peace.

Can you identify the answers — 2
— ~~[illegible]~~ discussion of density
of social problem involved.
— Violence is breeding contempt
for Civil rights Movement —

Senator Humphrey

Harry Golden
Address, August 20, 1964
Cursillos In Christianity
Michigan State University
East Lansing, Michigan

It is a great honor for me, a Jew, to participate in this Cursillos In Christianity, a Roman Catholic session of solemn prayer and dialogue.

When the late Pope John XXIII announced his intention to write a new social encyclical some of his closest collaborators suggested that it might not be necessary to treat themes which had already been explored by his predecessors. They made specific reference to the Rerum Novarum of Leo XIII, and Quadrigesimo Anno, of Pius XI:

> "No," said John, "the world travels faster than we do. We must adapt daily and totally so that we do not limp along behind. Otherwise we will be outrun. By whom? I leave that to you to figure out."

More

Pope John's call for total awareness and total involvement in the area of social justice, has had a phenomenal result. I believe it was the first time in modern history that the reign of a Pope was as exciting to millions of Protestants, Jews, Moslems, and indeed to Free Thinkers too, as it was to the Roman Catholics themselves.

I would like to discuss two problems which I believe are involved in this need for total awareness, and total involvement. Race and Immigration, and how we resolve these problems may very well be the key to America's victory in the struggle for the moral leadership of the Free World.

We hear of the "white backlash" and are told we must fear it. We hear this at the very moment we hear America is the leader of the Free World. Hearing both we know nevertheless we can believe only one.

If indeed America is the leader of the Free World, then we must fear nothing. Leading the Free World is not a position easily come by nor easily held. It takes sacrifice and blood. And more. We are the leaders of the Free World because America is more than just a people. America is a moral idea, the idea of liberty and justice for all.

I believe it is shameful of us to suspect that Americans will vote against their own interests out of some secret fear. It is more than shameful for any of us to believe that Americans want to deny the blessings and benefits of America to nineteen million other Americans.

I cannot believe this. It isn't true.

I believe a good one-word description of the American Dream is mobility. The opportunity to move about as free men without special permission or registration card. The opportunity to move from one place to another place, from one income level to another income level, from one station in life to another station in life. And yet for nearly one hundred years we have tolerated the very negation of the American Dream as it involves our neighbors of the Negro race.

Let us examine the challenge. We have all heard people say, the Irish immigrants did not need FEPC to make their way in America, the immigrant Jews who couldn't even speak the language, did not need any freedom rides or sit-ins to make their way, and so on with the Poles, Italians, and others. I'll come back to this challenge presently.

America's welcome for the immigrant was often less than enthusiastic. We have had nine or ten nativist movements ~~in~~

during the last century. Yet despite these nativist movements it must be said that the sense of America as a refuge for the oppressed was never really far from the consciousness of the people of this country.

What therefore is at the core of the problem of the Negro in relation to the millions of foreigners who have entered the open society of America? It is not necessarily that the Negroes are poor, that they live in sub standard housing. When novelist James Baldwin states the problem in terms of his own terribly deprived childhood in Harlem, I am not deeply impressed. I saw poverty just as great as Baldwin experienced, among the Jews and Poles on the Lower East Side of New York, among the Italians in Little Italy, among the Irish in the Hell's Kitchen district of New York's west side. The important thing to remember about these immigrants is that they could get out. We knew almost by instinct that if we studied, learned, worked, strived, and sacrificed, the open society of America was waiting for us. Oh there may have been pinpricks at the social level, but they were of little consequence really. Ameruca beckoned to us, come and join us as part of the corporate whole, there's room for all, in America there are no superfluous men.

It is not therefore that the Negro has been poor and has lived in sub standard housing, but that we have long since

established the political, the economic, and the social compulsions which have kept him securely locked in - locked in his ghettoes in the North and cut off entirely from the center of life in the South. Unlike the rest of us strangers he could not get out. And we should remind ourselves that we kept him locked in during the years of the greatest industrial-urban expansion and wealth accumulation in the history of the world.

And let us not be overly proud that so many of us did achieve this passage into the open society without FEPC, or like they say, pulling ourselves up by the bootstraps while the Negro remained in his ghetto.

The best answer to this has come from a young Boston Irishman, the late John F. Kennedy. In an interview he granted me in June of 1963, he addressed himself to this idea. It was a brilliant insight, and I was permitted to quote him as follows:

> "The Negro has no hope of subterfuge or pretense, he cannot change his name to alter his origins, nor can he change his religion, nor can he move from cities to isolated areas, the Negro needs legislation every step of the way and I hope to be able to give it to him."

These words coming from a young man, even though he was President of the United States, were tremendously impressive, they confirmed a truth which has come to many of us after twenty years of study.

The Negro must have legislation "every step of the way" because he is born not only into a desperate economic and social complex, but he must struggle against a psychological complex which demeans every American, white and Negro. We cannot help recognize the black man, and there are many whose recognition triggers terror, or contempt, or condescension, or paternalism, or fear. This is a conditioned psychological response that only reason dissipates, but there are many who are unreasoning. And do not let anyone tell you that law can not do the job. There are Negroes working today in the carding rooms of the textile plants of my state, for the first time in history. This did not come about because the white mill workers were suddenly possessed of an overpowering love. It has come about because of Mr. Kennedy's Equal Employment Directive. If you discriminate in employment you lose your government contract.

And behind all of this are a few simple facts which in themselves are amazing in that they have so rarely been explored and yet they involve not only human dignity but human life itself. Because behind all of this law and sociology is the

simple fact that in 1960, four Negro women died in childbirth for each white woman who died in childbirth; that Negro infant mortality was five times greater than white infant mortality; that tuberculosis which is twelfth as the cause of death among whites is second as the cause of death among Negroes, and these simple facts tell us the story of the locked-in Negro community within a civilization which is the most opulent on earth and which also considers itself the most Christian of all countries on earth.

I referred to Race and Immigration, but their relationship is close and we may reasonably consider both problems as central to the perpetuation of the American Dream.

The McCarran-Walter Immigration Act, still on the books, admits 154,647 immigrants a year, under quotas based on the 1920 ratio of foreign-born in the nation's population. President Truman declared it discriminatory and inadequate for national needs, saying some deportation provisions were so vague as to allow "thought control."

When President Eisenhower urged revision of the restrictive measures of the Act, the late Congressman Walter successfully guarded provisions allowing almost free access to the United States of immigrants from the Nordic and Anglo-Saxon countries and restricting the number from the Mediterranean,

Middle Eastern, Balkan, eastern European, and Asian countries.

Thus the McCarran-Walter Immigration Act permits those to come who are likely not to want to, and restricts those who do want to.

The restrictive features of the McCarran-Walter Act strike me as paradoxical in a civilization professing Christianity. While we have no State Church, one can say nevertheless, Christianity is an important factor in the life of most Americans.

Certainly what helped make Christianity a universal religion was that the early Church recognized the value of the foreigner.

Pope Hildebrand believed the Gospel would be spread most effectively by missionaries as dissimilar to the people to whom they preach as possible. It was this Pope's deep understanding of the foreigner's vitality which led to establishing celibacy among the clergy around 1070. The clergy were thus made "strangers" in their surroundings and in its way the prohibition against marriage helped the Church seal its tremendous political success.

More to the point is that we can relate the success of Christianity as a universal religion to the success of the United

States as leader of the free world.

Christianity came at a time when travelers could go from Babylon to York without a passport. Think how this helped to spread an idea.

In the second and third centuries, the highways of Europe and Britain were filled with monks in black robes bearing crosses. By the time of St. Augustine, there already was a McCarran-Walter Act all over Europe but the missionary work had been sufficiently accomplished and Augustine was able to consolidate the great victory by "marrying" Christianity to the arts. Had there been no free movement, however, we have the right to conjecture that the people of the Northern forests of Europe might have held on much longer to Wotan, the Anglo-Saxons might have taken Mithra to their hearts, the god they had borrowed for a time from the Roman legionnaries, and other peoples might have held on much longer to their gods who lived on mountain tops, in the trees, and in the oceans, rivers, and streams.

Christianity was quick to grasp the significance of the classical stranger in world history. Jesus was born in Bethlehem, a little town the great Greeks and the equally great Romans had never even heard of. And a mere handful of "strangers," Jews from Judea (St. Paul among them) were able to "conquer" the great Roman Empire with all its vast works and all its

far-reaching institutions. They did it with an idea, but they also did it because they were "strangers."

In the United States as late as 1900, fewer than one-third of our people could trace their ancestry further than a native-born grandfather. Essentially we were all foreigners. Indeed, based on European standards, all Americans even today, in 1964, are foreigners, except the American Indian. What the freedom of movement in the first two centuries did for Christianity, the free access to the United States from its earliest beginnings to 1920 did for America - it made us.

When the Congress passed the first of its anti-immigration bills, one of the arguments to which it hearkened was that the Italians came to America and worked here for ten or fifteen years, saved every nickel, and departed then for home. Congressmen even gave President Woodrow Wilson a carefully documented survey of how many millions of dollars this cost America, money which left here and entered Italy. President Wilson read this document, then vetoed the bill, saying, "Yes, but they left us the subways they built, didn't they?"

The immigrants, particularly the immigrants after the Civil War, gave America its gulf stream of vitality.

Why should this be? Is the "foreigner" better than the native? Of course not. In fact the foreigner or the stranger does not think himself as good as the native and it is this sense of inferiority, this hope to be like the native, that has given him this vitality through all history.

Just as the three great monastic orders in France were founded by a German, a Hungarian, and an Englishman, and Christianity was established in the Anglo-Saxon world by Italians and Spaniards, so were the great industrial, intellectual, and scientific institutions in America founded by foreigners from Scandinavia, Germany, Ireland, Britain, Italy, Poland, Russia, Hungary, Roumania, Austria, and all the other lands in the world, forty three million immigrants in a hundred years from seventy different countries.

It is a vitality we may have lost since the first law restricting immigration passed over the veto of President Wilson in 1920. When we become comfortable in our environment and there are few challenges we lose some of our drive.

Another fifty years of "racial" and "ethnic" restrictions and we will all look like Davy Crockett. Not that Davy Crockett was bad looking, but he didn't look like the Swedish

farmer in the Midwest or the Irish laborer laying the railroad ties or the Jewish medical student or the Polish iron worker or the Chinese merchant in San Francisco or the Italian restaurateur in Connecticut or for that matter, the Mohawk Indian who works in high steel.

Realistically, the "open door" policy is out of the question. But there are reasonable and providential revisions possible. And they are American. I refer to the proposals made by Senator Philip A. Hart of Michigan. He asks for the total number of admissable immigrants to be one-seventh of one per cent of the total population instead of one-sixth of one per cent of the white population according to the 1920 census. He would revise the "national origins" quota system by a formula based on the relative population of the countries of the world.

The section of our country which is only now entering the industrial age is the old Confederate South; significantly, this is the one section that had no immigrants, no foreigners, no strangers. There was great comfort in the homogeneous society, yet today when the physicist and scientist appear before the Senate committee to discuss the matters which concern the welfare, security, and survival of the United States, some of them talk with a heavy accent. One or two even need an interpreter.

Lysander, Sparta's great man, was not a Spartan at all, nor was William who started Britain on her road to glory a Briton, nor was Disraeli who made Victoria Empress of India an Englishman. A man is no prophet in his own country. Every land in this world sends its preachers to its neighbor, and receives preachers in return. The millions of immigrants who came to America were "preachers" with a gospel, seeking what the Greeks called "the good life."

It is the immigrant, who, finding freedom and opportunity in America, tells us what it is.

Once we had a peace corps that cost us nothing. It was composed of foreigners who wrote "home" about America and linked us to every country, city, town, hamlet, and farmhouse in the world. Who else better extolled the American way of life, who praised liberty and proved the pursuit of happiness better than the "foreigner" who described to the folks behind his new job in Detroit or his butcher shop in Milwaukee?

The McCarran-Walter Act robbed us of this. But God is good to us. America's new vitality will now come from the Negro, who, striving to be like others, will make others define what it is they are, what it is they ought to be. This is

America's good fortune to have always the marginal man struggling to get "in," struggling to prove himself, struggling to enter the open society and "become" like everyone else - as quickly as possible. By his use of Christianity as a weapon in his struggle for civil rights, the American Negro may have saved Christianity, or at least redeemed it for those religious fellowships, particularly in the South, who backed away from a moral issue. But the contribution of the American Negro will be equally great in providing the American civilization with the vitality which the classical "stranger" has always provided in his struggle to become part of the corporate whole.

Thank you for your invitation. I shall cherish the honor for the rest of my life.

Sept 1964
File
Civil Rights

CALIFORNIA - AMERICA'S CIVIL RIGHTS WEATHERVANE?

BACKGROUND

"Don't Legalize Hate!" and "Californians Should Have Freedom of Choice!" With these battle cries the antagonists over California November ballot Proposition 14 are locked in mortal combat. Immediately at stake are California fair housing laws, but also hanging in the balance is the major question of whether America shall be a separatist nation in principle as well as in fact.

Prior to 1963 California had a fair housing law which covered publicly assisted housing (generally VA, FHA, and Cal Vet loans) and provided that the aggrieved party could sue in court for damages Also on the books was a civil rights act providing damages in the case of discrimination by "business establishments of every kind whatsoever."

In 1963 the Legislature enlarged the scope of the fair housing law by passing the Rumford Act.

This law, named for its author, Assemblyman Byron Rumford, a moderate Democrat and Negro pharmacist from Berkeley, suffered a stormy legislative history. Although introduced at the start of the session it did not receive final passage until the waning moments of the last legislative day, and then only because of intensive backstage maneuvering by Governor Brown who had remained its champion throughout. The last four weeks of the legislative session featured a round-the-clock sit-in by CORE members who festooned the capitol rotunda with guitars, bed rolls and drying diapers in an effort to have the bill withdrawn from a senate committee where it had been sent for interment.

Throughout the legislative session the only organized opposition to the Rumford Act was the California Real Estate Association. It is a tribute to the power of that organization together with two staunch allies in the Senate, conservative Democrats Hugh Burns, President Pro Tempore, and Luther Gibson, Chairman of the Governmental Efficiency Committee, that the bill was stalled as long as it was.

The Rumford Act enlarged coverage of fair housing to include not only housing which had publicly assisted financing but also housing which was, in effect, held as a business enterprise i.e. real estate tracts and apartments with five or more units. More importantly, in the minds of its proponents, it turned over to the existing Fair Employment Practices Commission the responsibility for enforcement.

Shortly after passage of the Rumford Act, the California Real Estate Association, in fine disregard of the philosophy of some of its leaders that "This is a Republic - Not a Democracy, Let's Keep It That Way" went directly to the people and garnered enough signatures to ensure that the ballot will include a Proposition, Number 14, which would amend the California Constitution by adding the language:

> "Neither the State nor any subdivision or agency thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses."

This language would supersede the Rumford Act almost in toto and would abrogate coverage of the civil rights act of those business establishments which sell and rent real estate i.e. tract developers, landlords and the real estate brokers who act as their agents. Additionally, since the language is cast in the form of an amendment to the California Constitution, it would prevent the Legislature from ever dealing in the future with problems of racial and religious discrimination in the sale and rental of real estate.

Since one section of the Rumford Act states: "Nothing contained in this act shall be construed to prohibit selection based upon factors other than race, color, religion, national origin, or ancestry," (emphasis added) the stage is clearly set: Shall Californians have the legal right to practice discrimination in the sale and rental of real estate?

POLITICAL

The question has created some new political forces and alignments in California. For the first time there is open and united participation of the three major religious faiths in a public campaign. Boards of Rabbis, both North and South, have publicly condemned the proposition. All the Roman Catholic bishops of the state with the notable exception of James Cardinal McIntyre of Los Angeles (who says that the issue is political, not moral), have joined with Protestants affiliated in the National Council of Churches to denounce the measure. There have been public ministers' marches in which clerics of the three faiths, in religious dress, have demonstrated their unity of opposition. Interfaith councils of laymen have been created. Until this time these faiths had been living

side by side in a wary apartheid. While the Ecumenical Councils may have set a new feeling for cooperation, Proposition 14 has provided the concrete impetus for ecumenicity and the churches have early made the most of it. Regardless of the fate of Proposition 14 it is unlikely that this new ecumenicity and the political puissance that followed will soon atrophy away.

One of the major problems of the No on 14 campaign has been to keep from having too Democratic a flavor. Most of the officials of the campaign were appointed by Governor Brown and some of the "pros" involved are on loan from the Governor's office. As a result, some Republicans, though strongly against Proposition 14 are reluctant to identify publicly in the campaign because of the renegade aspect. The statewide steering committee and most of the local committees contain a salting of recognizable Republican names and there is a conscious effort by all to keep the campaign on a non-partisan basis. Gaffes are, however committed such as the time when the Northern California Finance chairman was making a fund raising speech to a group of influential people. He told them that although he realized that many demands were being made upon them for funds, such as the Johnson and Salinger campaigns and campaigns for lesser offices, they should nonetheless contribute to the fight against Proposition 14. In the audience was at least one Republican Assemblyman who sat wincing and wondering whether the campaign of his Democratic opponent was included.

The Democratic State Platform supports fair housing and rejects Proposition 14 by name. Even those Democrats who opposed the Rumford Act initially have now taken the stand that it should be given time to determine its worth. The Republican State

Platform also supports fair housing but is equivocal on the means by which it is to be obtained.. Their platform is silent on Proposition 14 and instead encourages "individuals" not to discriminate. Most Republican legislators who support 14 were early Goldwater supporters. Those opposed to 14 were opposed to Goldwater before the convention. But the main emphasis of Republican office holders has been to avoid the issue.

The California Poll, published by major newspapers in the state, has twice considered Proposition 14. The first time, in January, showed 41% in favor of Proposition 14, 40% opposed with 19% undecided. The second poll, in late March, after the civil rights demonstrations in San Francisco, showed 48% in favor and only 33% opposed with 19% still undecided.

So an anomalous situation exists: Politicians advocating a popular stand are doing so reluctantly while those taking the unpopular position are open about it.

The role of the newly emerging civil rights organizations; CORE, SNCC and the various "ad hoc" committees, has been interesting. They have blithely maintained the uneven tenor of their ways, without a sidelong glance at the fair housing struggle. This struggle they have left to the white liberal establishment and to the old line Negro organizations such as the NAACP and Urban League. The new organizations occupy themselves with sit-ins, lie-ins, and shop-ins. The polls referred to earlier clearly demonstrated the interdependence between civil rights demonstrations and the Proposition 14 fight. After those polls the San Francisco Examiner editorialized:

"Public resentment against civil rights lawlessness is the chief cause of this heavy shift of sentiment on fair housing. Logically the two are not related. But it is pointless to argue logic here. The public seeks a way to express its disapproval of civil rights disorders; the Rumford Act provides the obvious target.

"We do not believe the Rumford Act has been given a fair trial, and are distressed that this sharp change of public opinion may foreclose any fair trial.

"Even more distressing is our growing conviction that some of the activists in the civil rights movement actually desire the repeal of fair housing. They don't want racial harmony. They want disunity and discord for their own reasons."

Proposition 14 campaigners feel that much of the white backlash in California has been occasioned by questionable tactics employed by demonstrators.

An example is the shop-in, used against a grocery chain which allegedly discriminated in employment. This tactic featured demonstrators who entered the store, filled shopping carts with assorted merchandise, and left them piled high at the checkstand without paying.

On another occasion CORE continued to picket the Bank of America protesting that although the bank was willing to have its employment practices reviewed periodically by the state Fair Employment Practices Commission (in a revolutionary new concession) it refused to submit to review by CORE. No on 14 strategists are attempting to turn the demonstrations to their favor by arguing that the place to

solve civil rights problems whether in housing or employment is at the Fair Employment Practices Commission conciliation table and not on the streets. Privately, however, they are hopeful that the militant leaders will "see the light" and hold a moratorium on demonstrations until after November.

The No on 14 campaign also carries the endorsement of the League of Women Voters, the League of California Cities and the California Federation of Labor (AFL-CIO), these organizations having considerable political muscle.

On the other side, the Yes on 14 battle is being carried almost single-handedly by the powerful California Real Estate Association. They have associated the California Apartment House Owners Association and the two organizations have created the Committee for Home Protection to actually conduct the campaign. The National Association of Real Estate Boards (NAREB), of which the California Real Estate Association is an affiliate, has purportedly undertaken to raise $100,000 in support of the 14 campaign.

The language of the proposition itself nowhere mentions race or religion. Neither does the Yes on 14 campaign. By billboard and brochure the California Real Estate Association is urging Californians to "protect your freedom to sell to whom you choose" without ever saying that the only restriction on that freedom is the restriction against religious and racial discrimination. The California Real Estate Association does say that the "Rumford Forced Housing Act" should be repealed, but unless the voter has enough sophistication to know already that the Rumford Act restricts racial discrimination, he would never understand from the California Real Estate Association campaign that Proposition 14 concerns a civil rights question.

The California Real Estate Association has had "help" from the Nazi Party, a miniscule organization in California, which has on several occasions thrown out pickets carrying placards which read: "The Rumford Act is Communist Backed --- Treason is the Reason" and "We Can Prove NAACP and CORE are Backed by Communist Jews!"

Of more import is the establi shment in California of chapters of the White Citizens Councils. Mr. Kent H. Steffgen, former staff member of the John Birch Society, has been sent from Jackson, Mississippi, to head the Greater Los Angeles Citizens' Council. Upon arrival in Los Angeles Mr. Steffgen announced that his main focus would be on state rather than national legislation with emphasis on support for Proposition 14.

Governor Wallace was not a candidate in California which has not had since its early anti-Chinese days a frank appeal to bigots. Civil rights resistance has always taken the relatively elegant postures of "educate -- don't legislate", "creeping socialism" and "unnecessary restrictions of freedom." Now, whether by accident or design, the proponents of Proposition 14 are forming a pincer movement with the California Real Estate Association taking the old high road and the Citizens' Councils, the new low road.

It is difficult, as usual, to assess the role of the John Birch Society since that organization prefers an underground operation of infiltration and front groups to a surface espousal.

If, however, the Birch Society is one half as dedicated and ruthless as Welch proclaims in his Blue Book then an obvious tactic lies open to them. That is to engineer racial frictions and riots between now and November to maximize a climate of fear.

LEGAL

Would Proposition 14 be constitutional if it did pass? As might be expected, lawyers differ. Barring a specific statute it is generally not unconstitutional for private citizens to discriminate. States, however, may not discriminate because of the 14th Amendment which guarantees all citizens the equal protection of law. Those lawyers who argue for constitutionality say that Proposition 14 only guarantees private citizens the right to discriminate. They hold that this proposition simply returns California to the status it held from the day it was admitted until 1959 when the first fair housing law was passed. It was not unconstitutional for private citizens to discriminate then nor would it be now if they were guaranteed that right in their constitution.

Not so, say lawyers who hold that the proposition would be unconstitutional. They say that there has been a social custom of racial discrimination in the sale and rental of real estate. This custom has been recognized by the legislature which declared it to be against the public policy of the state. Proposition 14 would amend the state constitution to protect this social custom. Even though individual citizens may otherwise discriminate, the state may not protect this right because this would be state action barred by the 14th Amendment.

An attempt was made to get the California Supreme Court to decide the constitutionality in a suit designed to keep Proposition 14 off the ballot. The Court, in a one-sentence opinion, said:

> "Although there are grave questions whether the proposed amendment to the California Constitution is valid under the Fourteenth Amendment to the

> United States Constitution, we are of the view that it would be more appropriate to pass on these questions after the election, should the proposed amendment be adopted, than to interfere with the power of the people to propose laws and amendments to the Constitution, and to adopt or reject same at the polls."

The gratuitous reservation about constitutionality is seen by many as handwriting on the wall. The California Supreme Court, like its federal counterpart, has been liberal in civil rights opinions. Chief Justice Gibson has recently retired and been replaced on the court by former Attorney General Mosk. While Attorney General, Justice Mosk filed a brief with the court urging unconstitutionality so he may disqualify himself when the case reaches the court. Nonetheless, most lawyers are of the opinion that the California Supreme Court would hold the measure to be unconstitutional.

But <u>if</u> the measure should pass substantially, and <u>if</u> the court should then declare it unconstitutional would not the passage constitute a mandate to the Legislature to repeal the Rumford Act anyway?

THE RUMFORD ACT IN OPERATION

For all the enthusiasm of the Proposition 14 campaign it must be said that the Rumford Act has not had a pronounced effect on California housing patterns. In fact, it might be argued that it has had no practical effect whatsoever. California has a population of 17½ million of which 884,000 (5.6%) are Negroes. (In Negro population California has a few thousand more than Virginia or South

Carolina, a few thousand less than Alabama or Mississippi). California also has 1,426,000 Mexican-Americans (9.1%) who are generally ghettoized, and frequently the victims of housing discrimination.

Every contact between a potential purchaser or renter of real estate and the owner or landlord represents a potential case for the Fair Employment Practices Commission. If a Negro couple inspects 20 apartments before renting they might be refused at any one of the twenty because of their race and a housing case thus created. In a population of 17½ million and particularly in a population as mobile as California's it is obvious that in a year's time hundreds of thousands of such transactions occur.

The Rumford Act has been in existence ten months. In that period of time the Fair Employment Practices Commission has had exactly 159 housing complaints. Of this number 123 involved discrimination in apartment rentals, only 2 complaints had to do with discrimination in the sale of single-family homes.

In 60% of the complaints discrimination was found and the case settled by conciliation, without publicity. 40% of the cases were dismissed for insufficient evidence. Only one case has ever gone to public hearing. Although the Fair Employment Practices Commission has the authority, in the last analysis, to require payment of damages up to $500 to an aggrieved person, it has never assessed as much as a penny.

From these statistics it is apparent that what were Negro ghettos before the Fair Housing Act are Negro ghettos now. What were wealthy (and white) suburbs before the act are wealthy (and white) now. This is so of course because residential patterns,

although racial considerations may play a part, are overwhelmingly determined upon an economic basis.

CONCLUSION

It cannot be imagined that the expanded activity of the White Citizens' Councils in California is designed to combat the threat of 159 housing complaints; nor that the CREA---with its more than 38,000 real estate brokers and salesmen in California---has extended itself so because there were 2 single-family home complaints.

The fervor, pro and con, engendered by Proposition 14 is occasioned not because of the practical operation of the Fair Housing Act but because of the principle involved.

The passage of Proposition 14 would place in the California Constitution the freedom to discriminate in the sale or rental of real property. It would enshrine this freedom along with such traditional freedoms as speech and religion. Theoretically this new freedom would actually occupy a loftier status since, by its own terms, it is to be "absolute" whereas other constitutionally protected freedoms such as speech and religion are relative.

In modern times America has been separatist in fact but integrationist in principle. The passage of Proposition 14 would establish that America, or at least one major "northern" industrial state, was separatist not only in fact but in principle as well. It would bring the clamoring for further civil rights legislation to an end and instead place in jeopardy the continuation of existing legislation. Defeat at the polls would reverse the efforts of many civil rights supporters to conduct the civil rights battle in the legislative halls rather than in the streets.

The success of Proposition 14 would establish an official gradualism. The state would be saying to minority groups in effect: There are certain rights we will grant you now and certain rights we will not grant you.

The success of Proposition 14 in California would fan the desires of its proponents, especially the National Association of Real Estate Boards, to wage the same war in other states with fair housing laws. If they can succeed in California then why can't they pick off, one by one, such states as Pennsylvania, Massachusetts, New York and New Jersey?

But if the measure should fail in California it is unlikely that its proponents would undertake to raise the substantial sums necessary to wage the battle in other states.

If the measure should fail California would still be separatist in fact. There would still be Negro ghettos and Negro schools. But these ghettos and schools would find their existence only in fact, as institutions to be eradicated along with other social ills, not in principle, as institutions to be conserved. This is what the Proposition 14 fight is really about. No matter what the outcome, the result will have tremendous national significance. In California the civil rights chips are down.

Research Institute of America
Staff Recommendations

September 29, 1964
File 22

OPERATING UNDER THE CIVIL RIGHTS LAW

First practical guidelines to the uncharted ground of the new "equal employment" requirements have been hammered out for Members by Institute analysts. The new law has already begun to alter labor markets, personnel practices, union activities and community climate in just about every part of the country. But the law itself leaves many questions unanswered.

Most companies cannot afford to postpone action until official regulations or court rulings provide clearer answers to questions like these: What are my obligations as an employer? What must I do to correct a racial imbalance? What if my union bars Negroes? Must I take active steps to recruit Negroes? And what if I can't find any who are qualified?

This report provides a working set of rules which an employer may safely follow to bring his practices into line with the new requirements. To prepare it, the Institute combined a thorough analysis of the Law, the Committee Reports and Congressional debates, with a wealth of untapped business experience in comparable situations:

... Government contractors and subcontractors who have had to comply with the antidiscrimination provisions of Executive Order 10925 since 1961;

... State and local fair employment laws and the body of precedent established under them.

... Definitions of "discrimination" under the Taft-Hartley Act, as established by the courts, the National Labor Relations Board and arbitrators.

Coverage begins officially in July 1965 for larger companies, in 1968 for the very smalls. But the nature of the changes required and the potential for trouble are such that many companies will want to start rethinking policy now.

What the new Law covers

So far as business is concerned, the most pertinent section of the Civil Rights Law is Title VII, the so-called Employment Section, which requires equal

treatment for all job applicants and all employees. Specifically, the Civil Rights Act prohibits any company, employment agency, or labor union from discriminating against an individual because of his race, color, religion, sex or nationality in the following situations:

1. In hiring or firing;

2. In setting compensation, terms, conditions, or privileges of employment;

3. In segregating, classifying, or otherwise limiting an individual or in some other way adversely affecting his status as an employee;

4. In connection with apprenticeship or other training or retraining programs;

5. In printing or publishing of advertisements or notices: indicating a preference, limitation, specification or discrimination.

Furthermore, an employer may not retaliate against anyone who has opposed employment practices which are illegal under this Act, or because he has testified or participated in any proceedings under the Act.

Who is covered?

Eventually, every employer will be covered if he is in "an industry affecting commerce" and has at least 25 employees. However, the Act will go into effect gradually depending on the size of the employer's operation:

Those with 100 employees or more come under the Law July 2, 1965

" " 75 - 99 employees " " " " " " 1966

" " 50 - 74 " " " " " " " 1967

" " 25 - 49 " " " " " " " 1968

RIA observation: A company which is growing may have to anticipate coming under the Law sooner than the present size of its work force suggests. For instance, a company now employing 92, but expanding at the rate of 10% per year, may easily reach the 100 employee level -- and coverage -- by July of 1965.

If your payroll fluctuates seasonally, there is a special provision. You are subject to the Act if you have at least 25 employees in each working day for at least 20 calendar weeks in the current or preceding calendar year.

The term "affecting commerce" will be interpreted broadly, since it is

specifically given the same meaning that it has under the Labor-Management Reporting and Disclosure Act of 1959. For all practical purposes, this will mean all companies will be subject to the Civil Rights Law except for those who have already been declared outside the reach of the 1959 Landrum-Griffin Act.

Labor organizations that maintain or operate hiring halls for covered employers will come under the Act July 2, 1965 regardless of their size. Labor organizations that do not maintain hiring halls will be covered gradually -- those with 100 or more members on July 2, 1965 and down to those with 25 or more members on July 2, 1968: if they (a) represent employees under the National Labor Relations Act or the Railway Labor Act, or (b) represent the employees of a company engaged in an industry affecting commerce, or (c) have chartered a labor organization which affects commerce, represents or seeks to represent such employees. Conferences, general committees, joint or system boards or joint councils of labor organizations which meet the test of "affecting commerce" also come under the provisions of the Act.

Employment agencies are covered by the Act whether they perform their services on behalf of employers or employees and whether they do so with or without compensation. The definition includes the U.S. Employment Service and the federally-assisted system of state and local employment services.

Why action now?

"The way I see it," said one company president, "the only legal hazard confronting my company is that a job applicant may come along who feels that he has not been given equal treatment and may bring charges that he was intentionally discriminated against because he belongs to one of the minority groups. Until such an individual is actually standing at my door next July, why do I have to be concerned about compliance?"

Technically, it is true that the Law applies only to future discrimination. But there are many practical reasons for taking action now rather than waiting for the provisions to go into full effect. Consider the following factors in deciding what timetable your own company should follow:

1. This is an area of human relations where changes simply cannot be accomplished overnight. The experience of hundreds of companies in learning to live with non-discrimination shows that changes in customs and long-standing practices require affirmative action. Rather than risk friction, open resistance and disputes, thousands of companies have decided to take first steps now to achieve a gradual transition to the new requirements.

2. Companies whose work forces reflect the racial composition of the local population today may find themselves badly out of step in a year or two. Employ-

ment patterns generally are already being influenced by action of many larger companies (those with 100 employees or more) who want their house in order when they come under the Law on July 2, 1965 -- long before the deadline set by the Law for their smaller competitors.

3. The delay granted to smaller firms will prove largely illusory, as pressures mount from other sources. For instance, employment agencies will have to abide by the rules of the Civil Rights Law starting in July, 1965 even in dealing with the smallest employer. Similarly, most labor unions (except those with less than 100 employees) will have to live up to the new rules beginning in July, 1965.

4. Equal employment opportunity statutes have a tendency to develop "rippling" effects which extend far beyond the companies directly involved. For example, a public utility was startled recently when it received an equal opportunity compliance report form from one of the plants in its area which handled government work. Once so approached, however, the utility has since requested and received technical guidance on non-discriminatory employment from the government procurement agency involved. In another case, a fairly large corporation found that its employment practices became subject to review because one of its small subsidiaries happened to handle government contracts. Interestingly enough, this compliance review, triggered by a relatively unimportant part of the total corporation's facilities, showed up the largest number of "discrepancies" ever uncovered by the particular government office.

Must you "make up for" the past?

Once a rejected job applicant or disgruntled employee brings charges of discrimination, the whole past pattern of company policies and actions will probably be considered as part of the evidence on which to interpret the particular challenge or complaint. Note also that the Attorney General is authorized to file suit for an injunction to halt violations of this section when he has cause to believe there is a "pattern or practice of resistance" to the Act.

Charges of discrimination will sound much more believable if management has been passive and members of minority groups are limited to lowest level jobs. On the other hand, if management has clearly gone on record against discrimination and its employment pattern shows that equal opportunity is available to all, charges from one disgruntled individual will be easily refuted.

A company's record on discrimination may serve as circumstantial evidence in future proceedings, on the assumption that past practice will be continued -- unless management orders and enforces a different set of policies. But there, management's concern with the results of past acts of discrimination ought to stop:

... The mere fact that your work force has a disproportionately small

number of Negroes, possibly confined to menial jobs, does not require you to take any corrective action other than to prevent future discrimination.

... You are not required to stop recruiting white personnel or to reserve all future job openings to Negro applicants or other minority groups. Nor are you required to displace any of your present employees in order to make room for members of minorities.

On the contrary, any such misguided effort to atone for past sins would in all probability be "discrimination in reverse," which is illegal and clearly contrary to the stated aims of the Civil Rights Law.

How much "adjustment" will be required?

Every company must decide for itself whether its employment policies require significant changes in the light of the Civil Rights Law. However, experience with similar requirements imposed by state and local laws, and the President's Executive Order 10925 strongly suggest that most companies will have to make some adjustments.

To help you judge how well prepared you are to live with the employment provisions of the Civil Rights Act, the Institute recommends the following self-audit.

An Audit of Where You Stand

How would your company rate if you had to meet the test which government contractors must pass under the President's Executive Order 10925? Contractors must answer the following questions as proof that they have taken "affirmative action" to end discrimination in employment and to prevent its recurrence. This self-audit will give you a good idea of the adjustments you may soon have to make. (Add the word "sex," where appropriate, in the following questions to make them completely consistent with the language of the Civil Rights Act.)

1. Has a company-wide employment policy been established with procedures put into effect to assure that equal opportunity is given to all persons without regard to race, color, creed, or national origin?

2. If "yes" has it been communicated in writing to all employees and offices? (If by other means, explain.)

3. Are there any educational or formal training programs for employees or prospective employees?

4. If "yes" are all persons given the opportunity to participate without

regard to race, color, creed, or national origin?

5. Have all recruitment sources (other than unions) been notified that all qualified applicants will receive consideration for employment without regard to race, color, creed, or national origin?

6. Has this been done in writing? (If by other means, explain.)

7. Do all employment recruiting advertisements state that all qualified applicants will receive consideration for employment without regard to race, color, creed, or national origin?

8. If the company is operated under a union contract, do all provisions of each collective bargaining agreement or other contract or understanding made with a labor union (or unions) permit full compliance by the company with its obligations under the non-discrimination provisions of government contracts? If "no" explain.

9. Has a notice advising the union of the company's obligations under the non-discrimination provisions of government contracts been sent to each union?

10. Has each such union notified the company that its policies and practices are consistent with these non-discrimination provisions? If "no," identify such union(s) and describe any efforts to obtain such information and commitments.

11. Are there any employee facilities (i.e., drinking fountains, restrooms, recreational areas, lunchrooms, etc.) which are provided for employees on a racially separate basis?

12. List separately the total number of male and female employees in each job category and the number within each category who are members of minority groups. (The categories specified are officials and managers, professionals, technicians, sales workers, office and clerical, craftsmen (skilled), operatives (semi-skilled), laborers (unskilled), service workers, apprentices and on-the-job trainees.)

Planning Your Own Action

Whatever your company's size and past record, you will want to take certain precautionary steps now to be sure that no discrimination occurs in the future. In addition to our own pool of Member experiences, Mr. George Culberson, one of the chief officers administering this Order on behalf of the Air Force, was particularly helpful in sharing with us the experience of hundreds of Air Force contractors. These sources underscore the fact that involuntary discrimination is probably as widespread as intentional discrimination -- and may be equally difficult to uproot. Under the new law, both will be equally illegal.

Joining forces with other employers in the area can be an effective way to overcome problems which are too big to overcome with a single company's resources. In addition, such an area-wide approach, which has been successfully tried in several localities, offers important incidental advantages: it permits many smaller companies to benefit from the practical experience of the larger employers in the area, it makes it much easier to enlist the active support and assistance of such community facilities as schools, churches, etc., and finally, it takes the onus of "pioneering" off the shoulders of any individual employer.

Ending de facto discrimination

To put an end to de facto discrimination, clear-cut management decision and direction are essential. The experience of companies which accomplished such transitions successfully in the past suggests that a logical starting point is the announcement of an affirmative policy position.

Technically, an obligation to take "affirmative action" is imposed only on government contractors subject to Executive Order 10925. But thousands of other companies will nevertheless find it desirable to take positive action. The reason can best be made clear by the not uncommon experience of one company:

A new personnel director, desperately searching for some new solutions to the labor shortage in critical skills, raised the question of why Negroes had never been considered. The company president's answer was that there had never been any policy against hiring minority groups. Obviously this was not an adequate explanation -- but it did help both men to realize that Negroes had not been considered simply because there had never been a policy for their employment. Where discrimination has long been the community custom or tradition, it will take a strong affirmative management decision to assure equal terms for all job applicants.

The policy announcement

Announcement of a non-discrimination policy requires careful planning. Keep in mind that you're dealing with a subject which closely touches every employee in his work relationships, real or fancied self-interest, prejudices and preferences. Following are the Institute's best answers to some practical questions which may arise in this connection.

• Written or unwritten? Government contractors, who are subject to Executive Order 10925, have often found it helpful to be prepared to communicate their non-discriminatory policy in writing. In fact, many other companies have come to feel that such a written record minimizes the risk of misunderstanding.

Moreover, it can prove valuable if the company is ever called upon to defend itself against charges of discrimination, though the mere existence of such an announcement may not be an adequate defense if other evidence shows that the order has largely been ignored.

RIA caution: Small companies, or companies whose personnel practices have always been informal, may prefer to avoid any written announcement. If none of your personnel policies have ever been so formalized, a written communication of a policy against discrimination may blow the whole subject up out of proportion.

• Self-consciousness is an ever-present hazard and should be avoided at all cost. In today's highly charged atmosphere the adoption of a patronizing tone will not only be resented by Negroes and other minority groups, but will tend to weaken the announcement in the eyes of white employees as well. Nor will a self-righteous or crusading attitude be well received by either group. It is neither necessary nor desirable to be apologetic about past practices or to brag about past achievements in this area. In fact, pretending that a policy announcement against discrimination "simply reiterates what has been the policy of this company right along," may not only provoke snickers but may well be taken as a signal that management doesn't mean what it says, if in reality some discriminatory practices have existed.

• Timing and tone of the announcement should follow your management's normal "style" and practices. While some companies wait until the first Negro is hired or introduced into a high position before making any formal policy announcement, a majority of companies strongly suggest that the policy be announced well in advance of the actual appearance of members of minority groups in formerly all-white groups.

As for the tone of the announcement, one which simply prohibits discrimination based on race, nationality, etc., will undoubtedly satisfy the technical requirements of the Law. But against such an essentially negative posture, more and more companies favor an affirmative statement of the company's intention to provide "equal employment opportunity" to all, based solely on the qualifications of each individual.

Where management anticipates that its announcement may stir up fears or apprehension among present employees, it may also be advisable to include words of reassurance about their status.

• Foremen and other supervisors can play a key role in implementing the company's policy against discrimination. The unhappy experiences of a few companies show that lack of support or understanding at the supervisory level can seriously undermine management's efforts to ban discrimination. For this reason, many executives recommend that supervisors be informed well in advance of the

general announcement to rank-and-file employees. They should also be given an opportunity to raise any questions they may have, since it will be up to them in turn to explain the policy to rank-and-file. Above all: remind all foremen and supervisors of the serious consequences which their actions may have, since the Law specifically applies to "those acting on behalf of the employer."

Whether to go beyond these steps and involve supervisors in the discussion of contemplated policy changes is at best questionable. The majority view seems to be that such consultation in advance of policy decision may unnecessarily stir up resentment and opposition, especially where lower level supervisors may share the same emotional feelings and exaggerated fears as the rank-and-file.

• Union representatives should also be brought into these proceedings at an early stage. Shop stewards will now be more receptive to management suggestions in this area, since the non-discrimination requirements of the Civil Rights Act specifically apply to labor organizations.

• Whether to seek publicity for company policy announcements on discrimination will become largely academic. In the past, where a company was pioneering in opening its doors to Negroes and other minority groups, it may have found it desirable to seek publicity, either as a means of attracting qualified Negro applicants or to earn community recognition for its progressive policy. Except in the increasingly rare situation when non-discrimination by one company still represents a real break with local custom, however, it will be undesirable or even impossible to publicize company action in this area. The number of companies already on record against discrimination and the new impetus given by the Civil Rights Law will make most company announcements in this area mere routine and hardly "news."

Is active recruiting required?

Technically, the answer is no; practically, it may be yes. There is nothing in the Civil Rights Law that requires an employer to make special efforts to recruit Negroes or other minority groups. On the other hand, when the new Law goes into effect, it is practically certain that recruiting and hiring practices will be the most likely target of charges of discrimination. This is clear from the experience in cities and states which have Fair Employment Commissions.

Once a company has decided to open its doors (for the first time or just more widely) to Negroes and other minorities, it will obviously be to its own best interest to have as large and as good a group of applicants to choose from as possible. But achieving this will not be easy. Negroes and members of other minorities have a tendency to avoid companies which have a reputation for having discriminated in the past. What's more, the supply of qualified applicants won't be rising anywhere near as fast as demand. As a result, far more aggressive action may be necessary to bring out the desired number and quality of minority applicants.

Employment agencies and other sources with whom you have been dealing in the past should be notified that your door is now open to applicants regardless of race, color or creed. However, such sources can be counted on for a significant new flow of Negro applicants only if they themselves have had minority-group clients in the past. Much like the companies they serve, employment agencies that have a reputation for discriminating against minorities will have difficulty attracting them now. For this reason, personnel managers with experience in this field are unanimous in recommending that any company desiring to open or widen its doors to minority groups resort to many more sources than those it has traditionally relied upon. Among the avenues which are being successfully pursued by others, the following deserve specific mention:

1. State employment offices which, in the past at least, have had on tap a significant number of non-white applicants, are good sources in the metropolitan centers particularly.

2. Advertising in newspapers with a sizable readership in the Negro and other minority communities can be effective. The mere placement of ads in these media will in itself serve as notification to potential applicants that the company is serious in its intentions to follow an equal employment opportunity policy.

In preparing all future ads and job notices, keep in mind that the Civil Rights Law expressly bars any mention of race, color, religion, sex, or national origin. In fact, the ads may not even indicate a preference for colored applicants. (Though, of course, there's nothing to prevent a company from advertising in papers with a predominant Negro readership.) And note that the company placing the help wanted ad carries full responsibility for the content and its compliance with the Civil Rights Law; it cannot depend on the newspaper to screen out any references or statements which may be illegal under the Civil Rights Law.

3. Recruiting in schools and colleges and other predominantly Negro institutions has also helped companies increase the flow of Negro applicants. This will undoubtedly continue to be true even though predominantly Negro institutions are experiencing such an increase in inquiries that some are hard put to handle them effectively. Still, contacts at such schools will be essential for companies determined to attract qualified minority group applicants for high-skilled jobs especially. Last year, for example, the National Urban League estimated that of the country's 175,000 Negro college students, 85,000 attend predominantly Negro institutions. As a measure of growing competition for Negro college graduates, the National Industrial Conference Board found in a June, 1964 survey of 40 companies, that 37 had interviewed Negroes on college campuses, and 32 of them included all-Negro schools on their recruiting trips.

4. Churches and civil rights organizations interested in promoting the interests of the Negro community, like the NAACP and the Urban League, and

agencies of certain religious groups, like the American Friends Service Committee, can refer qualified people. Here, too, you will have to anticipate, however, that you will face more and more competition from other recruiters. What's more, outfits like the Urban League are primarily interested in helping a company break through the barrier; once the first members of minority groups have been successfully placed, the company is expected to carry on under its own power and through its usual recruitment agencies.

On the other hand, the effectiveness of such organizations as the Urban League has been strengthened in a number of localities where large companies are making available their own skilled personnel technicians to assist the League's programs and specifically their "manpower skills banks."

5. Word of mouth is, of course, still one of the most effective recruiting devices. This is especially true for the Negro and other minority groups where a single contented employee on your payroll can easily attract dozens of other qualified applicants.

One word of caution must be added in this connection. As a company broadens its recruitment efforts and contacts new sources of manpower, it will be especially important to be specific in explaining company policy and standards. Misunderstandings or ignorance of company standards -- which, in turn, result in wholesale rejection of the first applicants -- can quickly sour the relationship with the particular source and frustrate future recruitment efforts.

Agencies which have minority group applicants available are especially wary of so-called "blanket orders" from employers who formerly ignored them entirely. For instance, one company informs an agency that "We always need welders." But when applicants are referred to them, it turns out that no openings will be available for some weeks. Rather than follow such blind leads, the agencies gradually restrict their referrals to companies which indicate specific and immediate openings.

Adjusting your selection procedures

Attracting an adequate number of Negroes and members of other minority groups is merely a preliminary step in integrating your work force. The question of discrimination must be faced in adapting your selection and placement procedures to applicants from minority groups. The best available answers and precautions:

1. What selection standards should be applied? Contrary to widespread impressions, a company is neither required nor expected to lower its standards in order to permit the hiring of Negroes or minority groups. On the contrary, such lowering of standards can only hurt the best interests of both the company and the minority group. In fact, the company that has applied low selection standards in

the past because it hired Negroes for low level jobs only may be well advised to raise its sights and select Negroes who have promotion potential.

2. Should personality traits be emphasized in hiring the first members of minority groups? Obviously this is a very sensitive question, the handling of which requires sound judgment as well as tact. Some companies have found, for example, that neatness in grooming and appearance can facilitate group acceptance of the first Negro to be introduced into a work group. Similarly, some personnel experts confide that Negroes who have already had experience in working in a predominantly white employment situation often possess more than the usual amount of patience and tolerance in the face of tension or prejudice during the initial period of transition.

RIA caution: While it is true that personality traits may play a part in easing initial integration of your work force, beware of going overboard on such factors. Not only are personal traits hard to judge objectively, but an over-emphasis on such qualities may leave you open to charges of discrimination. Safest course is to be certain that Negroes and other minority groups are handled in the same manner and under the same selection procedures as white applicants.

3. Is pre-screening by outside organizations "discrimination"? In the past, companies that pioneered in their communities to open up job opportunities to Negroes have found it helpful to ask outside agencies to pre-screen Negro applicants and refer the most likely ones. The American Friends Service Committee and the Urban League were particularly effective in this area, as were certain consulting firms. There is nothing in the Civil Rights Law that prohibits this practice, provided, of course, that it is not a subterfuge for unfair treatment and so long as all qualified applicants are given an equal opportunity to be chosen.

4. Is it permissible to use selection tests? Some tests have been criticized as being unfair to applicants from the so-called underprivileged communities, and, therefore, some executives are under the mistaken impression that testing itself is no longer permitted. This impression has been reinforced by a widely publicized decision under the Illinois Fair Employment Practices Act. In this case, an Examiner ruled that a test used by the Motorola Corporation couldn't be used as a basis for denying employment to a Negro applicant who had failed to score high enough to qualify. Nevertheless, the Civil Rights Law contains a specific provision permitting use of a "professionally developed ability test, provided that such test is not designed, intended or used to discriminate..." Under this authorization, most of the standard tests and examinations used by personnel offices will be clearly legal.

RIA observation: A word of caution against the indiscriminate use of tests. Quite apart from any special problems which may arise with minority groups, it is generally recognized that in many cases tests are improperly administered and misinterpreted. Thus, personnel experts stress the importance of picking tests which measure qualities which have a direct relationship to job functions to be performed. One company was successfully challenged when it was found that a number of raw test scores were simply added up and the resulting meaningless composite used as a basis for acceptance or rejection. In dealing with minority groups there is, of course, the additional factor that many individuals from so-called underprivileged backgrounds don't test as well as their contemporaries from other groups. Interestingly, some of the nation's large employers have taken the initiative in this matter and are cooperating with public schools to provide "practice" in testing to minimize this occupational hazard.

5. Are there new restrictions on questions or application blanks? Anything that touches on an applicant's race, creed, color or national origin will be taboo. All employment questionnaires should be reviewed to make certain they don't contain questions which bear on these subjects. But even that isn't enough. Special care will have to be taken so that those who interview job applicants don't inadvertently stray into areas of inquiry which are barred by law. While the federal government has not yet spelled out the do's and don'ts in this sensitive area, you can get a fairly good indication of what the rules will be from the following summary of questions which the New York Commission Against Discrimination has held to be unlawful:

- Original name of an applicant whose name has been changed by court order or otherwise.
- Birthplace of applicant, applicant's parents, spouse or other relatives.
- Requirement that applicant submit birth certificate, naturalization or baptismal record.
- Inquiry into an applicant's religious denomination, religious affiliations, church, parish, pastor, or religious holidays observed.
- An applicant may not be told "This is a Catholic, Protestant or Jewish organization."
- Inquiries regarding complexion, color of skin or coloring.
- Requirement that an applicant affix a photograph to his employment form after interview but before hiring, or at his option.
- Inquiry into whether an applicant's parents or spouse are naturalized or native-born citizens; the date when any of the above acquired citizenship.
- Requirement that applicant produce his naturalization papers or first papers.
- Inquiry into applicant's lineage, ancestry, national origin, descent, parentage or nationality, or the nationality of applicant's parents or spouse.
- Inquiry into language commonly used by applicant.
- Inquiry into how applicant acquired ability to read, write or speak a foreign language.
- Name of any relative of applicant, other than applicant's father and mother, husband or wife and minor dependent children. (This ruling prohibits such

inquiries as "maiden name of applicant's wife," "maiden name of applicant's mother," "names of applicant's relatives," and "names of applicant's close relatives.")

- Address of any relative of applicant, other than address (within the United States) of applicant's father and mother, husband or wife and minor children.
- Inquiry into an applicant's general military experience.
- Requirement that applicant list all clubs, societies and lodges to which he belongs.

RIA caution: In checking your own pre-employment questionnaires, you will want to consult the specific restrictions in your own state. While New York has been a pace-setter in non-discrimination, this list is merely illustrative. On specifics, not all states and jurisdictions agree. Some questions held unlawful in New York may be permitted elsewhere, while some inquiries deemed lawful in New York may be barred in other jurisdictions.

Note that once an applicant has been hired, most of the restraints which apply to pre-employment questionnaires and interviews can be safely ignored. For example, a company is perfectly within its rights to indicate on its personnel records the race, color, sex, and other characteristics of each of its employees. In fact, this type of information will be increasingly important in keeping track of progress in eliminating discrimination. On the other hand, even post-hiring interviewing should be carried out cautiously; there's always the danger that a new employee who fails during an initial trial period may subsequently charge that he was fired because of information extracted from him immediately after he was hired.

6. Should reasons for rejection be explained? Many executives are understandably reluctant to explain to any job applicant why he has been rejected. But it is dangerous to omit such feedback in dealing with a member of a minority group. It may be the only way to prevent him from feeling that he has been rejected because of his race, color, or creed, and thus be tempted to bring charges against your company.

But the delicacy of the feed-back problem is dramatically illustrated in one case where a Negro was rejected because he was far too qualified for the vacancy which existed. His reaction was "over-qualified or not, I want it!" Employers may find that, despite current progress, opportunities open to minority groups are still so limited that many Negroes may seriously apply for jobs that similarly-qualified whites would turn down.

In the more common case, however, an honest explanation of the reasons for rejection can often help the applicant correct obvious deficiencies and be successful in future applications. In any event, the company must be prepared to state its reasons should the rejected applicant file charges of discrimination. Inconsistency between the explanation given to the Commission and that previously offered to the job applicant may well count against the company's good faith.

Pay policy and working conditions

There is practically unanimous agreement on the desirability of special indoctrination and placement when introducing the first individual into a formerly "homogeneous" work group. His acceptance will be made easier if he is put into a job for which he very obviously is fully qualified; if he steps into a vacancy which opened up naturally so that there can be no suspicion that a "place" was especially created for him; and finally, if he can be put under a foreman or other supervisor who is sympathetic to the Civil Rights Act and willing to apply it on the job.

But beyond these general rules, every company will face some practical questions regarding its over-all personnel policy and practices. The Congressional debate which preceded passage of the Civil Rights Law provides some guidance as to what changes, if any, are required by the broad prohibition of the Act. Until such time as official government regulations are issued, the following are the best available answers to some of these key questions:

1. Is pay policy likely to be challenged? Despite the fact that pay is one of the most important "conditions of employment," few difficult questions should arise in interpreting the Civil Rights Law in this area. It would obviously be illegal to maintain different pay scales for colored and white, or to pay a member of a minority group less than a white worker gets for doing the same job. However, it is generally acknowledged that since Negroes and other minority groups are still more heavily represented in lower level jobs, their average pay now and for some time to come will lag behind that of white employees.

2. What if a Negro claims he is entitled to a "white man's wages"? If a job handled by colored workers at one pay rate is very similar to a job performed by whites at higher pay, the company will have a difficult time defending itself. Merely designating two jobs as different will be no protection for different pay scales if white and colored employees are, in fact, doing essentially identical work. With respect to discrimination based on sex, the Law specifically refers to the Equal Pay Act for clarification of questions which may arise. The Equal Pay Act will probably also provide clarification with respect to other definitions of discrimination.

3. What if a job is predominantly handled by Negroes in one of our plants, and whites in another? The Congressional debate made it clear that Congress intended to permit different pay scales to continue in different localities, even if this meant that, for example, a Negro employed in a plant in a rural community would receive a lower wage for the same job that a white worker in a central city installation where all wages are higher. If the purpose or intention of such an arrangement is discriminatory, however, it would be illegal.

4. What about the effects of seniority systems and incentive pay? Some Members have pointed out that under many existing pay arrangements, Negroes and

other minorities may "never catch up" to the average pay of white workers. For instance, most pay scales reflect seniority. Thus, Negroes now being added to the work force obviously will be receiving less than white workers who have been with the company for some time.

All that the law requires, however, is that a Negro now being hired doesn't receive any less than a comparable white worker joining the company at the same time. The incidental results of a seniority system are perfectly legal. Similarly, any bona fide system of pay based on differences in performance will continue to be perfectly legal even if Negroes would, in effect, be taxed for their lack of past experience. So long as the minority group employee actually has less proficiency in the performance of a particular task, he may be paid less than his more experienced and more efficient white co-workers. The only test to be applied is whether there's a discrimination based on a man's color or race rather than on his performance.

5. May we maintain separate seniority lists for Negroes and other minority groups? The answer is unequivocally no -- even if the intent of the company would be to help minority groups by shielding them against layoffs, for example. These questions are most likely to arise because of union pressure rather than on the initiative of the company. In a much discussed decision in June '64, the National Labor Relations Board made it clear that a union which attempted to maintain two separate locals based on color automatically lost its legal rights to represent the workers. Similar vigorous action can be expected in the future against any union which interposes obstacles to a company's effort to operate with a single seniority list.

6. May we set aside certain facilities for use of whites only? In communities where segregation of the races has long been the rule, companies may be tempted to minimize resistance and resentment of white workers by maintaining separate facilities -- at least at first. Even where a company may be contemplating such compromises in order to ease the problem of the first Negro employees, it would be acting illegally under the Civil Rights Law. The Congressional debate made it very clear that the non-discrimination rule is to be applied to every aspect of the employment relationship and that it would specifically bar maintaining segregated facilities in lunchrooms, rest rooms, etc.

RIA caution: Note that the federal statute takes clear precedence over state and local law. No employer can use as his defense the fact that a local ordinance required him to maintain such facilities on a segregated basis.

Promotion and training opportunities

It is not at all uncommon to find that a company which did not intentionally discriminate in the past nevertheless has no Negroes in higher level supervisory

jobs today. Many such companies are concerned that this imbalance leaves them open to charges of discrimination.

Odds are that this fact alone would not be sufficient to sustain a charge of discrimination. But, the fact that Negroes or other minority groups are only represented in the lowest paid jobs might well become one bit of evidence to be considered if a charge of discrimination is leveled against the company. The underlying question is whether promotion opportunities are available at all to minority groups. In some companies where Negroes have been employed for some time, they have never been seriously considered for promotion to higher jobs and consequently they have long since ceased trying for such promotion. Such practices will now be illegal.

The fact is, of course, that among minority groups the number qualified for higher level jobs will continue to be limited for some time to come. For this reason alone, most companies will want to make every effort to use the skills of those already employed. An updating of personnel records may turn up untapped skills. Many Negroes, conscious of the limited opportunities available to them, have often not even bothered giving all of the data on their background on their initial application.

Government contractors may be required, under the Equal Opportunity Order, to list the number of promotions which occurred and the number of members of minority groups as against the number of whites who were actually promoted. If it becomes clear that non-whites have consistently lost out in the competition with whites, the contractor is then asked to check into the reasons and to do what he can to correct the conditions. This procedure may be used as a model by all employers in determining whether discrimination in promotion exists.

In some cases, the fault may indeed lie with the company itself. For example, where a Negro is not loaned out to other departments where he can learn the skills necessary to qualify for promotion, the company would presumably be expected to give specific instructions to its foremen and other supervisors to make sure that Negroes and other minority groups are as frequently given such a chance to learn additional skills as are their white co-workers. Arbitrators have found employers guilty of unfair labor practices where Negro employees were not given job assignments where they could gain experience for higher paying jobs.

But in many more cases, the lack of qualifications for promotion is part of the unhappy result of years of discrimination and cannot be expected to be corrected overnight. Certainly, in most cases, the individual company is not even equipped to overcome such deficiencies. More and more, companies are getting together on a community basis to provide the training which Negroes need to equip themselves for promotion. One particularly impressive recent illustration is a border state city where such a joint effort is helping to upgrade the skills of dozens of

workers, both Negro and white: the local school system provides the physical facilities, industry many of the instructors, the local Human Relations Council the sponsorship and active promotion under the slogan "Learn More -- Earn More."

In other communities, individual companies have taken the lead in correcting deficiencies of education and training. To pick some examples at random, a predominantly Negro high school in a Southern community was persuaded to hire its first shorthand teacher so that its graduates could qualify for steno/typist positions which are beginning to become available to them. Under the leadership of industry, a Texas city has recently dropped racially based admission barriers in its public school vocational classes. This has resulted in an increase in the number of non-whites qualified for higher level industrial assignments. In still other communities, company representatives were able to substantially increase the number and quality of vocational school graduates by working more closely with their local school systems. A visit to local schools frequently shows equipment which is sadly out of date and instructional staffs which are unfamiliar with the methods and needs of modern industry. To correct such deficiencies, companies have started to provide more modern equipment as well as to offer vocational school teachers additional training in their own facilities.

The union's role

Unions are subject to the same restrictions as employers, under the Civil Rights Law. But the fact is that, in the past, many instances of discrimination within a company have been a result of union pressure. Unions have already been scored -- by the courts, the National Labor Relations Board and arbitrators -- for discriminating against members of minority groups. The NLRB has made it clear that it intends to use its full powers against racial discrimination.

Point is, employers will find themselves equally guilty of unfair labor practices if they enter into agreements with a union to discriminate -- either against or in favor of minority groups. Note that although the Civil Rights Law has not yet gone into full effect, the following practices have already been found "unfair labor practices" under the Taft-Hartley Law:

- An agreement between company and union to allocate work on the basis of race: one Negro for every three whites.

- Picketing to persuade an employer to replace white quits with Negroes until the proportion of Negro clerks to white clerks approximated the proportion of Negro to white customers.

- Picketing to persuade an employer to fire a white employee and replace him with a Negro.

- An informal understanding between company and union that promotions to better paying jobs would go to whites only, in disregard of Negroes' qualifications and seniority.

- An agreement between company and union to strip Negroes of seniority.

- A preferential father-son apprenticeship training system which, in effect, barred Negroes from union membership.

Best bet, if your union brings pressure for a job quota setup, discrimination in hiring, firing or promotion -- or even discrimination in reverse -- is to stand firm and refuse to be a party. Remind the union that the penalty for such discrimination is loss of Taft-Hartley protection -- which means loss of certification -- in addition to involvement in Civil Rights charges.

Double-check supervisory compliance

The importance of your supervisory and middle management group, in connection with enforcement of non-discrimination, cannot be over-emphasized. In some cases, there may be honest misunderstanding of their role; just as frequently, however, you may discover some foot-dragging in carrying out your announced policy.

Special meetings at the supervisory level will be of some help. Beyond that, you may want to check periodically to be certain that the full spirit of non-discrimination is being carried out. Here are some situations where middle management definitions of "discrimination" were not strict enough to meet the requirements of the Law:

- Bunching job categories. The management of a large corporation was startled to learn from a review under Executive Order 10925 that a number of its departmental managers were hiding their nonconformance with company policy by lumping certain job categories, regardless of departments in which they were located. While this danger is not likely to exist in smaller companies, physical segregation of non-whites who technically belong to the same department may nevertheless present similar dangers.

- Demanding unreasonable qualifications. In listing the minimum requirements for a job opening in his department, a foreman stated that the applicant must live within a close radius of the plant so as to be available on call in case of emergencies. In effect, this ruled out Negro applicants, since the prescribed residential area was exclusively white. Actually, the nature of the job was such that while close proximity might be convenient, it could not truly be called essential. Thus, if the company's personnel department were to carry out the foreman's instructions, it could be charged with discrimination.

Similarly, setting a promotion requirement of "10 years of merchandising experience" - which no Negro could possibly have because of past discrimination - might also involve you in trouble if the job actually does not require such a background of experience.

• Avoiding insurance headaches. Car insurance rates are higher for Negroes than for whites in some states, because of actual differences in risk experience. However, a sales manager would be guilty of discrimination if he refused to consider a Negro salesman for a job in such a state, on the ground that company costs would be higher than for a white salesman. Some question has already arisen as to the possible effect of substantial numbers of Negro employees on group insurance rates. While there is no indication that insurance premiums would be affected, discrimination in hiring or promotion of qualified Negroes on this basis would undoubtedly be held illegal.

• Creating Negro "islands." Another hazard, illustrated in the experience of companies operating under state statutes or the Executive Order is that management so completely concentrates on introducing a few minority group members into formerly all white departments that they completely overlook the continued existence of all or predominantly Negro work groups. Some supervisors tend to perpetuate the status quo. A determined management effort and some special incentives may be required to attract white applicants into predominantly Negro jobs and to break through the existing biases.

Consider, for example, combining two departments such as a janitorial crew and a maintenance crew. Reexamine job descriptions and see if it is possible to assign some maintenance jobs to lower level porters. This would not only effectively break through your Negro "ghetto," but, by exposing Negroes to jobs with higher skills, make it realistically possible for them to move up to higher paying jobs. But here, too, supervisory cooperation is crucial. Get behind your supervisors and let them know their training efforts are noticed.

Exemptions and exceptions

The Law provides for certain reasonable exceptions. For example, where religion, sex or national origin is a bona fide occupational qualification, discrimination is not illegal. Presumably a Chinese restaurant would not be required to hire French waiters, nor would a men's Turkish bath be required to hire Swedish masseuses. But race may never be a "bona fide occupational qualification."

In addition to employers and labor unions with less than 25 employees or members respectively, certain other exemptions are specifically provided:

• The federal government or corporations wholly owned by the government

of the United States. (The federal government, of course, has its own policy for equal employment opportunity.)

• States and their political subdivisions.

• A bona fide private membership club other than a labor organization which is exempt from taxation under Section 501 of the Internal Revenue Code.

• Indian tribes.

• Employees of a school, college, university or other institution of learning, owned, supported, or managed by a particular religion or religious group, and directed towards the propagation of a particular religion.

• Individuals employed by an educational institution to perform educational activities.

• Individuals employed by a religious corporation, association, or society to carry on religious activities.

• Aliens employed outside any state.

• Members of the Communist Party or other organization designated by the Subversive Activities Control Board are not entitled to protection of the Civil Rights Law.

• Where national security is involved, an individual who has not received security clearance is not entitled to the protection of the Civil Rights Act.

• Where national origin, sex, or religion is a bona fide occupational qualification necessary to the purpose of the business.

• Discrimination in reverse is permitted in the case of businesses on or near an Indian reservation who have a publicly announced employment practice to give preferential treatment to Indians. (This particular exemption has already been challenged by the United Mine Workers.)

How the Law will be administered

The chief purpose of the Civil Rights Law is to win equal treatment for those who in the past may have been discriminated against or refused service, rather than to punish those who have discriminated. Accordingly, much of its enforcement, at first at least, will aim to bring about voluntary compliance, giving state and local authorities first crack before bringing federal power to bear.

For example, a Community Relations Service, established under the Civil Rights Act and operating as part of the Department of Commerce, will play an important part in the area of public accommodations. Operating confidentially and without publicity, it is to provide conciliation services in any argument arising under the law and conduct hearings where necessary.

Similarly, in the area of employment, much of the burden of ensuring initial compliance with the Act will rest with a five-man Equal Employment Opportunity Commission appointed by the President. Its work at first will mainly focus on cooperating with state, local and other agencies and in providing conciliation services. It has no authority to bring suits. However, the Commission may recommend that the Attorney General intervene in civil suits or start a suit of his own. Also, while engaged in an investigation, the Commission may demand access to records, examine witnesses under oath and require that documentary evidence be presented. Such demands are enforceable by court order.

Posting and record keeping

Every company subject to the Employment Section of the Civil Rights Act will be required to post conspicuously notices containing excerpts or summaries of the Law. Such notices will be prepared or approved by the new Equal Opportunities Commission. Posting will also be required of labor unions and employment agencies. Willful violations will carry a fine of up to $100 per offense.

As for record keeping, it will be in the best interest of every company to keep full evidence of its non-discriminatory practices. In addition, the Commission is empowered to require all employers to keep records and to make reports on their employment practices in general, and their training and apprentice programs in particular. The Commission will probably issue orders to this effect before July 2, '65. Note, however, that businesses which already operate under a state fair employment law will, at most, be asked to add certain notations to their present records. Government contractors under Presidential Order 10925 will be excused from filing any additional reports. (Officers and employees of the Commission must keep all data reaching them confidential at the penalty of $1,000 and jail of up to one year.)

How enforcement will work

If an individual believes that he has been discriminated against because of race, color, religion, sex or national origin, he or she may bring written charges before the Equal Employment Opportunity Commission within 90 days. If an individual is reluctant to do so for fear of reprisals from his employer or union, one of the Commissioners will file the charges on his behalf.

Where there is a fair employment law of a state or local political sub-

division, the complaint must first go to the local agency, which will have 60 days in which to act. If the local agency doesn't take action or the complainant is not satisfied with its ruling, the Federal Commission will take over.

The Commission's effort, after due investigation, will first aim at winning voluntary compliance by conciliation and persuasion. If it fails (in 30 days which may be extended to 60), the aggrieved individual will be free to sue in a federal district court. In fact, he may bring suit even if the Commission has failed to find that his initial complaint had merit.

The Attorney General may intervene in any such case. He may even start court action himself if he believes that a person or group of persons (a whole community, for example) is engaged in a "pattern or practice of resistance" to the equal employment opportunity provisions. If he certifies a case to be of general importance, it will be heard by a special three-judge court, whose verdict can then be appealed directly to the Supreme Court.

Penalties. If a court finds an employer guilty of intentional discrimination, it may order an immediate injunction against such discrimination. It may also order that the aggrieved individual be hired or reinstated, possibly with back pay from the day when the discrimination occurred. Failure to comply with a court order in such a proceeding may bring charges of contempt. Where the charge involves criminal contempt, the accused may ask for trial by jury but faces a maximum fine of up to $1,000 and imprisonment of up to six months.

Patterns set by "Public Accommodation" compliance

Some indication of the attitude of the federal government on fair employment may be inferred from experience under the so-called Public Accommodations Section of Title II of the Civil Rights Law, which became effective immediately, on July 2, 1964. Briefly, this section provides that all persons be given "full and equal enjoyment" of the goods, services and facilities offered in places of public accommodation and it prohibits discrimination or segregation on the basis of race, color, religion, or national origin.

For the most part, there were fewer problems when the law went into effect than had been anticipated. Success has been attributed to two factors:

- Business took the initiative, prepared the climate before the law was enacted, recognizing that what's bad for the community is bad for business.

- Federal government representatives checked compliance indirectly, kept largely out of sight, and left things to the local authorities. The role of the Community Relations Service here is typical of government attitude toward Civil Rights enforcement in general. Hope is that problems can be solved locally and informally

before a U. S. attorney gets into the situation. Aim is to settle trouble before it starts.

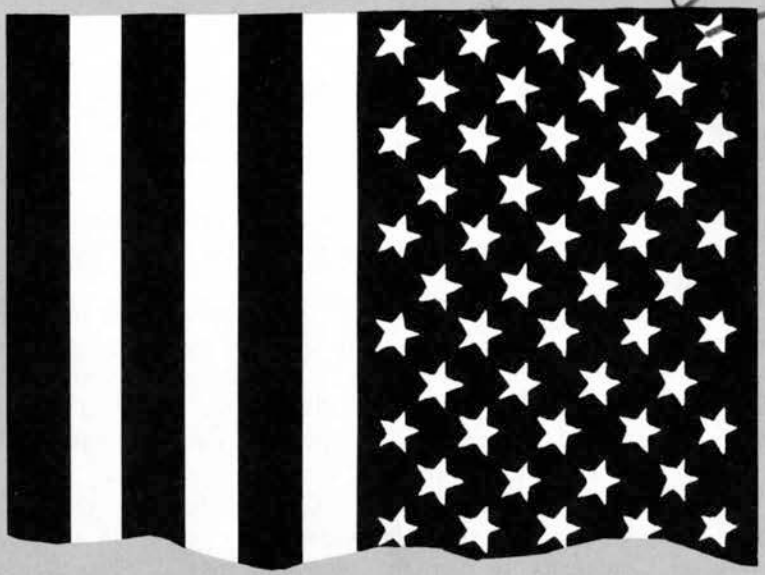
Businessmen can turn to the Community Relations Service for advice, information, guidance or mediation -- or they can ignore it if they wish. CRS has no power to force itself upon any company, although the courts may refer cases to it.

As under the Employment Section, any individual who feels that he has either been discriminated against or that facilities have been made available to him on a segregated basis only, may go to court seeking an injunction, restraining order, or other remedy designed to win him equal treatment. Where there is a state or local law which also prohibits discrimination in public accommodations, the appropriate authority will be notified of the alleged discrimination and will have 30 days in which to deal with the case before federal authorities take over. Even in the absence of a state or local law, the court may then refer the matter to the Community Relations Service and delay court proceedings for up to 120 days if there is a reasonable expectation that the Service may succeed in getting voluntary compliance.

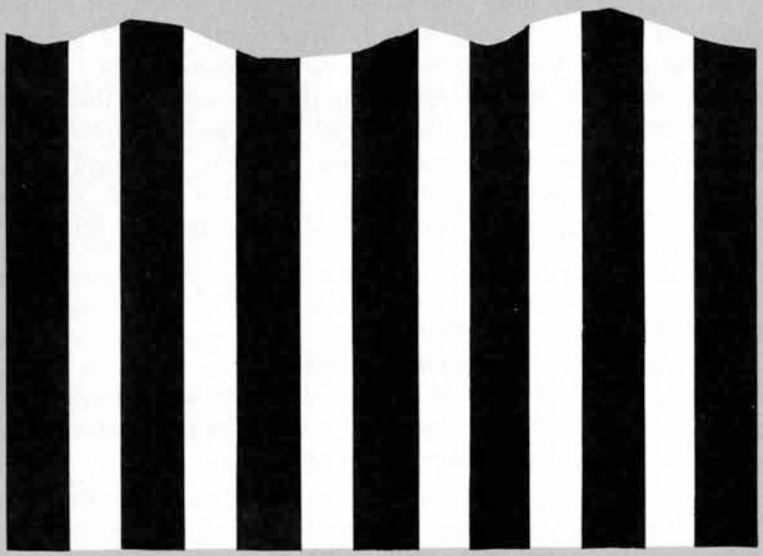
What about other fair employment laws?

Inevitably there will be a great deal of overlap between existing local, state and federal rules on fair employment. One thing is clear: Government contractors who operate under the more comprehensive requirements of Executive Order 10925 will continue to do so, except where the new Civil Rights Law imposes a new obligation (such as non-discrimination based on sex).

As for state and local laws, much will depend on how their coverage and enforcement compare with the new federal statute. Generally speaking, the federal authorities will always try to give their state or local counterparts first crack at any case that may arise in their jurisdiction. The mere existence of the new federal law will have two important effects: some states without fair employment statutes of their own will now pass them, in order to ward off federal intervention; and many states that already have such laws on the books will probably enforce them more strictly. Thus, all momentum will be behind keeping control in local hands. For this reason it will be important for every employer to recheck the fair employment laws that exist in every locality in which he operates. Many of these statutes differ as to coverage, types of discrimination they prohibit. Thus familiarity with each local law will be a must.



ON CIVIL DISOBEDIENCE



By Albert C. Saunders September, 1964

A STUDY BOOKLET

Division of Human Relations and Economic Affairs
General Board of Christian Social Concerns
The Methodist Church

Foreword

This essay on "Civil Disobedience" has been authorized for circulation as a "study booklet" by the Executive Committee of the Division of Human Relations and Economic Affairs of the General Board of Christian Social Concerns of The Methodist Church.

This booklet in no sense represents an official policy statement of the Methodist Church. The author is solely responsible for the opinions expressed in the essay.

The question of "civil disobedience" has assumed such importance, during recent years, in connection with the civil rights struggle, that it deserves thorough study and discussion. This booklet represents one particular contribution to that study. Its author is the Reverend Albert C. Saunders, Director of Research and Publication, the Washington Office, The National Council of the Churches of Christ in the U.S.A.

The official position of the Methodist Church relevant to the question of "civil disobedience" is stated in a special policy resolution adopted by the General Conference in May of 1964 and entitled "The Methodist Church and Race." The phrase "civil disobedience" does not occur in this statement. Under only the most stringent qualifications is it suggested that a statutory law may ever be disobeyed in Christian conscience. However, the principle that the Christian conscience will "obey God rather than man" is recognized.

What it means to "obey God rather than man" within the context of a struggle for civil rights and for equal opportunity under a government such as that of the United States, is a large question. Albert Saunders' essay, presented here, is a contribution to the discussion of that question.

The relevant sections of the official 1964 policy statement of the Methodist Church are reproduced below. Readers are urged to obtain copies of the full statement, entitled "The Methodist Church and Race," which comprises paragraph 1824 of the 1964 Methodist DISCIPLINE.*

January, 1965

GROVER C. BAGBY
Associate General Secretary
Division of Human Relations and Economic Affairs
General Board of Christian Social Concerns
The Methodist Church

*This official Methodist statement is also available in leaflet form, and may be obtained from the Service Department, 100 Maryland Avenue, N.E., Washington, D. C. 20002. Order Number: H-21. 5 cents per copy, 100 for $4.00.

Preface

This paper was originally written in June, 1964, and revised three months later. By that time, the Civil Rights Act was law and patterns of tests of compliance were becoming clear. Yet at the same time, the Nation has witnessed the riots in Harlem, Brooklyn, Rochester, Patterson, Elizabeth, Chicago, and Philadelphia. They were becoming incidents of mass violence and looting, quite divorced from any original impulse toward constructive social protest against discriminatory customs and practices symptomatic of the continuing caste system of segregation by color in America (as contrasted with specific laws enforcing segregation).

An avalanche of books and articles on the racial problem in America has descended upon the reading public. But very little has been written on the ethical and legal aspects of the specific issue of civil disobedience. Yet it is precisely this tactic of protest which could become more and more prevalent in America in 1965 and thereafter. This will be due to the somewhat limited nature of the Civil Rights Act and the fact that demonstrations will be directed at such social phenomena as discrimination in housing, employment, and education where the "law" is frequently unwritten but far more effectively enforced through social attitudes.

This paper discusses the feasibility of, and possible necessity for, civil disobedience, properly understood and conducted, within our democratic society. Civil disobedience is to be distinguished both from demonstrations to secure specific legal rights and from lawless violence. The free use of the term to describe all three types of mass demonstrations has produced hopeless confusion in the minds of many citizens, including those having expertise in the field of constitutional law and those participating in the formulation of church pronouncements.

The thesis of the paper is that unless there is an opportunity for civil disobedience within the context of the present power structures and conflicting forces of American society, lawless violence will increase. Ordered demonstrations protesting violations of specific legal rights, as well as incidents of controlled civil disobedience to demand the rectification of those aspects of segregation not found in written law but which are extremely prevalent and far more impervious to change, must be allowed by American society while it seeks to validate its pledge of good faith to the Negro. Only thus can lawless violence and the possible resultant law*ful* violence in the exercise of the police power, to permit government to govern and to maintain public order, be avoided.

In late fall the United States Supreme Court, in reviewing two test cases, upheld the constitutionality of the public accommodations title of the Civil Rights Act and, by a narrow margin, abated prosecutions related to sit-in demonstrations. In January, 1965, it confronted, albeit somewhat indirectly, an instance of possible civil disobedience in *B. Elton Cox* v. *the State of Louisiana*, holding unconstitutional a vague state statute prohibiting congregating in public places. While viewing as constitutional a state law, designed to protect the state's courts from improper pressure

and inflamed public opinion, the majority opinion turned to an assessment of the facts to support the actions of Mr. Cox (viewed as relatively peaceful but resulting in discriminatory treatment by police officials against Mr. Cox). Strong and persuasive dissent to this assessment was registered in minority opinions. Justice Goldberg, following a tortuous and winding path in delivering the majority opinion, said, on the one hand, that "(a) function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger." But, on the other hand, the public order must be retained, "without which liberty itself would be lost in the excess of anarchy," and "(w)e emphatically reject the notion . . . that the First and Fourteenth Amendments afford the same kind of freedom to those who would communicate ideas by . . . conduct such as patrolling, marching, and picketing on streets and highways, as these amendments afford to those who communicate ideas by pure speech." This latter statement was made in the context of concern over the intimidation or interruption of the processes of the law when demonstrations occurred outside a courthouse.

The above statements reflect the difficulties confronting legal and moral judgment of instances of civil disobedience. This paper is addressed to a clarification of, and possible answers to, these difficulties.

—Albert C. Saunders

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"'We affirm the legality and right of those minorities who are oppressed, anywhere in the world, to protest, to assemble in public, and to agitate "for redress of grievances," provided this is done in an orderly way.' (The Council of Bishops, Detroit, Michigan, November 13, 1963). A public march or other demonstration as a dramatic petition for attention and justice is in line with the principles and practices of a free society. When such orderly protests are undertaken, the goal should be clearly identifiable.

"When resort to orderly, responsible, nonviolent public demonstrations by those engaged in the struggle for racial justice provokes violent retaliation on the part of police or onlookers, the blame for the violence should be placed on the violent, and not on the peaceable demonstrators. On the other hand, any demonstration that turns itself to violence takes to itself the same blame. Even peaceable demonstrations supporting entirely just causes must be restrained and limited by the recognition that no decent society can exist apart from the rule of just law and decent order. Thus limited, however, orderly and responsible demonstrations can serve to bring a better order into being.

"There are certain circumstances when arbitrary authority is sought to be imposed under laws which are neither just nor valid as law. Even under such imposition the salutary principle of the rule of law requires that in all but the most extreme circumstances the individual confronting such authority must resort to legal processes for the redress of his grievances. However, Christians have long recognized that after exhausting every reasonable legal means for redress of grievances, the individual is faced with the moral and legal dilemma of whether or not his peculiar circumstances require obedience to 'God rather than men.' There are instances in the current struggle for racial justice when responsible Christians cannot avoid such a decision. Wherever local recourse for the redress of grievances exists, the responsible Christian will obtain the best available legal and religious counsel for his dilemma. In rare instances, where legal recourse is unavailable or inadequate for redress of grievances from laws or their application that, on their face, are unjust or immoral, the Christian conscience will obey God rather than man."

"From Paragraph 1824, 1964 Discipline of The Methodist Church."

On Civil Disobedience

The time has come when the churches must speak in an informed, unequivocal manner on the issue of civil disobedience as it relates specifically to the current Nation-wide movement in behalf of civil rights. That such an issue should have been anticipated from the moment of the first lunch counter "sit-in" or interstate bus "freedom ride," irrespective of the rightness of such demonstrations, ought to be self-evident. We are now confronted by a classic example of the proportional valuation or balanced weighing of two principles basic to the survival of American democracy: (1) the continued existence of the civil order, including the necessary retention of the quality of life or nature of society which that order is to protect; and (2) the actualization of the civil rights of all the individual members of that society, as stipulated in the constituting documents of the Nation.

I. *The Nature of the Problem*

The signing into law on July 2, 1964 of the civil rights bill (P.L. 88-352) seemed to give reason for hope that the tension over an anticipated "long, hot summer of discontent" would be alleviated. However, newspaper reports indicated that the Administration was concerned that the law would not go far enough to meet the pent-up frustrations of young Negroes, especially in the North. Accordingly, a multi-pronged program was reportedly being planned, ranging from expanding job opportunities for Negroes to Federal intervention and protection to secure the rights specified in this enabling legislation. Furthermore, civil rights groups were planning widespread demonstrations to test compliance with the new law.

Finally, intensive educational and economic assistance programs among the Negro populace in such hard-core areas of segregation as Mississippi have been and are being conducted by civil rights groups, church organizations, and legal associations. They are designed to provide Negroes with citizenship education leading to voter registration and political involvement, as well as to challenge, through legal suits, the state and local ordinances and practices which perpetuate segregation. These efforts have the potential for causing demonstrations which will be swiftly "contained" by state authorities, ostensibly to avoid the violence of a race war. What can happen was graphically demonstrated in June and July in Tuscaloosa, Ala., and St. Augustine, Fla. Governor George C. Wallace of Alabama said then that if the civil rights bill was enacted, "it will be repealed in two to four years. I'm not advocating disobedience of any law. But people, north and south, are going to resent and resist this. It will take a police state to enforce it." (WASHINGTON POST, June 10.) The discovery on August 4 in Philadelphia, Miss., of the bodies of three young men, who were involved in the Negro voter registration effort and had been missing since late June, lent credence to the Governor's words.

Commenting in a June, 1964 issue of the SATURDAY EVENING POST on the demonstrations in Cambridge, Md., Stewart Alsop said that the competition in extremism between black and white racists "is taking us to the point of no return, beyond which rational discussion and reasonable accommodation will no longer be possible." The March 6 sit-down that tied up rush-hour traffic on New York City's Triborough Bridge signalled a new step in civil rights demonstrations. This may be characterized as a generalized protest directed at the total society. No

effort is made to fit the demonstration to specific demands, an approach which leaders of the protest believe to have been futile. Rather, it is designed to call the attention of society to the pervasiveness of the *de facto* segregation and inequality brought about by the white power structure and maintained by its superficial or oblivious response to demands for a redress of grievances resulting from specific instances or patterns of racial discrimination. The vital factor in planning such demonstrations is the pin-pointing and valuation of the social, political, and economic "leverage" which can be brought to bear on civic officials, the business community, and others to correct this vicious abnormality in American life.

Thus, in demonstrations having these new dimensions, the general public is to be inconvenienced, retail business is to be reduced, the agencies of law and order are to be heavily burdened, and the general operations of local government are to be slowed or interrupted by a dramatic, widespread, direct action protest. This protest would be intended to highlight or dramatize such problems as the ghetto and the slum (resulting from unwritten policies and delinquent practices related to rental housing), the lack of job opportunity caused by union and management discrimination, and substandard, segregated public education.

But serious questions emerge: What *is* civil disobedience? What about the "rights" of the majority of the society against which the minority is demonstrating in advocacy of its rights? Is not the preservation of the civil order the essential prerequisite for such demonstrations to have a stable atmosphere in which they may be conducted? Does not civil disobedience run the risk of turning into lawless violence (as demonstrated in Cleveland, Ohio, Jacksonville, Fla., Chester, Pa., and New York City,) and therefore can it ever be condoned?

Or are all these questions secondary or irrelevant? Is not the central question whether in the United States of America any of its citizens will be denied—on the basis of race, creed, or color—equal voting rights, equal protection of the laws, equal treatment in public places, and equal opportunities for public education, the purchase or rental of a place of residence, and employment or vocation? Otherwise, if these rights, stated or implied in the Declaration of Independence and the United States Constitution, are denied in practice, can it not rightly be said that America's professed democratic ideology is hypocrisy? Are not the moral reasons for this Nation's existence far more important than the simple preservation of that existence (i.e., the retention of the civil order through the exercise of the police power)?

II. *Definition and Precedent*

Confusion abounds over the exact meaning of, or limits to, the concept of civil disobedience. In an address at the 16th annual conference of the National Civil Liberties Clearing House last March, William L. Taylor, General Counsel for the U. S. Commission on Civil Rights, saw civil disobedience as occupying a middle ground between protests which are legally protected and those which are simply lawless. He regarded a primary aspect of civil disobedience as being "a willingness to accept the penalty" for disobeying a law, rather than contest one's rights in court. This attitude, Taylor, said, "is based upon a principle crucial to the philosophy of civil disobedience—that the violation of unjust laws is justified by the fact that these laws themselves violate a higher law, which may be called moral law, natural law, or divine law, depending on the point of view of the interpreter."

Protests which are legally protected would be set off from civil disobedience, in Taylor's view, by the fact that they are appeals to positive, articulated law, rather than to an over-arching moral law by which all man-made laws are to be judged just or unjust. Violation of laws or practices believed to be in conflict with this positive law (the U. S. Constitution) is necessary to vindicate legal rights and avoid a judicial decision which views the case as hypothetical and not ripe for decision. Taylor placed sit-ins, freedom rides, picketing, street demonstrations which are orderly and peaceful, and rent strikes within this category of appeal to positive law. The protestors, "far from violating any law, have been exercising their rights of free speech, free assembly, and freedom to petition for a redress of grievances, all protected by the First and Fourteenth Amendments to the Constitution."

In the "gray" area between acts to vindicate legal rights and acts of civil disobedience, Taylor would catalogue the New York school "boycotts" and violations of court injunctions in the South prohibiting demonstrations which have clear constitutional protection. With regard to both cases he felt that there are conflicting theories in American law, but he would at least be disposed to see the school boycotts as "more closely akin to exercises of free speech and assembly than to acts of civil disobedience."

However, in confronting the blockading of construction projects (either to protest union and management hiring discrimination or the alleged perpetuation of segregated districts through the provision of new public facilities, such as schools, solely for those districts), or super-market "check-ins" (to protest employment policies), or highway "sit-downs" (a form of general protest previously discussed), Taylor was sufficiently disturbed to comment that "some of these activities are more properly understood simply as defiance of law rather than civil disobedience." Thus, he left a vacuum in which no forms of demonstrations in behalf of civil rights known to date could clearly be classified as acts of civil disobedience.

The question thus arises: Why be concerned about civil disobedience at all? The first answer relates to the current situation of definitional confusion: Indiscriminate use of the term, civil disobedience, has resulted in various groups interpreting it to mean what they want it to mean, and this makes any ethical or legal analysis impossible. Taylor noted that "segregationists tend to use civil disobedience as a catch-all phrase to cover any protest against the practice of racial discrimination," but he also criticized civil rights groups for failing to agree on a meaning for the term.

The second reason for concern about the concept of civil disobedience is that there is a serious problem arising from definitional over-simplifications. These deny, in effect, any middle ground between a legally protected protest and lawless violence. They progressively limit the nature of protests, deemed "acceptable," for a vindication of legal rights as new types of demonstrations come to notice and are categorized in a relative manner and in a fluctuating atmosphere of articulated or subliminal concerns. These concerns relate to the preservation of peace and good order, as well as to whether the Negroes are "going too fast" in their demands for equal justice and opportunity, and the personal, social, economic, and political implications of this equality. The resulting problem lies in the progressive

limitations consciously or unconsciously placed upon demonstrations in behalf of civil rights. In practice, such limitations can make the demonstrations ineffective upon the entrenched societal power structure, and therefore worthless in the eyes of those long disadvantaged by racial discrimination. The latter would see no alternative for a redress of grievances except violent defiance of the law.

The basic definition of civil disobedience is stated by William R. Miller in NONVIOLENCE: A CHRISTIAN INTERPRETATION (1964): "Civil disobedience . . . is a form of nonviolent direct action that involves breaking the law." (p. 71.) To qualify or distinguish acts of civil disobedience, we may first recall that (1) they involve a willingness to accept the penalty for disobeying the law; and (2) they are based upon a judgment that the law, or the manner in which it operates (though just on its face), is unjust in the light of a higher, moral law. Miller notes the corollaries of those principles:

> "The truly conscientious civil resister not only appeals to higher moral law, but he also shows respect for the principle of civil law. . . . He balances his subjective moral right of disobedience against society's objective legal right to punish him. Though he chooses deliberately to act in defiance of the law, his act is not an act of lawlessness." (p. 75.)

Another dimension of civil disobedience was stated by Ghandi, as Taylor noted in his address: It can be not only a violation of laws viewed as unjust, but also a refusal to obey laws which work no hardship, in which case the breach should "not involve moral turpitude and is undertaken as a symbol of revolt against the state." Taylor concluded that while Ghandi was thinking, in the latter instance, only of a corrupt or tyrannical state, a different rationale would apply to the Northern states of this Nation, which already have nondiscrimination laws. In such states, "the protest is not directed against the power of the state in enforcing unjust laws, but against its weakness in failing to act vigorously enough to remedy unjust situations." Thus, while he felt that civil disobedience, as distinguished both from legally protected protests and those which are simply lawless, had not yet been seen on the American horizon, it would come if the Federal Government failed to enforce its just laws against racial discrimination.

It has been necessary to combine the views of Taylor and Miller on what constitutes civil disobedience, since neither one has offered a definition which is sufficiently complete. Furthermore, Taylor approached the subject in a negative, process-of-elimination manner, leaving a middle ground without clear boundaries.

That such an approach reflects the uncertainty within the legal profession over a precise understanding of civil disobedience, was clearly shown in an article, entitled "Civil Rights and Disobedience to Law: A Lawyer's View," by Harrison Tweed, Bernard G. Segal, and Herbert L. Packer, in the February 1, 1964 issue of PRESBYTERIAN LIFE (pp. 6-9). The authors offered only two alternatives: "This country must solve the civil-rights problem not by a resort to lawlessness and disorder but by reliance upon the administration of the law through due process in the courts and fair enforcement by the appropriate authorities." (p. 6.) The lawyers granted the right of civil rights demonstrators to violate laws which they "in good faith believed were invalid," either on their face or as administered, in light of the Constitution, and to challenge such ordinances or acts "through the processes of law . . . in court." (p. 7.) However, other types of demonstrations were summarily proscribed:

> "There is much civil-rights activity that merits the condemnation of all who prize the ideal of liberty under law. When valid laws are broken simply to create sympathy for the civil-rights position or, even less defensibly, simply to dramatize the contentions of the demonstrators, it seems clear that important values are being unjustifiably sacrificed." (p. 9.)

The authors seemingly set the course of their argument with the assertion that "our concern is with the legal issues involved; and our purpose is to call attention to some aspects of the legal system that are often overlooked in discussions of this subject, to the detriment of clear thinking about it." (p. 6.) However, this clear thinking soon becomes enmeshed in value judgments which are a blend of prudence and moralism. Thus, the authors are unable to see the *non sequitur* involved in first saying that "the spectacle of repeated violations of law, actual or apparent, by those who are pressing the fight for civil rights, is deeply troubling to many thoughtful persons who reject the notion that the end justifies the means and who insist that those who work for good ends must remain *morally accountable* for the methods they use to work toward those ends," and then saying that "in this article we shall not venture into the deep waters of philosophic speculation about the *moral justifiability* of disobeying an unjust law." (p. 6.) (Italics added.)

Professor C. Eric Lincoln has provided what may serve as a direct comment on the above quotations, in an article, entitled "Patterns of Protest," in the June 3, 1964 issue of THE CHRISTIAN CENTURY (pp. 733-36):

> "(A)n enlightened society always sets its highest moral values beyond its legal expectations. . . . (L)egal justice and social morality are not necessarily the same thing, and at this point in our development neither the white man nor his black counterpart has attained the moral maturity that looks very far beyond legal justice. Indeed, we are but now approaching the threshold from which we may contemplate seriously the simple legal axiom of rendering to every man his due." (p. 735.)

In the same vein Alexander M. Bickel, in an article, entitled "After A Civil Rights Act," in the May 9, 1964 issue of THE NEW REPUBLIC (pp. 11-15), has stated:

> "Some demonstrations are within the law; most are not, in one or another degree. All are attempts to change the legal and social order through the application of pressure from without. How much direct action of this sort can any society tolerate? To label a demonstration legal or illegal is not to resolve this troubling and important issue. Additional judgments are called for. . . . We should also bear in mind the tradition of protest and extra-legal action that has grown up in American history alongside the tradition of legality—from the Boston Tea Party . . . to the struggles of labor to achieve industrial democracy." (p. 11.)

The protection of the civil order has not been sacrosanct in the tradition of American jurisprudence. In *Cooper* v. *Aaron*, 358 U. S. 1, 16 (1958), the Supreme Court, unanimously rejecting an appeal by the school board of Little Rock, Ark., to delay desegregation of the school system until popular feeling had subsided, stated that "law and order are not here to be preserved by depriving

Negro children of their constitutional rights." Justice Frankfurter's separately filed view in *Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957), discussed the necessity of balancing two claims: (1) The right of the citizen to political privacy, and (2) the right of the state to self-protection. He noted that striking this balance basically involves judicial judgment, which gives substantive content to the due process clause of the Fourteenth Amendment.

This attempt at judicial balancing, however, has been a subject of dispute, since the conflict between freedom and order is itself never-ending. Thus, Justice Douglas called for a balancing of various community interests in *Saia* v. *New York* 334 U.S. 558 (1948), but also rested his argument on the plea that the courts "should be mindful to keep the freedoms of the First Amendment in a preferred position." Justice Jackson replied that "it is for the local communities to balance their own interest—that is politics—and what courts should keep out of. Our only function is to apply constitutional limitations."

The "preferred position" rule was developed by the Court in the late 1930's (Justice Cardoza in *Palko* v. *Connecticut*, 302 U.S. 319 (1937), and Justice Stone in *United States* v. *Carolene Products Co.*, 304 U.S. 144 (1938)), and applied during the subsequent decade. The classic case raising the question of what is to be balanced against what, is *Barenblatt* v. *United States*, 360 U.S. 109 (1959). Justice Harlan, presenting the opinion of the court, stated that "Congress has wide power to legislate in the field of Communist activity in this country. . . . In the last analysis this power rests on the right of self-preservation, 'the ultimate value of any society.'" He concluded that "the balance between the individual and the governmental interests here at stake must be struck in favor of the latter, and . . . therefore the provisions of the First Amendment have not been offended."

Justice Black delivered a scathing dissent:

> "I do not agree that laws directly abridging First Amendment freedoms can be justified by a congressional or judicial balancing process. . . . This is closely akin to the notion that neither the First Amendment nor any other provision of the Bill of Rights should be enforced unless the Court believes it is reasonable to do so.
>
> "The Court, after stating the test, ignores it completely. . . . (I)t completely leaves out the real interest in Barenblatt's silence; the interest of the people as a whole in being able to join organizations, advocate causes, and make political 'mistakes' without later being subjected to governmental penalties for having dared to think for themselves. . . ."

Justice Black concluded that a proper balancing test should evidence astuteness in determining the *effect* of challenged legislation (or, we may add, of challenged action).

The problem of weighing the possible necessity of civil disobedience against the preservation of the civil order may be studied from another angle: The proclamation of the Declaration of Independence, and its relation to the American Revolution. Professor Harry V. Jaffa, in an essay, entitled "On the Nature of Civil and Religious Liberty," which is incorporated in THE CONSERVATIVE PAPERS (1964) (pp. 250-68), states the following thesis:

> "(C)ivil liberties are . . . liberties of man in civil society. As such, they are to be correlated with the duties of men in civil society, and they are therefore subject to that interpretation which is consistent with the duty of men to preserve the polity which incorporates their rights. But the preservation of a civil society does not and cannot mean merely its physical preservation or territorial integrity. For Lincoln, the preservation of the Union meant . . . above all, the preservation of a body whose soul remained dedicated to the principles of the Declaration of Independence. . . . (T)he Constitution . . . was an instrument for better securing those rights affirmed in the Declaration. . . . The Union was created by its dedication to the equality of man." (pp. 253-55.)

The indication by Jaffa of the centrality of the Declaration of Independence in the founding and existence of this Nation has significant implications. While the signers of the Declaration transformed, for their own purposes, the late seventeenth century political theory of John Locke that free government rests upon the consent of the governed, there was another equally profound aspect to the story of the birth of the Nation, as Jaffa notes:

> "The men who founded our system of government were not moral or political relativists. . . . In affirming that all men are created equal, they expressed the conviction that human freedom depends upon the recognition of an order that man himself does not create." (p. 258.)

The signers of the Declaration were fully aware of the awful profundity of their action. Their intent, in stating the principles embodied in that document, was to prevent the American Revolution from being an instance of "mere force without right," as Jaffa also observes. However, they knew that the history of the political order of mankind has shown that division begets division. They knew that they could reap the whirlwind of their own civil resistance. (In this regard it is instructive to contrast the doctrinairism of Thomas Paine's THE RIGHTS OF MAN with the needed pragmatism of Edmund Burke's REFLECTIONS ON THE REVOLUTION IN FRANCE (1790).) This is why they said both that "(P)rudence, indeed, will dictate that governments long established should not be changed for light and transient causes," and, on the other hand, that when a people are afflicted with a government evincing "a long train of abuses and usurpations, . . . it is their right, it is their duty, . . . to provide new guards for their future security."

Thus, civil disobedience is at least cognizable under the tradition of American democracy. The question confronting our society today is how much massive, widespread, non-violent direct action, involving the breaching of the law and the interruption of the ordinary processes and customs of community life, can this Nation endure? This question takes note of the fact that civil disobedience can slide into lawless violence and revolution.

Granting the great difficulty of answering this question in the abstract, we may still suggest that the "clear and present danger" test, first enunciated by Justice Holmes in the unanimous Supreme Court opinion in *Schenck* v. *United States*, 249 U.S. 47, 52 (1919), is applicable. This test is directed at instances involving the balancing of constitutional rights, such as freedom of speech and assembly, against the preservation of the civil order. The latter consideration will prevail only if the exercise of the former would produce, or be intended to produce, a clear and imminent danger of some substantive evil which the state constitutionally may seek to prevent. Most recently applied to cases involving members of the Communist Party, this test is one of "proximity and degree." In these cases it has distinguished between mere advocacy and teaching of violent

action, on the one hand, and, on the other, "indoctrination of a group in preparation for future violent action, as well as exhortation to immediate action, by advocacy found to be directed to action for the accomplishment of forcible overthrow (of the government), to violence as a rule or principle of action, and employing language of incitement, (which) is not constitutionally protected when the group is of sufficient size and cohesiveness, is sufficiently oriented towards action, and other circumstances are such as reasonably to justify apprehension that action will occur." (*Yates* v. *United States*, 354 U.S. 298 (1957). See also Charles J. Antieau, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES, (1960), pp. 230ff., 365ff., and Supplements; Emerson & Haber, POLITICAL AND CIVIL RIGHTS IN THE UNITED STATES, (1952), pp. 384ff. and passim.) Applied to the problem of civil disobedience, this test would study the gravity of the threatened action, discounted in proportion to its degree of probability. Such a test may offer a surer guide for governmental action than the balancing or reasonableness tests discussed earlier.

One issue here, often overlooked, is the responsible exercise of the police power (see 11-12 AM. JUR., CONSTITUTIONAL LAW, Par. 245-53, 259-63, 274). By this is meant something much more than technical competence and prudence. Professor Edgar H. Brookes, in POWER, LAW, RIGHT, AND LOVE (1963), has said:

> "We must . . . condemn clearly . . . any tendency to condemn power as such as being neither ethical nor Christian. Although the totalitarian state must be condemned, although injustice, racial discrimination, and genocide must be resisted, the power of the state is in itself neutral, not evil, and may as surely be harnessed for good uses as for bad." (p. 6.)

Brookes notes that "'law' which is merely a cloak for power is not really law at all;" that "(I)t is not enough to give everyone the vote, for . . . it is not the whole of liberty" (Hitler came to power under a constitution giving all adult Germans the vote); and that "it is not enough to remove economic inequalities if men are left in a position of personal degradation. . . ." (p. 26.) He concludes with two propositions:

> "1. Power to be tolerable needs to be controlled by law. . . .
> 2. Law, if it is to control power, may not be defined merely as the will of him who holds the power, but must rest on fundamental principles of justice, acceptable to the human heart at its best." (p. 27.)

President John F. Kennedy, in an address to the Nation on June 11, 1963, urging the passage of the civil rights bill, spoke to the matter of law: "We have a right to expect that the Negro community will be responsible, will uphold the law, but they have a right to expect that the law will be fair; that the Constitution will be color blind, as Justice Harlan said at the turn of the century." Senator Edward M. Kennedy, addressing the Senate on April 9, 1964, said, "We should use our powers not to create conditions of oppression that lead to violence, but conditions of freedom that lead to peace."

III. *Is Civil Disobedience Necessary?*

What may seem to be purely an issue of strategy, on closer examination is revealed to be basically a moral question: In the light of the current politico-socio-economic situation in America, and of the alternative courses of action presently available to the Negro populace in its drive for equal justice, treatment, and opportunity, is civil disobedience a valid form of protest against racial discrimination?

We have noted that, distinct from non-violent demonstrations directly related to the vindication of legal rights through legal processes appealing to positive law, civil disobedience appeals to a higher, moral law, and by the fiat of individual or collective conscience adjudicates which laws, on their face or in their administration, are just or unjust. It should be emphasized again that respect for law is also enjoined upon the civil resister, and that he peaceably accepts the legal penalties for his action. This is something quite different from the individual anarchist position of Henry Thoreau, to whose essay, entitled "CIVIL DISOBEDIENCE" (c. 1848), reference is usually made when the subject of civil disobedience is mentioned. This difference must be stressed to offset, on the one hand, criticisms (by those who would strictly limit civil rights demonstrations) of the moral judgment involved in civil disobedience, and, on the other hand, cavalier interpretations (by those at the other extreme) of what "good" laws need be obeyed.

However, Thoreau did emphasize the moral dimension of justice in attacking the principle of expediency as the rationale for enjoining the duty of submission to civil government. It is this moral argument which infuses the now-famous "Letter from Birmingham City Jail" (April, 1963) by the Rev. Martin Luther King, Jr.:

> "One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. . . . Any law that uplifts human personality is just. . . . All segregation statutes are unjust because segregation distorts the soul and damages the personality. . . . An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is *difference* made legal. . . . An unjust law is a code inflicted upon a minority which that minority had no part in enacting . . . because they did not have the unhampered right to vote. . . . In no sense do I advocate evading or defying the law. . . . This would lead to anarchy. One who breaks an unjust law must do it *openly, lovingly*, . . . and with a willingness to accept the penalty. (The individual who does this) to arouse the conscience of the community over (a law's injustice, is in reality expressing the very highest respect for law. . . . (T)here is nothing new about this kind of civil disobedience."

However, the current problem is not *whether* to disobey, but *how* this should be done. Nor are demonstrations specifically related to laws which work toward segregation or racial discrimination. Rather, the civil rights protest has broadened to attack general customs or practices (such as union-erected barriers to Negro employment in the construction industry). Thus, what is viewed as an "unjust law" today is the whole caste system which surrounds the Negro and forces him to remain constantly on guard. The profundity and fervor of this social revolution for racial justice *now*, have whipped the reins of control out of the hands of those who call for "orderly" (as they define it) demonstrations.

A century of deprivation of basic human rights has produced a commitment to rectification whose depth almost no white man can really understand. The *fact* of this social revolution, no matter how one feels about it, must be recognized. The degree to which one is really willing to understand this fact of an

all-out effort to reduce the manifold, entrenched social injustices of segregation, may be said to be inversely proportional to one's readiness to call it law-breaking or the inciting of violence. Alexander Bickel has stated the case well:

> "Nobody need condone violence, . . . but how one regards action that is not itself violent or aimed at violence, but merely carries the risk of it, and how one goes about the necessary task of controlling and suppressing violence when it occurs, are different matters. It is not an adequate answer to the ancient grievance of the Negro to provide him with a slow, deliberate legal means for its redress. . . . The Negro is heir to a deep legacy of cynicism about the law. It was bestowed on him by the whites, and it is finding expression in the demonstrations. It behooves the white society to understand this and to be willing to subject itself to some inconvenience and risk while we attempt to make proof to the Negro of the law's efficacy and good faith." (*op. cit.*, p. 12.)

The broadening of the Negro protest movement and the attendant indications of more militancy can only be understood as the consequence of the Negro's view that other forms of action to alter the status quo have failed. Of course, the best approach is one which operates on several levels at once, in which simultaneous appeals are made to conscience, to law, and to economic self-interest through private negotiation, demonstration, boycott, and other techniques. The question always confronting leaders of the protest is: When will the techniques fail to make the above appeals as a result of their playing more upon society's fear of disorder? (The necessity of different tactics to meet contrasting socio-political situations in various geographical areas of the Nation is well described by Howard Zinn, in "The Double Job in Civil Rights," NEW POLITICS, Winter, 1964.)

Realism also demands that full weight be given to the dangers posed by irresponsible or demagogic leaders attempting to push to the front of the Negro protest movement by preaching hatred and violence. These people are able to use the wildcat violence of the militant fringe, both black and white, to serve their own ends. August Meier (quoted in CURRENT, October, 1963, pp. 35ff.) has suggested that "with . . . increasing police brutality . . ., the growing frustration at the resistance to change . . ., and the expanding involvement of lower-class people whose values condone the use of violence, it is likely that the tendency to fight back . . . may increase."

However, granting these facts, we must also see the reason underlying the present Negro revolution, as David Danzig has noted in an article, entitled "The Meaning of Negro Strategy" (COMMENTARY, February, 1964, pp. 41-46):

> "(I)n the American pluralistic pattern, where social power is distributed by group, the Negro has perforce come to recognize that he can achieve equal opportunities only through the concerted action of the Negro community. No longer addressing himself exclusively to the white man's attitudes of prejudice, to effecting changes in 'the hearts and minds of men' —an approach that dooms him to gradualism—the Negro now confronts the white society on the issue of his rights with all the political and economic strength that his group is able to wield. . . . (T)he sectarian character of the Negro's economic and political demands can be understood as a consequence of the absence of any political movement in the United States that speaks for the new American proletariat in general." (pp. 42, 46).

Danzig sees "the real issue" confronting American society as being "that of adopting realistic measures which will begin to correct a profound tendency in our society to exclude and penalize the Negro." (p. 44.)

Professor Hans J. Morgenthau, writing during the aftermath of violence in November, 1963, also referred to the problems which both confront, and are produced by, the "new American proletariat" ("The Coming Test of American Democracy," COMMENTARY, January, 1964, pp. 61-63):

> "The two great issues with which American democracy must come to terms—equality in freedom for the American Negro and the restoration of a meaningful economic and social order—are . . . interconnected. The former cannot be fully achieved and might even be ultimately jeopardized, without the latter. For even if the Negro were to come into full possession of legal and social equality, he would still be exposed to the disabilities of a contracting labor market." (p. 63.)

In Morgenthau's view, Negro resentment over a "new equality which revealed itself as meaningless in economic terms" would be an incentive to violence against America. However,

> "The resentment of the ever swelling mass of white unemployed would be a source of alienation from the political and social status quo and an incentive to violence against both the Negro and the government. . . . The government, thus deprived on a large scale of the consent of the governed, would have to resort to violence in order to be able to govern." (p. 63.)

In WHY WE CAN'T WAIT (1964), Martin Luther King has said that freedom is never voluntarily given by the oppressor but must be demanded by the oppressed (though nonviolence is counselled). In this statement he echoes the thoughts of Reinhold Niebuhr who more than three decades ago (MORAL MAN AND IMMORAL SOCIETY) spoke in behalf of the oppressed people of that era: labor. The history of demands upon the Nation by the economic "have-nots" and ethnic minorities offers a precedent for the present protest which is worthy of serious study. Professors Lewis Killian and Charles Grigg, in a sociological study, entitled RACIAL CRISIS IN AMERICA: LEADERSHIP IN CONFLICT (1964), have suggested that the Nation will confront a succession of explosive crises and that progress will probably only come from "a conflict-negotiation-compromise cycle," involving two hostile interest groups (as in the case of management and labor), and "not from mass conversion of one of the warring factions."

It must be recognized that the history of the specific tactic of civil disobedience has usually been that of a majority in rebellion against the oppressive rule of a minority, as was the case of the Indian movement led by Ghandi. Lacking a majority, the civil rights movement must, whether it likes it or not, seek a consensus, both among American society in general, and among its own leadership. C. Eric Lincoln states that "social conflict within a consensual framework may be functional, . . . for consensus precludes the emergence of the uncontrolled violence which ignores the rules and weapons of the consensus. Where concensus is not present, conflict may be extremely dysfunctional." (*op. cit.*,

p. 736). He warns that direct action techniques run the risk of assuming consensus where there in none, and this precipitated the riot in Birmingham in 1963.

Law itself requires the consensus of the people for its effect, and this applies with especial force to the Civil Rights Act of 1964. The WALL STREET JOURNAL (March 30, 1964) has editorialized that "the sad thing is that only in the framework of law and respect for the rights of others can there be enduring advances in the legitimate aspirations of the Negro community."

On the other hand, Professor Daniel Bell has commented that the same principle of consensus must be applied by the Negro community to itself:

> "(T)here are two preconditions for successful political bargaining in the American system: one is that the Negro community has to choose its political spokesmen in a responsible way . . .; the other is that (it) has to specify its priorities and demands so that we know what to bargain about. In short, there has to be a consensus about the ends desired—and such a consensus is not simply a list of slogans." ("Plea for a 'New Phase in Negro Leadership,'" THE NEW YORK TIMES MAGAZINE, May 31, 1964, p. 11.)

However, while we may grant the wisdom of the appeal that every effort be made to achieve a consensus on the part of the American public in support of the Negro revolution to provide the necessary context for the strategy of civil disobedience, we may legitimately question whether this appeal is genuine or is a hypocritical plea for "moderacy" and "gradualism" which the Negro finds so hateful (since it works out to the retention of the status quo, and denies him rights which he correctly believes are already his and are not to be gradually bestowed by anyone). The centrality of the moral justice of this movement must constantly be directed at the conscience of this Nation. Only thus can the pleas of expediency from white moderates and the present societal power structure, as well as the demagogic shouts from extremists within the movement itself seeking to serve their own ends, be seen for the hollow echoes that they are. (A notable discussion of the legality, morality, and effectiveness or wisdom of direct, nonviolent action, which also stresses the arguments immediately above, was presented by Father Robert Drinan, S.J., in an address, entitled "The Changing Role of the Lawyer in an Era of Non-Violent Action," at a legal conference conducted by C.O.R.E. in January, 1964.)

IV. *Have the Churches Anything to Say?*

There has been a marked failure in the Protestant communions to study diligently and speak informedly on the issue of civil disobedience. Usually, this results from the neglect of the first requirement: a definition. Thus, they frequently make statements which deal with nothing more than the already-passing form of legally-protected demonstrations (appealing to the Constitution for a vindication of legal rights).

Second, terms are used interchangeably in these statements without recognizing their different points of reference; e.g., "legal" and "just," which reflect two entirely different kinds of judgment. Thus, counselling disobedience to an "unjust" law involves an affirmation of private moral judgment rather than a conviction that a law should be tested as "unconstitutional," which is an entirely different matter.

In general, the churches have counselled the vital importance of maintaining law and order, have recommended using negotiation and legal processes, and have seen demonstrations as a last resort to challenge unjust laws, asking at the same time that they be kept orderly and responsible. In the last instance, the appeal to authority is based on Acts 5:29, as in the case of a report on "The Methodist Church and Race," adopted in June, 1964 at the General Conference of the Methodist Church, in which the following crucial statement is made:

> "In rare instances, where legal recourse is unavailable, or inadequate, for redress of grievances from laws or their applications that on their face are unjust or immoral, the Christian conscience will obey God rather than man." (Sec. 18.)

Finally, denominational pronouncements have usually dealt only with actions to be taken in regard to laws themselves, deemed unjust, rather than in regard to the total caste system of segregation and its symptomatic customs and practices. It is to the latter that Negro demonstrations are now being more and more directed. (A marked exception is the "Statement on Race Relations," adopted in July, 1964 by the Second Biennial Convention of the Lutheran Church in America. While recognizing that "Christians are committed to the rule of law as an expression of the moral law of God," this statement sees certain laws, on their face or as administered, and social customs as well, as being both unconstitutional and immoral. Where the means of legal recourse to change such laws or customs "have been exhausted or are demonstrably inadequate, Christians may then choose to serve the cause of racial justice by disobeying a law that clearly involves the violation of their obligations as Christians. . . ." Important qualifications are placed upon this disobedience, including the rule of proportionality and specificity, i.e., limiting and directing the protest against a specific grievance or injustice.)

Christianity historically has been confronted with a lack of clear guidance on the subject of obedience to the state. The somewhat equivocal "render unto Caesar" remark of Jesus (Mark 12:17), in response to a hypocritical question, indirectly affirmed that man's primary obligation is to God. But Jesus also meant that obedience to government is a proper response in light of this obligation. It is a peripheral matter, for Jesus was concerned to transform completely the world's scale of values with a radical reorientation of the concepts of "Kingdom" and "Messiah."

Romans 13:1-7 ("Let every person be subject to the governing authorities") constitutes a conservative position influential throughout history. But it must be interpreted in light of the world-view of that day, as well as of the politically insignificant—or more properly, alienated—position which the early Christian sect held. However, it must also be remembered that this passage counsels that rulers are to be a "terror" only to bad conduct and are God's servants for the public good. The purpose of the state is the restraint of evil, a relative and temporal good. At the other extreme is Chapter 13 of the Book of Revelation, the product of a later period of persecution of the sect, wherein the Roman Empire is portrayed as the "beast," the demonic idol. However, Christians are here counselled in the apocalyptic hope—the coming of a new heaven and a new

earth—and are to suffer patiently.

Christian political theory has historically maintained a dialectical tension between these two extremes of obedience and withdrawal. Augustine held that while a Christian is a good citizen, he is also always a citizen of the Kingdom of God, which has the prior claim. Thomas Aquinas shared Paul's fundamental fear of anarchy and the consequent triumph of evil. Thus, he opposed any form of rebellion, but said that the church has the power to absolve the people from allegiance to tyrants or infidel rulers. Luther adopted a dualist position, distinguishing between public and private ethics (the Christian as citizen and as person), but basically advised obedience to those in authority (although the true Christian is to live by a higher law). Calvin's view regarding obedience was equally conservative (though he gave a more positive connotation to the purpose of government), but he stressed the sovereignty of God over all "magistrates" and, with Luther, said that if the ruler commands anything against God, he should be ignored. Calvin also warned that God could raise up an "avenger" against an evil ruler. The dynamism with which the Reformers infused the political order of the sixteenth century was more the result of their theological presuppositions than of their political theory. However, at the other end of the spectrum has been the perfectionist tradition of withdrawal from worldly affairs, represented successively by monasticism, the Anabaptists, and the more left-wing sects in the era of Cromwell.

Professor Will Herberg, in a somewhat pathetic article written for the July 14, 1964 issue of the NATIONAL REVIEW, (pp. 579, 580), makes a monolithic analysis of "well established Christian teaching" against civil disobedience. Leaning heavily on Romans 13 and a simplistic summary of the teachings of Augustine, Herberg concludes that obedience to earthly rulers comes into conflict with loyalty to God only when the former demand ultimate allegiance or promulgate laws which run counter to divine commands directly revealed in the Scriptures (and not inferred by individual conscience from a natural or moral law). In such instances of conflict, the example of the early Christians is, for Herberg, normative: "(T)heir disobedience was limited to *refusal to participate* in the pagan abominations." Herberg sees in this no precedent even for picketing or sit-ins (though he does note the exception of the necessity for a test case through arrest, under the American system of judicial review, to determine the constitutionality of a law). The obvious reply is that civil disobedience is itself a "refusal to participate" in an immoral or unjust social custom or system of law enforcement. Conversely, the continued acceptance by the Negro of the inherent shamefulness of statutory or social injustices and the ignorance or blatant disregard by the white majority of his grievances, involving the denial of his personhood created by God, may make him as morally accountable to God as are these whites. And since Herberg requires, for an instance of proper conflict with obedience to earthly rulers, the breach of divine commands only as stated in the Bible, we may mention that the above situation could well involve violations of the First and Second Commandments (Exodus 20:3-6) and the Great Commandment by Jesus (Matthew 22:37-39).

The above summary statements are necessarily only cursory, and are mentioned to demonstrate the variety of Christian ethical thinking about the relation of the Christian to the state and the tension which it exhibits between an Erastian and an Anabaptist conception. What should be noted is the markedly different situation obtaining today due to the rise of the political theory of government based on the consent of the governed. This requires an entirely different approach by Christian ethics to the duties of citizenship. Now we must emphasize responsibility for, and participation in, government by Christians themselves, rather than simple obedience.

Current Christian ethical formulations leave something to be desired when we seek to employ them for the immediate subject at hand. The state is a dynamic creation by God, and as such deserves the obedience of the Christian. But divine judgment upon the state for its sinful partiality and ego-centricity requires a second form of response by the Christian citizen: contrition, and protest against, or criticism of, the state. Finally, in the wisdom of God, the state may also be in the order of redemption. In this instance, the response of the Christian is neither that of blind optimism nor resigned, other-worldly pessimism, but rather of a firmly-grounded and profoundly realistic hope. It is well to remember the counsel of Reinhold Niebuhr: "Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary." (THE CHILDREN OF LIGHT AND THE CHILDREN OF DARKNESS, (1944), p. xi.) This three-fold response of the Christian to the state explains the varying attitudes of the churches over the years.

Two other normative statements deserve serious consideration. First, a master concept in Christian ethics is the Christian community and the Christian's central obligation to build this community. In this responsible society rights and duties are conjoined in equilibrium. One's regard for his neighbor as unique demands the rendering of proportionate (according to needs), rather than a mechanically equalized, justice. Another derivative concept, based on this sense of the equilibrium between rights and duties in community, is that both tyranny and anarchy, through an over-emphasis upon obligations, in the first instance, and upon rights, in the second, are to be avoided.

Second, justice is the indirect expression of love which stands over it in judgment. Law is normatively defined: Through establishing order, it moves toward a moral end—justice. It is a consciously formulated norm of behavior, enforced by the power of the state (which is quite different from the positivistic notion that law is purely a function of power), and is directed toward the achievement of justice in the relations of the community.

Law must retain an element of impersonality, but its purpose is to establish a *quality* of civil order that is just and good, in which persons are treated equally, yet also proportionately in so far as their needs are different. (For some of the concepts in the immediately preceding discussion the writer has referred to lectures delivered by Professor Waldo Beach, Duke University, in 1963. For the most recent expressions of Christian ethical judgment on citizenship by American writers, see John C. Bennett, *When Christians Make Political Decisions,* (1964); and Alan F. Geyer, *Piety and Politics,* (1963).)

Only when Negroes began their demonstrations did the white majority begin to take their claims of justice with full seriousness. The oppressed group must bring pressure upon those in power. Nevertheless, the Christian must affirm that *both* the system of segregated society and the hearts of individual men must be changed to root out the deep-seated evil of human prejudice. Neither action alone is sufficient. This judgment must be directed at both those of the liberal

and the conservative theological persuasions in American Protestantism.

The churches need finally to be reminded that their emphasis on maintaining the civil order can be understood by the oppressed as merely a desire to retain the *status quo*. It can also become a denial of the dynamism of Christianity that seeks to transform the culture rather than accommodate itself to it.

However, having said this, we must also turn to the proponents of civil disobedience and demand from them a clear accounting of responsibility for means and ends. They may say that events are holding sway, making further discussion pointless, and that our real motivation for raising such questions is a disgruntlement over the disorderliness of demonstrations. We must reply that the drastic events of the Reconstruction era, whose excesses in humiliation and violent change steeled the resistance of the white Southerner and ultimately placed the Negro in a bondage more pervasive than any he had known in slavery, must not be repeated. We must also quote the warnings of Ghandi over the volatility of civil disobedience:

> "Civil disobedience is a very potent weapon. But everyone cannot wield it. For that one needs training and inner strength. It requires occasions for its use." (Quoted in William R. Miller, *op. cit.*, p. 79.)

The civil resister must be cautious of a pretension to a monopoly of truth. His leaders must maintain firm non-violent discipline. In this regard, the breaking of laws, lacking any offense to conscience, to gain publicity and/or put pressure on community governments or power structures, must be carefully evaluated, lest violence ensue and the whole purpose be lost thereby or in the backlash of public opinion. This is why the recent dimensions of physical non-cooperation or resistance may prove to be reprehensible.

One century after Lincoln's Gettysburg Address the people of the United States are once again testing whether this Nation, "conceived in liberty, and dedicated to the proposition that all men are created equal, . . . can long endure." We have found that the dimensions of this question are more subtle and pervasive than originally supposed. We may be discovering that the final battle and victory will take place in the conscience of the people, and it is only to this end that civil disobedience ought to be directed.


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POSITION ON "POWELL-TYPE" AMENDMENTS

SENATOR GOLDWATER'S STRONG PRO-CIVIL RIGHTS POSITION

1. Goldwater announced support for Senator Javits' amendment to withhold federal funds from rural housing programs for the elderly in States that practice discrimination or segregation in Farmers Home Administration programs. (May 1, 1963; H. R. 5517).

MR. JAVITS

"We are all beginning to understand the power of the economic sanction, which has contributed greatly to holding Negroes in subjection in the South.

"I should like to make my fundamental thesis, if the Senator will allow me. My fundamental thesis is as follows: We should take an across-the-board position, as the U. S. Civil Rights Commission did in asking the President to cut off all Federal money to Mississippi. If we did that -- and the facts indicate they did not -- we would be asking the President to lay on with a broadsword, and whatever may have been the evils which Mississippi, by its intransigent position on this subject, has brought down on its head, one can understand -- though one may not agree -- why a President would not feel that he could do that. But I feel that to require every Government department to go through the list of its programs in detail and to see whether or not there is segregation within the programs for which the Federal Government is putting up the money to account for that to the Congress case by case and program by program is what the Federal Government ought to do and is its duty to do under the Constitution." (Cong. Rec., p. 7144).

Senator Goldwater voted for the Javits anti-segregation amendment.

2. Goldwater supported an amendment (Bush of Connecticut) to withhold aid-to-education grants from States which are not "in good faith . . . proceeding toward full compliance with the Constitutional requirement that racial discrimination be ended in public schools." (May 22, 1961; S. 1021).

MR. BUSH

"Mr. President, before explaining my amendment, I wish to make a few introductory remarks. I allot myself 20 minutes at the present time.

"Today the Senate will finally come to grips with an issue long debated. Will Congress pass a gigantic school assistance law without requiring that the Federal Government withhold funds from any State which is proceeding in defiance of the constitutional requirement that segregation in the public schools be ended? . . . . The failure of the amendment will surely set back the cause of desegregation for many years." (Cong. Rec., p. 7943).

Senator Goldwater voted for Senator Bush's anti-segregation amendment.

3. Goldwater supported Senator Javits' amendment to withhold funds from airport terminals with segregated facilities. (July 31, 1961; H. R. 7445).

MR. JAVITS

"The purpose of the amendment is to cut off funds which are utilized to support federally financed airport buildings, where advantage has been taken -- and I do not use the word in an invidious sense -- of the existence of the shell of the airport structure, to incorporate in it either restaurants, restrooms, or waiting rooms which are racially segregated." (Cong. Rec., p. 13151).

Senator Goldwater voted for the Javits anti-segregation amendment.

4. Goldwater supported Senator Javits' amendment to the National Service Corps prohibiting corps volunteers from assisting deprived Americans in hospitals, homes for elderly, mental institutions, etc., that are segregated. (August 14, 1963; S. 1321).

MR. TOWER

"My amendment would seek to accomplish what . . . the President's civil rights package seeks to accomplish with the general range of Federal programs . . . It is possible that some provision of the President's civil right proposal will not be adopted; in that case it would be doubly necessary . . ."

MR. GOLDWATER

"We (Senator Tower) tried to have this language included in this bill in Committee. Had the practice been followed. . ., in the years I have been a member of the Senate, of adding an antidiscrimination clause to each bill of this type, the troubles in which the country finds itself today would probably not be with us now or would be greatly diminished." (Cong. Rec., Aug. 14, 1963, p. 14,100).

Senator Goldwater voted for the antidiscrimination amendment.

5. Goldwater voted to amend the Youth Conservation Corps bill so that aid could not be provided private, State, or local agencies which discriminated in the use of its resources or the area to be developed. (April 10, 1963; S. 1).

MR. GOLDWATER

"The first question is this: The pending bill contains no provisions dealing with racial or religious discrimination and segregation. . . . I would therefore like to address a few questions to the Senator handling the bill on the floor in connection with this question. . . .

"Does he know what policy would be followed on racial discrimination and segregation by those who administer these programs, should they become law?"

* * *

MR. GOLDWATER

"Nevertheless, the camps /C.C.C. Camps of the thirties/ were segregated. They were either all white or all Negro. We have probably come a long way since those days; but since the original /C.C.C. Program/ provided that there should be no segregation, . . . I was caused to ask the question as to why such a provision was not included in this bill.

* * *

". . . one of the reasons why I do not have the complete faith in the Attorney General which the Senator from Pennsylvania has, is that the Attorney General has not moved to end segregation in the labor movement. Time and again I have offered amendments to bills in committee which would do this. Time and again such amendments have been defeated.

* * *

"My next question is as follows: Under title II, enrollees will be assigned, in many cases, to work on or in local facilities, such as hospitals, parks, playgrounds, recreation areas, schools, nurseries, and so forth. Will enrollees in title II projects be required to perform such work on segregated facilities?" (Cong. Rec., April 10, 1963, pp. 5916-7-8).

Senator Goldwater voted for the Javits anti-segregation amendments.

6. Goldwater supported Senator Javits' amendment to withhold funds from State or community mental health centers that segregate mental patients. (May 27, 1963; S. 1576).

MR. JAVITS

"The question may be asked, 'Why is the amendment offered to this bill, although it was not offered to other bills, -- for example, to the feed grains bill?' Well, Mr. President, the amendment happens to be uniquely germane to this bill, because if this program is handled under present practices, in a number of the Southern States there will actually be segregation in connection with the program, since in a number of the Southern States segregation in hospitals is the accepted practice, even though it should not be. Two cases are now in the process of litigation. Both of them are in North Carolina, I believe. . . in questioning the practice of segregation in two hospitals -- in the Cone Hospital and in the Wesley-Long Hospital, in Greensboro, N. C." (Cong. Rec., May 27, 1963, p. 8980).

Senator Goldwater voted for the Javits anti-segregation amendment.

7. Goldwater supported Senator Javits' amendment to withhold funds from State medical or dental schools which practice discrimination. (September 12, 1963; H. R. 12).

MR. JAVITS

"Mr. President, there is a critical need for this additional statutory condition for two reasons: one, there exists intolerable discrimination in fact in admissions policy on racial grounds among the institutions to be benefited; and two, the Department of Health, Education, and Welfare . . . feel obliged to aid these discriminating institutions. Under these circumstances there is no alternative but to press this amendment.

"The factual issue is . . . open /and/ shocking . . . of approximately 87 accredited medical schools in the United States, . . . there are 6 which continue to maintain a policy of not admitting Negroes: the University of Mississippi, Baylor University, the Medical College of Alabama, the Medical College of South Carolina, the Medical College of Georgia, and Louisiana State University. This group represents the hard core of resistance to the desegregation trend which began in higher education long before the elementary and high school cases involved in the historic Brown against Board of Education decision in 1954, which ended the separate-but-equal doctrine." (Cong. Rec., September 12, 1963, p. 15947).

Senator Goldwater voted for the Javits anti-segregation amendment.

Possible material for upcoming rallies —

From JS to Lionel Bozowitz or Bob Jensen

1964 Campaign

Jill Civil Rights

CIVIL RIGHTS POINTS FOR DEMOCRATIC SPEAKERS

The distorted, inaccurate, and irresponsible statements made by the Goldwater-Miller team on Civil Rights can and must be answered. There is a powerful and positive story to be told and Democratic candidates and other speakers should be prepared both to give this affirmative picture of civil rights progress and to answer completely the questions, fears, and doubts sprinkled around the country by Republicans.

1. Acceptance of Civil Rights Act -- The general and widespread acceptance of the Act, especially the public accommodations provision, in every section and in every state is truly remarkable. The rare and isolated instances of non-compliance only emphasize how widespread has been the adjustment to the Act in less than 90 days. Negroes are now served in previously segregated restaurants and hotels in Jackson and other communities in Mississippi and in other areas where acceptance of the principle of equal opportunity has surprised even the most pessimistic.

2. School desegregation -- For the first time in our history there are desegregated colleges and desegregated public schools below the college level in every state of the Union. This fall schools were desegregated in Louisiana, Mississippi and Alabama (in both metropolitan and rural areas) without a single incident -- contrasted with the difficulties of 1963, 1962 and earlier years, this is a tremendous and noteworthy achievement.

3. Registration and Voting -- Intensive efforts by public and private organizations have resulted in a 40% increase in Negro registration in 11 southern states since the 1962 election. Extending this basic guarantee to all Americans is a development that every American, regardless of party, section or race, can applaud.

4. The "you-can't-legislate-morality" charge -- Most Americans know morality cannot be legislated and that civil rights progress will come only when there is a change in men's hearts. What Senator Goldwater fails to understand and state is that such a change has already occurred. The overwhelming support for the Civil Rights Act (in each House of the Congress and in each political party) rested upon an especially broad national consensus. Legislation of this character and scope does not get enacted (including the first successful cloture motion on civil rights legislation in our history) unless it reflects what the people of this country know in their hearts is right. Senator Goldwater knows or should know that the mainstream of his party supported the Civil Rights Bill -- in the House, 138 Republicans favored the bill, 34 opposed; in the Senate, 27 were in favor, only 6 (including Goldwater) were opposed.

5. The Role of National Leaders -- A candidate who speaks about the lack of moral persuasion as does Senator Goldwater should be challenged again and again to urge his listeners to comply with the Civil Rights Bill. He who speaks of division, disunity, and ignoring the law has an obligation to ask that all people comply with the "law of the land" -- and certainly the Civil Rights Act is in that category. Senator Goldwater should take his lead from those southern legislators who vigorously opposed the Civil Rights Act but who now urge -- even at some risk to their political careers -- their followers to comply with the "law of the land". If Senator Goldwater believes in moral persuasion, let him stop saying the Civil Rights Act is creating tensions and let him urge his followers to set an example in complying with it.

6. The "we-will-lose-our-jobs" whispering campaign -- Those who wilfully plant seeds of fear and suspicion in the minds of our Nation's white workers should be condemned in the strongest terms; those who do so through ignorance must be challenged and corrected. The truth is that the Civil Rights Act specifically makes it illegal to discriminate against one worker to benefit another worker. It is as illegal to discriminate against a man because he is white as it is to discriminate against a Negro. Under the Equal Opportunity Committee established by President Kennedy to bar discrimination by federal government contractors, not a single job has been lost by a white man. Similarly, state statutes prohibiting discrimination (some even stronger than that of the Civil Rights Act) have not taken away jobs, have not taken away seniority, have not upset labor-management relations. Our history shows that no group of Americans ever suffered by the progress of others; as the prosperity of one American rises, the prosperity of all rises.

7. The Sneaky Link Between Northern Riots and the Civil Rights Act -- The suggestion that assuring equality of opportunity for all Americans has contributed or caused the riots that occurred in a handful of northern cities should be met head on. The September 25 report on recent riots by FBI Director Hoover makes it clear that there is no connection. As the report notes, the riots "were not a direct outgrowth of conventional civil rights protest." There is no provision in the Act to which anyone can point that created these unfortunate riots. Rather, as the Hoover report points out, each disturbance can be attributed to the wretched circumstances that inevitably result in increased tensions and disorderly conduct: overcrowding, inadequate education, unemployment, terrible living conditions, generations without reason for hope. In fact it can be argued that the passage of the Act has reduced the number of riots that could have reasonably been expected during the "long, hot summer."

8. The Charge that the Administration has Encouraged Lawlessness -- The President and every other responsible Administration official (unlike Senator Goldwater and his running mate) have publicly stated that violence

and violation of the law cannot be condoned by those who support civil rights progress, those who oppose it, or indeed by anyone. This was said by the President when he signed the Civil Rights Bill, in countless public speeches and appears in the Democratic Party Platform in the following unmistakable terms: "We reaffirm our belief that lawless disregard for the rights of others is wrong -- whether used to deny equal rights or to obtain equal rights. We cannot and will not tolerate lawlessness."

9. Constructive Efforts to Handle Riots -- This Administration discovered the problem long before Senator Goldwater and has embarked on positive programs to correct the conditions that lead to the explosion of pent-up emotions and despair. Such basic programs as the anti-poverty legislation, manpower development and retraining, vocational education, the juvenile delinquency and youth offense control act, and the package of crime control bills have been enacted, frequently over the opposition of Senator Goldwater and his running mate. This Administration has for the first time given strong support for legislation to curb the criminal traffic in dangerous drugs and fire-arms. This Administration has sparked a campaign to prevent school drop-outs. For the first time there has been effective and intensive effort to attack organized crime in this country. Acting on the Hoover report on riots, the President directed the FBI and the Army to provide riot training to all local police departments, directed the Secretary of Health, Education and Welfare to strengthen the school drop-out program, and announced a conference with state and local officials on this important national problem. In short, the Democratic Administration has been acting, while Senator Goldwater has just discovered that there is a problem and offers no program.

10. Crime in the District of Columbia -- Senator Goldwater says that crime is increasing in the District under the Democrats and that if he were President he would use his moral persuasion to make people behave. Senator Dodd of Connecticut, Chairman of the Senate Committee on Juvenile Delinquency, in a Senate floor speech notes that the greatest crime increase in the District occurred in 1958, not to place the blame on President Eisenhower, but to demonstrate how unreasonable and unfair it is to make such unfounded political charges as Goldwater has. Senator Dodd also points out that according to the statistics used by Goldwater the District is 13th in crime among the Nation's principal cities, whereas Phoenix, a city obviously much more susceptible to Senator Goldwater's moral persuasion, is 4th.

11. Support for Judicial Processes -- Attention should be directed to a man who claims that we need more "law and order" and at the same time attacks and subverts the United States Supreme Court. It should be noted that this Court is not only bi-partisan in character, but contains more justices (four) appointed by President Eisenhower, a Republican, than by

any other President. How will young, impressionable people gain respect for the orderly process of our judiciary if the man who is a candidate for the Presidency attacks and vilifies the Nation's highest Court.

12. The "school-bussing" controversy -- Parents, both white and Negro, alarmed by Republican candidates who claim or imply that the bussing of children to other schools is a result of the Civil Rights Act, deserve accurate information. The truth is that the new law states specifically that nothing in the Act "shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another." This a question solely for local determination and the bussing programs in New York City and other cities are the result of decisions made by local school authorities.

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"Commentary"
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FROM PROTEST TO POLITICS: THE FUTURE OF THE CIVIL RIGHTS MOVEMENT

BAYARD RUSTIN

I

THE DECADE spanned by the 1954 Supreme Court decision on school desegregation and the Civil Rights Act of 1964 will undoubtedly be recorded as the period in which the legal foundations of racism in America were destroyed. To be sure, pockets of resistance remain; but it would be hard to quarrel with the assertion that the elaborate legal structure of segregation and discrimination, particularly in relation to public accommodations, has virtually collapsed. On the other hand, without making light of the human sacrifices involved in the direct-action tactics (sit-ins, freedom rides, and the rest) that were so instrumental to this achievement, we must recognize that in desegregating public accommodations, we affected institutions which are relatively peripheral both to the American socio-economic order and to the fundamental conditions of life of the Negro people. In a highly industrialized, 20th-century civilization, we hit Jim Crow precisely where it was most anachronistic, dispensable, and vulnerable—in hotels, lunch counters, terminals, libraries, swimming pools, and the like. For in these forms, Jim Crow does impede the flow of commerce in the broadest sense: it is a nuisance in a society on the move (and on the make). Not surprisingly, therefore, it was the most mobility-conscious and relatively liberated groups in the Negro community—lower-middle-class college students—who launched the attack that brought down this imposing but hollow structure.

The term "classical" appears especially apt for this phase of the civil rights movement. But in the few years that have passed since the first flush of sit-ins, several developments have taken place that have complicated matters enormously. One is the shifting focus of the movement in the South, symbolized by Birmingham; another is the spread of the revolution to the North; and the third, common to the other two, is the expansion of the movement's base in the Negro community.

To attempt to disentangle these three strands is to do violence to reality. David Danzig's perceptive article, "The Meaning of Negro Strategy,"* correctly saw in the Birmingham events the victory of the concept of collective struggle over individual achievement as the road to Negro freedom. And Birmingham remains the unmatched symbol of grass-roots protest involving all strata of the black community. It was also in this most industrialized of Southern cities that the single-issue demands of the movement's classical stage gave way to the "package deal." No longer were Negroes satisfied with integrating lunch counters. They now sought advances in employment, housing, school integration, police protection, and so forth.

Thus, the movement in the South began to attack areas of discrimination which were not so remote from the Northern experience as were Jim Crow lunch counters. At the same time, the interrelationship of these apparently distinct areas became increasingly evident. What is the value of winning access to public accommodations for those who lack money to use them? The minute the movement faced this question, it was compelled to expand its vision beyond race relations to economic relations, including the role of education in modern society. And what also became clear is that all these interrelated problems, by their very nature, are not soluble by private, voluntary efforts but require government action—or politics. Already Southern demonstrators had recognized that the most effective way to strike at the police brutality they suffered from was by getting rid of the local sheriff—and that meant political action, which in turn meant, and still means, political action within the Democratic party where the only meaningful primary contests in the South are fought.

And so, in Mississippi, thanks largely to the leadership of Bob Moses, a turn toward political action has been taken. More than voter registration is involved here. A conscious bid for *political power* is being made, and in the course of that effort a tactical shift is being effected: direct-action techniques are being subordinated to a strategy calling for the building of community

BAYARD RUSTIN, who organized the March on Washington and has been a close associate of Martin Luther King, is widely recognized as the leading tactician of the civil rights movement. This is his first appearance in COMMENTARY.

*COMMENTARY, February 1964.

institutions or power bases. Clearly, the implications of this shift reach far beyond Mississippi. What began as a protest movement is being challenged to translate itself into a political movement. Is this the right course? And if it is, can the transformation be accomplished?

II

THE VERY decade which has witnessed the decline of legal Jim Crow has also seen the rise of *de facto* segregation in our most fundamental socio-economic institutions. More Negroes are unemployed today than in 1954, and the unemployment gap between the races is wider. The median income of Negroes has dropped from 57 per cent to 54 per cent of that of whites. A higher percentage of Negro workers is now concentrated in jobs vulnerable to automation than was the case ten years ago. More Negroes attend *de facto* segregated schools today than when the Supreme Court handed down its famous decision; while school integration proceeds at a snail's pace in the South, the number of Northern schools with an excessive proportion of minority youth proliferates. And behind this is the continuing growth of racial slums, spreading over our central cities and trapping Negro youth in a milieu which, whatever its legal definition, sows an unimaginable demoralization. Again, legal niceties aside, a resident of a racial ghetto lives in segregated housing, and more Negroes fall into this category than ever before.

These are the facts of life which generate frustration in the Negro community and challenge the civil rights movement. At issue, after all, is not *civil rights*, strictly speaking, but social and economic conditions. Last summer's riots were not race riots; they were outbursts of class aggression in a society where class and color definitions are converging disastrously. How can the (perhaps misnamed) civil rights movement deal with this problem?

Before trying to answer, let me first insist that the task of the movement is vastly complicated by the failure of many whites of good will to understand the nature of our problem. There is a widespread assumption that the removal of artificial racial barriers should result in the automatic integration of the Negro into all aspects of American life. This myth is fostered by facile analogies with the experience of various ethnic immigrant groups, particularly the Jews. But the analogies with the Jews do not hold for three simple but profound reasons. First, Jews have a long history as a literate people, a resource which has afforded them opportunities to advance in the academic and professional worlds, to achieve intellectual status even in the midst of economic hardship, and to evolve sustaining value systems in the context of ghetto life. Negroes, for the greater part of their presence in this country, were forbidden by law to read or write. Second, Jews have a long history of family stability, the importance of which in terms of aspiration and self-image is obvious. The Negro family structure was totally destroyed by slavery and with it the possibility of cultural transmission (the right of Negroes to marry and rear children is barely a century old). Third, Jews are white and have the *option* of relinquishing their cultural-religious identity, intermarrying, passing, etc. Negroes, or at least the overwhelming majority of them, do not have this option. There is also a fourth, vulgar reason. If the Jewish and Negro communities are not comparable in terms of education, family structure, and color, it is also true that their respective economic roles bear little resemblance.

This matter of economic role brings us to the greater problem—the fact that we are moving into an era in which the natural functioning of the market does not by itself ensure every man with will and ambition a place in the productive process. The immigrant who came to this country during the late 19th and early 20th centuries entered a society which was expanding territorially and/or economically. It was then possible to start at the bottom, as an unskilled or semi-skilled worker, and move up the ladder, acquiring new skills along the way. Especially was this true when industrial unionism was burgeoning, giving new dignity and higher wages to organized workers. Today the situation has changed. We are not expanding territorially, the western frontier is settled, labor organizing has leveled off, our rate of economic growth has been stagnant for a decade. And we are in the midst of a technological revolution which is altering the fundamental structure of the labor force, destroying unskilled and semi-skilled jobs—jobs in which Negroes are disproportionately concentrated.

Whatever the pace of this technological revolution may be, the *direction* is clear: the lower rungs of the economic ladder are being lopped off. This means that an individual will no longer be able to start at the bottom and work his way up; he will have to start in the middle or on top, and hold on tight. It will not even be enough to have certain specific skills, for many skilled jobs are also vulnerable to automation. A broad educational background, permitting vocational adaptability and flexibility, seems more imperative than ever. We live in a society where, as Secretary of Labor Willard Wirtz puts it, machines have the equivalent of a high school diploma. Yet the average educational attainment of American Negroes is 8.2 years.

Negroes, of course, are not the only people being affected by these developments. It is reported that there are now 50 per cent fewer unskilled and semi-skilled jobs than there are

high school dropouts. Almost one-third of the 26 million young people entering the labor market in the 1960's will be dropouts. But the percentage of Negro dropouts nationally is 57 per cent, and in New York City, among Negroes 25 years of age or over, it is 68 per cent. They are without a future.

To what extent can the kind of self-help campaign recently prescribed by Eric Hoffer in the *New York Times Magazine* cope with such a situation? I would advise those who think that self-help is the answer to familiarize themselves with the long history of such efforts in the Negro community, and to consider why so many foundered on the shoals of ghetto life. It goes without saying that any effort to combat demoralization and apathy is desirable, but we must understand that demoralization in the Negro community is largely a common-sense response to an objective reality. Negro youths have no need of statistics to perceive, fairly accurately, what their odds are in American society. Indeed, from the point of view of motivation, some of the healthiest Negro youngsters I know are juvenile delinquents: vigorously pursuing the American Dream of material acquisition and status, yet finding the conventional means of attaining it blocked off, they do not yield to defeatism but resort to illegal (and often ingenious) methods. They are not alien to American culture. They are, in Gunnar Myrdal's phrase, "exaggerated Americans." To want a Cadillac is not un-American; to push a cart in the garment center is. If Negroes are to be persuaded that the conventional path (school, work, etc.) is superior, we had better provide evidence which is now sorely lacking. It is a double cruelty to harangue Negro youth about education and training when we do not know what jobs will be available for them. When a Negro youth can reasonably foresee a future free of slums, when the prospect of gainful employment is realistic, we will see motivation and self-help in abundant enough quantities.

Meanwhile, there is an ironic similarity between the self-help advocated by many liberals and the doctrines of the Black Muslims. Professional sociologists, psychiatrists, and social workers have expressed amazement at the Muslims' success in transforming prostitutes and dope addicts into respectable citizens. But every prostitute the Muslims convert to a model of Calvinist virtue is replaced by the ghetto with two more. Dedicated as they are to maintenance of the ghetto, the Muslims are powerless to affect substantial moral reform. So too with every other group or program which is not aimed at the destruction of slums, their causes and effects. Self-help efforts, directly or indirectly, must be geared to mobilizing people into power units capable of effecting social change. That is, their goal must be genuine self-help, not merely self-improvement. Obviously, where self-improvement activities succeed in imparting to their participants a feeling of some control over their environment, those involved may find their appetites for change whetted; they may move into the political arena.

III

Let me sum up what I have thus far been trying to say: the civil rights movement is evolving from a protest movement into a full-fledged *social movement*—an evolution calling its very name into question. It is now concerned not merely with removing the barriers to full *opportunity* but with achieving the fact of *equality*. From sit-ins and freedom rides we have gone into rent strikes, boycotts, community organization, and political action. As a consequence of this natural evolution, the Negro today finds himself stymied by obstacles of far greater magnitude than the legal barriers he was attacking before: automation, urban decay, *de facto* school segregation. These are problems which, while conditioned by Jim Crow, do not vanish upon its demise. They are more deeply rooted in our socio-economic order; they are the result of the total society's failure to meet not only the Negro's needs, but human needs generally.

These propositions have won increasing recognition and acceptance, but with a curious twist. They have formed the common premise of two apparently contradictory lines of thought which simultaneously nourish and antagonize each other. On the one hand, there is the reasoning of the New York *Times* moderate who says that the problems are so enormous and complicated that Negro militancy is a futile irritation, and that the need is for "intelligent moderation." Thus, during the first New York school boycott, the *Times* editorialized that Negro demands, while abstractly just, would necessitate massive reforms, the funds for which could not realistically be anticipated; therefore the just demands were also foolish demands and would only antagonize white people. Moderates of this stripe are often correct in perceiving the difficulty or impossibility of racial progress in the context of present social and economic policies. But they accept the context as fixed. They ignore (or perhaps see all too well) the potentialities inherent in linking Negro demands to broader pressures for radical revision of existing policies. They apparently see nothing strange in the fact that in the last twenty-five years we have spent nearly a trillion dollars fighting or preparing for wars, yet throw up our hands before the need for overhauling our schools, clearing the slums, and really abolishing poverty. My quarrel with these moderates is that they do not even envision radical changes; their admonitions of moderation are, for all practical purposes, admonitions to the

Negro to adjust to the status quo, and are therefore immoral.

The more effectively the moderates argue their case, the more they convince Negroes that American society will not or cannot be reorganized for full racial equality. Michael Harrington has said that a successful war on poverty might well require the expenditure of a $100 billion. Where, the Negro wonders, are the forces now in motion to compel such a commitment? If the voices of the moderates were raised in an insistence upon a reallocation of national resources at levels that could not be confused with tokenism (that is, if the moderates stopped being moderates), Negroes would have greater grounds for hope. Meanwhile, the Negro movement cannot escape a sense of isolation.

It is precisely this sense of isolation that gives rise to the second line of thought I want to examine—the tendency within the civil rights movement which, despite its militancy, pursues what I call a "no-win" policy. Sharing with many moderates a recognition of the magnitude of the obstacles to freedom, spokesmen for this tendency survey the American scene and find no forces prepared to move toward radical solutions. From this they conclude that the only viable strategy is shock; above all, the hypocrisy of white liberals must be exposed. These spokesmen are often described as the radicals of the movement, but they are really its moralists. They seek to change white hearts—by traumatizing them. Frequently abetted by white self-flagellants, they may gleefully applaud (though not really agreeing with) Malcolm X because, while they admit he has no program, they think he can frighten white people into doing the right thing. To believe this, of course, you must be convinced, even if unconsciously, that at the core of the white man's heart lies a buried affection for Negroes—a proposition one may be permitted to doubt. But in any case, hearts are not relevant to the issue; neither racial affinities nor racial hostilities are rooted there. It is institutions—social, political, and economic institutions—which are the ultimate molders of collective sentiments. Let these institutions be reconstructed *today,* and let the ineluctable gradualism of history govern the formation of a new psychology.

My quarrel with the "no-win" tendency in the civil rights movement (and the reason I have so designated it) parallels my quarrel with the moderates outside the movement. As the latter lack the vision or will for fundamental change, the former lack a realistic strategy for achieving it. For such a strategy they substitute militancy. But militancy is a matter of posture and volume and not of effect.

I BELIEVE that the Negro's struggle for equality in America is essentially revolutionary. While most Negroes—in their hearts—unquestionably seek only to enjoy the fruits of American society as it now exists, their quest cannot *objectively* be satisfied within the framework of existing political and economic relations. The young Negro who would demonstrate his way into the labor market may be motivated by a thoroughly bourgeois ambition and thoroughly "capitalist" considerations, but he will end up having to favor a great expansion of the public sector of the economy. At any rate, that is the position the movement will be forced to take as it looks at the number of jobs being generated by the private economy, and if it is to remain true to the masses of Negroes.

The revolutionary character of the Negro's struggle is manifest in the fact that this struggle may have done more to democratize life for whites than for Negroes. Clearly, it was the sit-in movement of young Southern Negroes which, as it galvanized white students, banished the ugliest features of McCarthyism from the American campus and resurrected political debate. It was not until Negroes assaulted *de facto* school segregation in the urban centers that the issue of quality education for *all* children stirred into motion. Finally, it seems reasonably clear that the civil rights movement, directly and through the resurgence of social conscience it kindled, did more to initiate the war on poverty than any other single force.

It will be—it has been—argued that these by-products of the Negro struggle are not revolutionary. But the term revolutionary, as I am using it, does not connote violence; it refers to the qualitative transformation of fundamental institutions, more or less rapidly, to the point where the social and economic structure which they comprised can no longer be said to be the same. The Negro struggle has hardly run its course; and it will not stop moving until it has been utterly defeated or won substantial equality. But I fail to see how the movement can be victorious in the absence of radical programs for full employment, abolition of slums, the reconstruction of our educational system, new definitions of work and leisure. Adding up the cost of such programs, we can only conclude that we are talking about a refashioning of our political economy. It has been estimated, for example, that the price of replacing New York City's slums with public housing would be $17 billion. Again, a multi-billion dollar federal public-works program, dwarfing the currently proposed $2 billion program, is required to reabsorb unskilled and semi-skilled workers into the labor market—and this must be done if Negro workers in these categories are to be employed. "Preferential treatment" cannot help them.

I am not trying here to delineate a total program, only to suggest the scope of economic reforms which are most immediately related to the plight of the Negro community. One could

speculate on their political implications—whether, for example, they do not indicate the obsolescence of state government and the superiority of regional structures as viable units of planning. Such speculations aside, it is clear that Negro needs cannot be satisfied unless we go beyond what has so far been placed on the agenda. How are these radical objectives to be achieved? The answer is simple, deceptively so: *through political power.*

There is a strong moralistic strain in the civil rights movement which would remind us that power corrupts, forgetting that the absence of power also corrupts. But this is not the view I want to debate here, for it is waning. Our problem is posed by those who accept the need for political power but do not understand the nature of the object and therefore lack sound strategies for achieving it; they tend to confuse political institutions with lunch counters.

A handful of Negroes, acting alone, could integrate a lunch counter by strategically locating their bodies so as *directly* to interrupt the operation of the proprietor's will; their numbers were relatively unimportant. In politics, however, such a confrontation is difficult because the interests involved are merely *represented.* In the execution of a political decision a direct confrontation may ensue (as when federal marshals escorted James Meredith into the University of Mississippi—to turn from an example of non-violent coercion to one of force backed up with the threat of violence). But in arriving at a political decision, numbers and organizations are crucial, especially for the economically disenfranchised. (Needless to say, I am assuming that the forms of political democracy exist in America, however imperfectly, that they are valued, and that elitist or putschist conceptions of exercising power are beyond the pale of discussion for the civil rights movement.)

Neither that movement nor the country's twenty million black people can win political power alone. We need allies. The future of the Negro struggle depends on whether the contradictions of this society can be resolved by a coalition of progressive forces which becomes the *effective* political majority in the United States. I speak of the coalition which staged the March on Washington, passed the Civil Rights Act, and laid the basis for the Johnson landslide—Negroes, trade unionists, liberals, and religious groups.

THERE ARE those who argue that a coalition strategy would force the Negro to surrender his political independence to white liberals, that he would be neutralized, deprived of his cutting edge, absorbed into the Establishment. Some who take this position urged last year that votes be withheld from the Johnson-Humphrey ticket as a demonstration of the Negro's political power. Curiously enough, these people who sought to demonstrate power through the non-exercise of it, also point to the Negro "swing vote" in crucial urban areas as the source of the Negro's independent political power. But here they are closer to being right: the urban Negro vote will grow in importance in the coming years. If there is anything positive in the spread of the ghetto, it is the potential political power base thus created, and to realize this potential is one of the most challenging and urgent tasks before the civil rights movement. If the movement can wrest leadership of the ghetto vote from the machines, it will have acquired an organized constituency such as other major groups in our society now have.

But we must also remember that the effectiveness of a swing vote depends solely on "other" votes. It derives its power from them. In that sense, it can never be "independent," but must opt for one candidate or the other, even if by default. Thus coalitions are inescapable, however tentative they may be. And this is the case in all but those few situations in which Negroes running on an independent ticket might conceivably win. "Independence," in other words, is not a value in itself. The issue is which coalition to join and how to make it responsive to your program. Necessarily there will be compromise. But the difference between expediency and morality in politics is the difference between selling out a principle and making smaller concessions to win larger ones. The leader who shrinks from this task reveals not his purity but his lack of political sense.

The task of molding a political movement out of the March on Washington coalition is not simple, but no alternatives have been advanced. We need to choose our allies on the basis of common political objectives. It has become fashionable in some no-win Negro circles to decry the white liberal as the main enemy (his hypocrisy is what sustains racism); by virtue of this reverse recitation of the reactionary's litany (liberalism leads to socialism, which leads to Communism) the Negro is left in majestic isolation, except for a tiny band of fervent white initiates. But the objective fact is that *Eastland and Goldwater* are the main enemies—they and the opponents of civil rights, of the war on poverty, of medicare, of social security, of federal aid to education, of unions, and so forth. The labor movement, despite its obvious faults, has been the largest single organized force in this country pushing for progressive social legislation. And where the Negro-labor-liberal axis is weak, as in the farm belt, it was the religious groups that were most influential in rallying support for the Civil Rights Bill.

The durability of the coalition was interestingly tested during the election. I do not believe that the Johnson landslide proved the "white backlash" to be a myth. It proved, rather, that

economic interests are more fundamental than prejudice: the backlashers decided that loss of social security was, after all, too high a price to pay for a slap at the Negro. This lesson was a valuable first step in re-educating such people, and it must be kept alive, for the civil rights movement will be advanced only to the degree that social and economic welfare gets to be inextricably entangled with civil rights.

The 1964 elections marked a turning point in American politics. The Democratic landslide was not merely the result of a negative reaction to Goldwaterism; it was also the expression of a majority liberal consensus. The near unanimity with which Negro voters joined in that expression was, I am convinced, a vindication of the July 25th statement by Negro leaders calling for a strategic turn toward political action and a temporary curtailment of mass demonstrations. Despite the controversy surrounding the statement, the instinctive response it met with in the community is suggested by the fact that demonstrations were down 75 per cent as compared with the same period in 1963. But should so high a percentage of Negro voters have gone to Johnson, or should they have held back to narrow his margin of victory and thus give greater visibility to our swing vote? How has our loyalty changed things? Certainly the Negro vote had higher visibility in 1960, when a switch of only 7 per cent from the Republican column of 1956 elected President Kennedy. But the slimness of Kennedy's victory—of his "mandate"—dictated a go-slow approach on civil rights, at least until the Birmingham upheaval.

Although Johnson's popular majority was so large that he could have won without such overwhelming Negro support, that support was important from several angles. Beyond adding to Johnson's total national margin, it was specifically responsible for his victories in Virginia, Florida, Tennessee, and Arkansas. Goldwater took only those states where fewer than 45 per cent of eligible Negroes were registered. That Johnson would have won those states had Negro voting rights been enforced is a lesson not likely to be lost on a man who would have been happy with a unanimous electoral college. In any case, the 1.6 million Southern Negroes who voted have had a shattering impact on the Southern political party structure, as illustrated in the changed composition of the Southern congressional delegation. The "backlash" gave the Republicans five House seats in Alabama, one in Georgia, and one in Mississippi. But on the Democratic side, seven segregationists were defeated while all nine Southerners who voted for the Civil Rights Act were re-elected. It may be premature to predict a Southern Democratic party of Negroes and white moderates and a Republican Party of refugee racists and economic conservatives, but there certainly is a strong tendency toward such a realignment; and an additional 3.6 million Negroes of voting age in the eleven Southern states are still to be heard from. Even the *tendency* toward disintegration of the Democratic party's racist wing defines a new context for Presidential and liberal strategy in the congressional battles ahead. Thus the Negro vote (North as well as South), while not *decisive* in the Presidential race, was enormously effective. It was a dramatic element of a historic mandate which contains vast possibilities and dangers that will fundamentally affect the future course of the civil rights movement.

The liberal congressional sweep raises hope for an assault on the seniority system, Rule Twenty-two, and other citadels of Dixiecrat-Republican power. The overwhelming of this conservative coalition should also mean progress on much bottlenecked legislation of profound interest to the movement (e.g., bills by Senators Clark and Nelson on planning, manpower, and employment). Moreover, the irrelevance of the South to Johnson's victory gives the President more freedom to act than his predecessor had and more leverage to the movement to pressure for executive action in Mississippi and other racist strongholds.

None of this *guarantees* vigorous executive or legislative action, for the other side of the Johnson landslide is that it has a Gaullist quality. Goldwater's capture of the Republican party forced into the Democratic camp many disparate elements which do not belong there, Big Business being the major example. Johnson, who wants to be President "of all people," may try to keep his new coalition together by sticking close to the political center. But if he decides to do this, it is unlikely that even his political genius will be able to hold together a coalition so inherently unstable and rife with contradictions. It must come apart. Should it do so while Johnson is pursuing a centrist course, then the mandate will have been wastefully dissipated. However, if the mandate is seized upon to set fundamental changes in motion, then the basis can be laid for a new mandate, a new coalition including hitherto inert and dispossessed strata of the population.

Here is where the cutting edge of the civil rights movement can be applied. We must see to it that the reorganization of the "consensus party" proceeds along lines which will make it an effective vehicle for social reconstruction, a role it cannot play so long as it furnishes Southern racism with its national political power. (One of Barry Goldwater's few attractive ideas was that the Dixiecrats belong with him in the same party.) And nowhere has the civil rights movement's political cutting edge been more magnificently demonstrated than at Atlantic City, where the Mississippi Freedom Democratic Party not

only secured recognition as a bona fide component of the national party, but in the process routed the representatives of the most rabid racists—the white Mississippi and Alabama delegations. While I still believe that the FDP made a tactical error in spurning the compromise, there is no question that they launched a political revolution whose logic is the displacement of Dixiecrat power. They launched that revolution within a major political institution and as part of a coalitional effort.

The role of the civil rights movement in the reorganization of American political life is programmatic as well as strategic. We are challenged now to broaden our social vision, to develop functional programs with concrete objectives. We need to propose alternatives to technological unemployment, urban decay, and the rest. We need to be calling for public works and training, for national economic planning, for federal aid to education, for attractive public housing—all this on a sufficiently massive scale to make a difference. We need to protest the notion that our integration into American life, so long delayed, must now proceed in an atmosphere of competitive scarcity instead of in the security of abundance which technology makes possible. We cannot claim to have answers to all the complex problems of modern society. That is too much to ask of a movement still battling barbarism in Mississippi. But we can agitate the right questions by probing at the contradictions which still stand in the way of the "Great Society." The questions having been asked, motion must begin in the larger society, for there is a limit to what Negroes can do alone.

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