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THE CIVIL RIGHTS PROGRAMS OF THE KENNEDY ADMINISTRATION: A POLITICAL ANALYSIS

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APPROVED FOR THE DEPARTMENT OF GOVERNMENT

BY

Joseph L. Price

Rufus G. Hall Jr.

William N. Moore, Jr.

J. W. Carl Thomas

John W. Ward

PREFACE

Civil Rights was one of the major domestic problems if not the most serious domestic problem, facing the United States when President John F. Kennedy was assassinated in Dallas, Texas on November 22, 1963. For months prior to that event, the United States had been in the midst of what many termed a "revolution" in race relations, and the national government had found itself called upon to assume new and unusual responsibilities in helping the nation peacefully to negotiate this period of tension and change. Writing in The New York Times on Sunday, November 24, 1963, two days after the death of Mr. Kennedy, Anthony Lewis said: "For Lyndon Johnson, as for John Kennedy, the great challenge within this country is the cry for justice in race relations. History will judge the Johnson Administration, domestically, by its success in answering that cry."[1]

Political scientists may identify the same issue as a major criterion in assessing the Kennedy Administration. The purpose of this study is to review the major civil rights problems which confronted the nation and the

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[1]Anthony Lewis, "Key Domestic Problem For Johnson - Civil Rights," The New York Times (November 24, 1963), p. E 5.

national government during the presidency of John F. Kennedy, analyze the factors which influenced his decisions in the civil rights area, and, finally, summarize and evaluate the civil rights actions taken by his administration in terms of the use and growth of presidential power.

While the actions of the national government from January 20, 1961 until November 22, 1963 will be the object of this analysis, particular attention will be focused on the role of President Kennedy.

The Introduction is intended to place the civil rights responsibilities of President Kennedy in perspective within the context of his many other duties as Chief Magistrate. Chapter II identifies many of the major civil rights problems of concern to the national government, traces the historical, legal, and constitutional development of several, and describes the seriousness of these issues as of January 20, 1961. The actions of a President's predecessors tend to structure or at least influence in an important way his own decisions, and therefore the third chapter summarizes the civil rights actions of Presidents Franklin D. Roosevelt, Harry S. Truman, and Dwight D. Eisenhower.

The fourth chapter reviews a number of political factors which had a bearing on the civil rights decisions of John F. Kennedy - including the 1960 Democratic platform, 1960 campaign promises, southern resistance to desegregation, international ramifications of United States race relations, the growing significance of the Negro vote, and, the Negro "revolt" of 1963.

Chapter V represents an effort to analyze the methodology and

approach of John F. Kennedy in dealing with civil rights matters, including a description of the civil rights machinery of the Kennedy administration, and strategic aspects of the President's civil rights programs.

In Chapter VI the civil rights actions of the Kennedy administration in nine major fields are summarized. Although the terminal date for most of this study will be November 22, 1963, Chapter VII, dealing with legislation, will continue through final action on the Civil Rights Act of 1964.

In Chapter VIII, an effort has been made to appraise the civil rights actions of the Kennedy administration.

In view of the fact that the term "civil rights" is frequently interpreted in different ways by different writers, it is appropriate at this point to define the term as it will be used in this study.

In the presidential address delivered at the 1963 Annual Meeting of the American Political Science Association in New York City, Professor Carl J. Friedrich of Harvard University noted that the conception of rights which inspired the British Bill of Rights (1689), the Declaration of Independence (1776), and the Declaration of the Rights of Man and Citizen (1789) is grounded on simple natural law notions. Man was believed to have a fixed and unalterable nature, to be endowed with reason, which gave him certain rights without which he ceased to be a human being.[2]

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[2]Carl J. Friedrich, "Rights, Liberties, Freedoms: A Reappraisal," The American Political Science Review (December, 1963), p. 841.

In the course of the 19th century it gradually became clear that such rights were not something absolute and unchangeable. Rights came to be recognized as constitutionally created and guaranteed. Professor Friedrich points out that all rights are political, in the sense that they depend on the political order for their maintenance and enforcement. They are political in the further sense that they depend on the values and beliefs of the political community which the political order serves. Rights are also characteristically normative, in the sense that they reflect a tension between what is and what ought to be. Thus, a right is related to an aspect of human nature which is being inhibited or thwarted - such as the right to equality of employment opportunity, or housing opportunity.

The concept of civil rights employed by the U. S. Commission on Civil Rights has been influential in the development of this study. By civil rights, the Commission said in 1963,

> . . . we mean to stress those individual rights protected against denials based upon such characteristics as race, color, religion or national origin. The groups identified for purposes of such protection, and the range of activities protected, are defined by state and Federal law, as well as by constitutional provisions and judicial interpretation.[3]

The group with which this study is concerned is the Negro.

Civil rights literature has grown in a significant fashion, especially in the period since World War II. Consequently, it would be possible to

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[3]U. S. Commission on Civil Rights, Freedom To The Free (Washington, D. C.: U. S. Government Printing Office, 1963), pp. 1-2.

complete studies in any one of the several areas of civil rights with which this study will be concerned - voting, employment, and housing, for example. Limitations of space do not permit the inclusion of anything resembling definitive statements on any of these issues. Rather, it will be the intention of this study to define the problems to the extent that their significance to the national government is made clear, analyze the issues, and evaluate actions taken by the national government, with particular reference to the role of the President.

The papers of John F. Kennedy would have been of inestimable value, but as Ralph A. Dungan, Special Assistant to the President, informed the writer on January 15, 1964, these will not be available until they are transferred to the John F. Kennedy Library at Harvard University.

With this exception, valuable resources were placed at the disposal of this writer, through the cooperation of the University of Oklahoma Bizzell Memorial Library, the Library of Congress, eighteen of the major departments and agencies of the Federal government, the Anti-Defamation League of B'nai B'rith, The National Association for the Advancement of Colored People, The National Urban League, The Student Nonviolent Coordinating Committee, The Congress on Racial Equality, The Southern Regional Council, The Potomac Institute, The Leadership Conference on Civil Rights, and The Southern Christian Leadership Conference. The Civil Rights Division of the U. S. Department of Justice, The President's Committee on Equal Opportunity in Housing, and the

President's Committee on Equal Employment Opportunity were particularly generous in providing research materials and in answering queries.

In February, 1964, the writer visited Washington, D. C. and New York, and conferred with more than forty civil rights leaders, including several who had worked closely with President Kennedy - Assistant Attorney General Burke Marshall, Deputy Attorney General Nicholas deB. Katzenbach, Lee C. White, Assistant Special Counsel to President Kennedy, former Governor David L. Lawrence, Chairman of the President's Committee on Equal Opportunity in Housing, Hobart Taylor, then Executive Vice Chairman of the President's Committee on Equal Employment Opportunity, and John Nolan, Assistant to the Attorney General. Subsequently, this writer corresponded with Harris Wofford, who served as a special adviser on civil rights to John F. Kennedy during the 1960 presidential campaign, and was then appointed by Mr. Kennedy as Special Assistant to the President, with special responsibility for civil rights, serving until the Spring of 1962.

The writer is indebted to each of these individuals and organizations for their interest and assistance, but wishes to acknowledge special gratitude to Professor Joseph C. Pray of the Department of Government, The University of Oklahoma, whose knowledge, patience and willingness to spend long hours in discussing this study, contributed in a most important manner to the planning and research that went into this document.

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CHAPTER I

INTRODUCTION

For John F. Kennedy, the beginning came in the numbing cold of late morning on Inauguration Day, Friday, January 20, 1961.

> Just before eleven-thirty, President Dwight David Eisenhower and President-elect John Fitzgerald Kennedy strode down the broad front steps of the White House, climbed into the black limousine awaiting them, and began their ceremonial journey together along Pennsylvania Avenue to Capitol Hill. Vice Presidents, wives, and Secret Service followed in solemn, poised attendance. . . . As the two men sat back and stretched their legs - the older man seated on the honored right for the last time - they both were, seriously and inescapably, quite alone in the world. Probably each was alone with his own sober thoughts and tense emotions. Certainly both were alone in their silently shared knowledge of the awesome power and the poignant isolation - the matchless hopes and hazards - of the office that would pass in a few moments from the one to the other.
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> The scene and the encounter were arresting. Beside the President who, at the age of seventy, had become the oldest Chief Executive in American history, there sat the man who, at forty-three, was the youngest ever elected to the office.[4]

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[4]Emmet John Hughes, The Ordeal of Power: A Political Profile of The Eisenhower Years (New York: Atheneum, 1963), pp. 5-6.

As he had done repeatedly during the election campaign, in his inaugural address President Kennedy again called for sacrifices on the part of the American people to the end that the disturbing drifts he perceived might be arrested and so that America would not falter in greatness nor in purpose. Toward the end of his address, he stated the challenge:

> In your hands, my fellow citizens, more than mine, will rest the final success or failure of our course. Since this country was founded, each generation of Americans has been summoned to give testimony to its national loyalty. The graves of young Americans who answered the call to service surround the globe.
>
> Now the trumpet summons us again - not as a call to bear arms, though arms we need - not as a call to battle, although embattled we are - but a call to bear the burden of a long twilight struggle year in and year out, "rejoicing in hope, patient in tribulation" - a struggle against the common enemies of man: tyranny, poverty, disease and war itself.[5]

Beyond that, President Kennedy defined neither the specific problems facing the nation, nor the measures he proposed for dealing with them.

Lack of a clear-cut crisis had been a political campaign problem for him, and in the opinion of some observers, during the first year of his administration, it remained his presidential problem. Dwight D. Eisenhower, it was recalled, could be seen historically as the man

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[5]John Fitzgerald Kennedy, Inaugural Address delivered in Washington, D. C. on January 20, 1961, New York Times (November 24, 1963), p. E 3.

elected to end the Korean War, which he did. Franklin D. Roosevelt could be seen historically as a man elected to reorganize and refresh the American economy in the year of its worst collapse. These were vivid, tangible crises, in which the American people required and received direction and action by their elected leaders. "But John F. Kennedy," said Theodore H. White, "was inaugurated in 1961, to preside over a nation to which no crisis was clear."[6]

> The nation recognized, or at least it so indicated by its voting for him, that it sensed crisis - but crisis locked in the womb of time, swelling uncomfortably in embryo, crisis whose countenance was still unclear. If there were any mandate in the election of 1960, it was that the new President prepare for such obscure crises.[7]

The crises were not long in coming, and they were far from obscure:

-The situation in Laos worsened, complicated by the elusive jungle warfare tactics of the Communists, the unwillingness of the Laotians to fight effectively, and increasing Soviet military aid.[8]

-Strife continued in the Congo, accentuated by the murder of Congolese leader, Patrice Lumumba. Predictably, this produced a general attack on the United Nations by the Soviet Union.[9]

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[6]Theodore H. White, The Making of the President 1960 (Giant Cardinal ed., New York: Atheneum House, 1961, 1962), p. 452.

[7]Ibid.

[8]Hugh Sidey, John F. Kennedy: A Reporter's Inside Story (New York: Atheneum Publishers, 1963), p. 57.

[9]Ibid.

-On Tuesday, April 11, 1961, the Russians successfully launched the first man into space, Yuri Gagarin, dramatizing the inferior position of the United States in the space race.[10]

-The disastrous Bay of Pigs invasion of Cuba was launched on April 17, 1961. Reported Hugh Sidey:

> John Kennedy, with the military power to destroy the world, did nothing as Fidel Castro, gleefully spouting communistic shibboleths, rounded up the prisoners from the beach.
>
> It was a fantastic bungle and it was a Kennedy bungle. It was the first deep black slash on the New Frontier record. The White House was stunned, embarrassed, angered and confused.[11]

-On August 13, 1961, the Berlin Wall was erected.[12] Seven days later, in order to dramatically challenge the Communist blockade, Colonel Glover S. Johns, Jr., successfully led an American battle group across the 110 miles of communist land between West Germany and West Berlin.[13]

-The Soviet Union, contrary to Khrushchev's vows that that nation would not resume unilateral testing of atomic and hydrogen weapons, broke that pledge on September 1, 1961, when a great fireball arose over the central plains of Asia.[14] The arms race was on again.

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[10] Ibid., p. 112.

[11] Ibid., p. 124.

[12] Ibid., p. 233.

[13] Ibid., p. 236.

[14] Ibid., p. 242.

President Kennedy faced serious domestic problems, too, beginning in the early days of his administration. This study is concerned with one of these domestic problems, which rapidly grew to crisis proportions: the renewed struggle of Negroes and their supporters for equality of opportunity.

An important date in this renewed struggle was May 17, 1954. Speaking for a unanimous United States Supreme Court, Chief Justice Warren said, in the case of Brown v. Board of Education:[15]

> /I/n the field of public education the doctrine of "separate but equal" has no place. Separate education facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated . . . are . . . deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

Although the Court's decision dealt specifically with public schools, its rationale struck a blow at all segregation laws. At one and the same time, Negroes were handed their greatest victory since the Emancipation Proclamation, and the segregated South sustained a most serious blow to its traditions and way of life. With so much at stake, both groups prepared themselves for the struggle which was to follow: the Negroes intent on finding ways to enforce the decision, and the Deep South dedicated to bitter resistance.

The need for presidential leadership to help the nation successfully to negotiate this most dramatic change in racial relationships is clear now,

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[15] 347 U.S. 483 (1954).

if it was not in 1954 to President Eisenhower, but, as will be noted in the chapters which follow, during the six years which remained of his presidency, Dwight D. Eisenhower and the Congress did virtually nothing to help the nation cope with this radically new development. Instead, the enforcement of the Constitution was left to individual private lawsuits, initiated by Negro organizations and their white sympathizers. There was no national policy, much less a national plan and a national program, for carrying forward legally, gradually, effectively, what was in fact a revolutionary change in the social structure of a large portion of the nation. The net result was that the President and the Congress did not participate as leaders in guiding the movement for equality of status, but functioned, instead, as spectators. In the vacuum that remained, the opposing forces placed campaigns of increasing momentum on a collision course, culminating in a series of racial outbreaks, which became particularly intensive during the Kennedy administration, climaxed by a series of crises of major proportions during the Spring and Summer of 1963.

In order to understand and analyze the civil rights program of the Kennedy administration, it is necessary to review these civil rights problems as the President encountered them during the early days of his presidency, and the factors influencing the civil rights decisions he made.

CHAPTER II

CIVIL RIGHTS PROBLEMS CONFRONTING THE KENNEDY ADMINISTRATION - 1961

In order to understand the scope and depth of the civil rights problems which faced the Kennedy Administration, this study turns now to an overview of some of the more significant civil rights issues which confronted the new President shortly after his inauguration. The purpose of this chapter will not be to analyze each of these problems, but rather to identify them, trace the historical and constitutional development of some, and indicate their status as of January 20, 1961. Because Supreme Court decisions dealing with problems of racial discrimination and segregation in education affected the legal status of equality of opportunity regardless of race in that and in other fields, education will be the first subject area to be considered.

Education

Beginning in the mid nineteen thirties, the U. S. Supreme Court began to rely on the Fourteenth Amendment increasingly as the basis for decisions emphasizing the importance of fair and equal treatment for all

persons. One of the first cases in this new era affecting education was that of Missouri ex rel. Gaines v. Canada,[16] in which the United States Supreme Court held that a Negro who wished to study law in a state which had a state-supported law school for white students was entitled to admission either to that school or to an equally adequate state-supported Negro law school in the state of his residence.

The Oklahoma legislature had amended its state law to permit the admission of Negroes to institutions of higher learning in cases where such institutions offered courses not available in the Negro schools, but instruction was to be given these Negro students upon a segregated basis. A Negro graduate student, McLaurin, was admitted to the University of Oklahoma graduate school, but was subjected to certain segregated practices in classrooms, the library, and the cafeteria. A unanimous Supreme Court, in McLaurin v. Oklahoma State Regents,[17] ruled such separations unconstitutional, since they "impair his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession."

Sweatt v. Painter,[18] decided the same day, involved the petition of a Negro student for admission to the University of Texas Law School. Sweatt had applied for admission to the law school in 1946, and had been

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[17] 339 U.S. 637 (1950).

[18] 339 U.S. 629 (1950).

rejected solely because he was a Negro. He refused to attend the separate law school established for Negroes in 1947. The Supreme Court compared the University of Texas Law School, judged to be "one of the nation's ranking law schools," with the new Negro law school, with five full-time professors, a student body of twenty-three, and a library of 16,500 volumes. The Court concluded that the newly established law school for Negroes did not meet the requirements of the equal protection clause, basing its conclusion on the necessary and inescapable "inequality" of the education offered by this school, not upon a condemnation of the principle of segregation.

The Supreme Court heard arguments in what were later termed the "School Segregation Cases" in the fall of 1952. One year later arguments were presented on several points on which the court requested clarification, and on May 17, 1954, in the case of Brown v. Board of Education,[19] the Court reversed Plessy v. Ferguson[20] and held that segregation in the public schools represents a denial of equal protection of the laws. The implementing decision was handed down on May 31, 1955, when the Court called for a "prompt and reasonable start" toward compliance with the new constitutional requirement, to be then carried out "with all deliberate speed." Federal district courts were to retain jurisdiction

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[19] 347 U.S. 483 (1954).

[20] 163 U.S. 537 (1896).

of cases before them throughout the implementation process, as a check upon compliance.[21]

In January, 1961, the month of President Kennedy's inauguration, The Southern Regional Council reported on one aspect of progress toward school desegregation.

> Six years after the Supreme Court's historic decision, there are fewer than 800 Negro children in classes with whites in the states of the old Confederacy, outside of West Texas. There has been no desegregation at all in Alabama, Georgia, Mississippi, and South Carolina, and in Louisiana the enrollment of four Negroes has been greeted with hysterical and virtually insurrectionary resistance. The Supreme Court declared a Constitutional right: yet throughout the South the entire burden of exercising that right has fallen on Negroes, while the public treasuries of Southern states are put at the service of denying it; it is an uneven fight.[22]

At the end of the 1960-1961 school year, the rates of desegregation for the old Confederacy states which had proceeded to desegregate some facilities were: 1.21% in Texas, .107% in Arkansas, .013% in Florida, .0004% in Louisiana, .026% in North Carolina, .247% in Tennessee, and .009% in Virginia.[23]

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[21]Don Shoemaker (ed.), With All Deliberate Speed: Segregation - Desegregation in Southern Schools (New York: Harper and Brothers, 1957), p. 4.

[22]Southern Regional Council, The Federal Executive and Civil Rights (Atlanta, Georgia: Southern Regional Council, 1961), pp. 16-17.

[23]Leadership Conference on Civil Rights, Federally Supported Discrimination (New York: Leadership Conference on Civil Rights, 1961), pp. 30-31.

Louisiana was the backbone of the old order. When, in May, 1960, a Federal court ordered desegregation of some first grade classes in New Orleans, the state legislature in a series of six sessions which terminated in February, 1961, enacted dozens of measures to block desegregation. Twenty-six of the thirty-four measures adopted in the first two sessions were almost immediately held invalid.

Among the measures passed in these two sessions, one authorized the Governor to close all public schools threatened by desegregation; another vested in the legislature exclusive power to establish a racial classification for public schools; another directed the Governor to close any public school in case of disorder. An Interposition Act declared all the School Segregation Cases and all lower court decisions pursuant thereto void in Louisiana, and prohibited all state and federal officials from enforcing desegregation in Louisiana under penalty of fine and imprisonment. Other legislation gave the state additional police powers to "keep order" even in cities having their own police forces; repealed all laws authorizing the election of the New Orleans School Board, and authorized the legislature to create a new one. A committee of the state legislature was given control over the New Orleans school system.[24]

One year earlier, in 1959, Alabama set up an independent school

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[24]Wallace Mendelson, Discrimination (New York: Spectrum Books, 1962), pp. 40-41. The author served as editor-in-chief of the five volume 1961 report of the United States Commission on Civil Rights, on which this book is based.

district plan, which permitted any individual school threatened with desegregation to withdraw from state and school district control, and set itself up as an independent entity. The 1959 legislation also authorized school boards to use public funds to pay tuition grants for students attending private, nondenominational schools when instruction was not available in local, public schools.[25]

In 1960 Mississippi adopted a constitutional amendment repealing its mandatory provision for state maintenance of a public school system, and substituted an optional proviso: "The legislature may, in its discretion, provide for the maintenance and establishment of a free public school or schools in each county in the state. . . ."[26] A legislative measure passed in the same year authorized local school authorities to close any or all schools for the ". . . best interests of a majority of the . . . children . . . enrolled," or to "promote or preserve the public peace."[27]

As President Kennedy entered into his duties as President of the United States, therefore, it was clear that in the field of education, the South's "massive resistance" to the Supreme Court's school desegregation decision, followed in 1959 by a shift to local option and individual choice, backed by state tuition grants, effectively had prevented any significant progress in implementing the decision.

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[25] Ibid., pp. 41-42.

[26] Ibid., p. 42.

[27] Ibid.

Transportation

After the Civil War, Congress took steps to prohibit segregation in transportation, culminating in the Civil Rights Act of 1875.[28] One of the Civil Rights Cases[29] arose out of the exclusion of a Negro woman from the ladies' car of an interstate train. But the Supreme Court, in that decision, held that the Fourteenth Amendment is applicable only against state action, and ruled that the actions of a railroad or its employees did not fall into this category.

This decision opened the possibility that state action enforcing segregation would be contrary to the equal protection clause of the Fourteenth Amendment, but this defense fell in the case of Plessy v. Ferguson in 1896.[30] Here a Louisiana statute requiring racial segregation on public carriers was held by the Supreme Court not to violate the Fourteenth Amendment. Said Justice Brown:

> The object of the Amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either.

Thus the Supreme Court gave its blessing to the view that segregation was compatible with equality. Justice Harlan dissented, protesting that "our

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[28]Act of March 1, 1875. (18 Stat. 335).

[29]109 U.S. 3 (1883).

[30]163 U.S. 537 (1896).

Constitution is color-blind, and neither knows nor tolerates classes among citizens."

State laws pertaining to segregated transportation were attacked successfully as an unconstitutional burden on commerce in the case of Hall v. DeCuir.[31] However, the state law voided in that instance was an 1869 Louisiana Reconstruction statute prohibiting discrimination on account of race or color. The Court regarded this matter as one on which uniformity of practice was required, and consequently only Congress could adopt regulations on this subject.

But in 1941 in Mitchell v. United States,[32] the Supreme Court upheld a charge of denial of equal treatment brought by a Negro congressman from Illinois who had been refused Pullman accommodations in Arkansas. The ruling, however, did not challenge the constitutionality of segregation in interstate commerce, but merely insisted that accommodations must be "substantially equal" to meet the constitutional test.

A significant forward step was taken by the Court in Morgan v. Virginia in 1946.[33] Mrs. Morgan, a Negro woman, had been prosecuted for refusing to move to the back of the bus on the request of the driver during the course of an interstate bus trip from Virginia to Baltimore.

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[31] 95 U.S. 485 (1878).

[32] 313 U.S. 80 (1941).

[33] 328 U.S. 373 (1946).

The Supreme Court found the Virginia state law requiring this segregation to be a burden on commerce in a matter where uniformity was necessary.

Two years later, in Bob-Lo Excursion Co. v. Michigan,[34] the Court upheld a conviction under the Michigan Civil Rights Act, of a Detroit amusement park company which refused to transport a Negro girl on its boat to an island on the Canadian side of the Detroit River.

In both Hall v. DeCuir and Morgan V. Virginia, the Supreme Court held that the problem of segregation or nonsegregation on interstate carriers is a federal problem and that attempts by the states to deal with it would represent invalid obstructions of interstate commerce. Although under the delegated power to regulate interstate commerce, Congress could abolish by law all forms of segregation on interstate transportation, it has been reluctant to act in this field.

Federal policy in the area of segregation in interstate commerce is grounded on a section of the Interstate Commerce Act of 1887, as amended in 1940, which forbids railroads in interstate commerce "to subject any particular person . . . to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. . . ." Under pressure, the I. C. C. has taken the attitude that racial discrimination in interstate commerce violates the statute.[35]

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[34]333 U. S. 28 (1948).

[35]Robert Eugene Cushman, Civil Liberties in the United States: A Guide to Current Problems and Experience (Ithaca, New York: Cornell University Press, 1956), p. 217.

In November, 1955, relying on the Brown[36] decision, the Interstate Commerce Commission issued a sweeping order banning segregation on interstate trains and buses and in public waiting rooms serving interstate travelers.[37] However, the Justice Department considered that it did not have the authority to protect such private rights affirmatively, and the limited resources of the Interstate Commerce Commission did not permit an effective enforcement campaign.[38]

In December, 1955, one month later, an incident occurred in Montgomery, Alabama which was to have a profound effect not only on the status of racial discrimination in transportation, but was also to trigger a series of racial demonstrations, led by new, dynamic civil rights leaders, whose efforts achieved maximum impact during the presidency of John F. Kennedy.

Dr. Martin Luther King describes this incident in his book, Stride Toward Freedom: The Montgomery Story:[39]

> On December 1, 1955, an attractive Negro seamstress, Mrs. Rosa Parks, boarded the Cleveland Avenue Bus in downtown Montgomery. She was returning home after her regular day's work in the Montgomery Fair - a leading

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[36]347 U.S. 483 (1954).

[37]Cushman, op. cit., p. 218.

[38]Burke Marshall, "The Enforcement of Civil Rights," ADL Bulletin (March, 1962), p. 12.

[39]Dr. Martin Luther King, Stride Toward Freedom: The Montgomery Story (New York: Harper and Brothers, 1958).

> department store. Tired from long hours on her feet, Mrs. Parks sat down in the first seat behind the section reserved for whites, Not long after she took her seat, the bus operator ordered her, along with three other Negro passengers, to move back in order to accommodate boarding white passengers. By this time every seat in the bus was taken. This meant that if Mrs. Parks followed the driver's command she would have to stand while a white male passenger, who had just boarded the bus, would sit. The other three Negro passengers immediately complied with the driver's request. But Mrs. Parks quietly refused. The result was her arrest.[40]

Because of the widespread publicity which followed the activities which developed subsequent to her arrest, charges were made to the effect that some excessively eager Negro organization had "planted" her there. Dr. King's comment on this charge reveals, in part, the depth of feeling of Negroes about civil rights deprivations:

> She was not "planted" there by the NAACP, or any other organization: she was planted there by her personal sense of dignity and self-respect. She was anchored to that seat by the accumulated indignities of days gone by and the boundless aspirations of generations yet unborn. She was a victim of both the forces of history and the forces of destiny. She had been tracked down by the Zeitgeist - the spirit of the time.[41]

Only Mr. E. D. Nixon of Montgomery, who signed Mrs. Parks's bond, and one or two other persons, were aware of her arrest when it occurred. The word spread quickly, however, and at a meeting of 40 leaders, the idea of a boycott of city buses was endorsed. Negro taxi

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[40] Ibid., p. 43.

[41] Ibid., p. 44.

companies would take Negroes to work for the usual ten cent bus fare. Thousands of leaflets were distributed, announcing this plan. The Montgomery Advertiser, in an effort to alert the white community to this plan, reported it as a front page story, which turned to the Negroes' advantage, since it brought word to thousands who had not heard of the plan.[42]

Inasmuch as the boycott had been organized on short notice, leaders of the effort had hoped for 60% effectiveness, and were consequently astounded when it proved almost 100% effective on its first day, December 5, 1955. Later that morning, Mrs, Parks was found guilty in police court of having disobeyed the segregation law, and was fined a total of fourteen dollars. The arrest and conviction of Mrs. Parks had a twofold impact: it was a precipitating factor to arouse the Negroes to positive action, and it was a test of the validity of the segregation law, itself.

That evening the Montgomery Improvement Association was established, and Dr. Martin Luther King, Jr. was elected as its President - the first step in a series of moves which shortly made him the best known and most articulate Negro spokesman in the United States.

Because it is generally agreed that the "Negro Revolution" began with this bus segregation problem in Montgomery, it it important to understand the reasons for the boycott, as explained, again, by Dr. King. "A miracle had taken place," he said later. "The once dormant and

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[42] Ibid., pp. 48-49.

quiescent Negro community was now fully awake."[43]

> The bus protest did not spring into being full grown as Athena sprang from the head of Zeus; it was the culmination of a slowly developing process. Mrs. Parks's arrest was the precipitating factor rather than the cause of the protest. The cause lay deep in the record of similar injustices. Almost everybody could point to an unfortunate episode that he himself had experienced or seen.
>
> But there comes a time when people get tired of being trampled by oppression. There comes a time when people get tired of being plunged into the abyss of exploitation and nagging injustice. The story of Montgomery is the story of 50,000 such Negroes who were willing to substitute tired feet for tired souls, and walk the streets of Montgomery until the walls of segregation were finally battered by the forces of justice.[44]

The Montgomery bus segregation laws were tested in the Federal courts, and on June 4, 1956, a three judge Federal district court held that the bus segregation laws of Alabama were unconstitutional.[45] On November 13, 1956, a little less than a year after Mrs. Parks's arrest, the United States Supreme Court affirmed the ruling of the Federal District Court.[46]

While the Montgomery bus boycott quickly became a most impressive symbol, it was slow to inspire like action elsewhere. But its importance was great. It brought a new vision to Negroes of what could

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[43] Ibid., p. 54.

[44] Ibid., p. 69.

[45] Ibid., p. 152.

[46] Ibid., p. 160.

be accomplished by direct action, and, just as important, to the white people of the South it brought the first clearly perceived view of Negro discontent and determination and courage. This was to come to fruition during the administration of President Kennedy.

Public Accommodations

Between 1866 and 1875, the Congress passed seven acts to give force to the Thirteenth, Fourteenth, and Fifteenth Amendments, but over the next thirty years, most of this law was either repealed by Congress or voided in the courts.[47] The Civil Rights Act of 1875 was originally introduced by Senator Charles Sumner in 1870, and provided for equal rights in

> railroads, steamboats, public conveyences, hotels, licensed theatres, houses of public entertainment, common schools, and institutions of learning authorized by law, church institutions, and cemetary associations incorporated by national or state authority; also on juries in courts, national and state. . . .[48]

The 1875 act and the six civil rights law which preceded it created a new concept of equality: that in the absence of slavery, no man should be subject to the incidents of slavery; that where the reality or substance of slavery is gone, its visible form or appearance should not be seen.

In the bitter period of reaction which followed Reconstruction, it

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[47]J.W. Anderson, Eisenhower, Brownell and the Congress: The Tangled Origins of the Civil Rights Bill of 1956-1957 (University, Alabama: The University of Alabama Press, 1964), p. 7.

[48]Act of March 1, 1875, 18 Stat. 335.

was inevitable that these civil rights acts would be challenged in the courts. Thus it was that the Civil Rights Act of 1875 was tested in the courts and was declared unconstitutional in the Civil Rights Cases of 1883.[49]

Up until 1883, the Supreme Court had declared only two acts of Congress unconstitutional: Marbury v. Madison,[50] and the Dred Scott Case.[51] Seven cases were taken up in the 1883 decision. Two were indictments for denying to Negroes accommodations and privileges of an inn or hotel. Two cases were actions for denying to individuals privileges and accommodations of a theater. One action was for refusing a Negro a seat in the dress circle in a San Francisco theater. One was for denying to a person full enjoyment of accommodations in the New York Grand Opera House, and the last was an action to recover the statutory penalty from a railway company because of the refusal of the conductor to allow the complainant's wife to ride in the ladies' car because she was a Negro.

Justice Bradley wrote the opinion for the majority. He said that the first section of the Fourteenth Amendment is prohibitory upon the states only, but the invasion of rights by an individual is not covered by the Amendment. While Congress may adopt legislation to meet the exigency of state action adverse to the rights of citizens as secured by the Amendment, such "legislation cannot properly cover the whole domain of rights

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[49] 109 U.S. 3 (1883).

[50] Cranch 137 (1803).

[51] 19 How. 393 (1857).

appertaining to life, liberty and property, defining them and providing for their vindication," Congress is authorized by the Amendment to adopt only corrective, not general legislation; it may counteract only state action.

The Court held that the 1866 and 1870 civil rights acts were to be distinguished from the objectionable 1875 act, for the earlier acts were limited to states only. Under the Thirteenth Amendment, primary and direct legislation may be enacted by Congress, as the amendment is not a limitation on state action only. It was argued that Congress has the power to pass all laws necessary for abolishing all signs of slavery, and that under this power, the law in question was constitutional.

The Court then asked itself: is there any similarity between servitudes outlawed by the Amendment and a denial by the owner of an inn, a public conveyance, or a theater of its accommodations and privileges to an individual, even though the denial be founded on the race or color of the individual?

Does slavery have any inseparable incidents? Yes, said the Court, and named the following: compulsory work, restraints of movements, disability to hold property, disability to make contracts, disability to have standing in court, disability to act as a witness against a white person, severer punishments, and like burdens and incapacities. The Court declared that the 1866 Civil Rights Act, passed under the Thirteenth Amendment, is constitutional, for it wipes out these incidents of slavery.

But they stated that the 1875 Act is altogether different, for it

covers the "social rights of men and races in the community." The court contended that the refusal of a public accommodation to a person has nothing to do with slavery, and ruled the 1875 Act unconstitutional.

The Civil Rights Act of 1964 represents the most important effort made by the Congress since 1875 to legislate in the area of public accommodations. In the interim period, however, many states and municipalities passed laws requiring racial segregation in places of public accommodation; and, many states and municipalities passed laws outlawing segregation or discrimination on the basis of religion, race, color or national origin in places of public accommodation.

Brown[52] provided Negroes and their white supporters with a constitutional weapon to eliminate racial discrimination and segregation in areas other than public education, and the efforts of Dr. Martin Luther King and his followers in Montgomery, Alabama in the period after December, 1955, gave Negroes throughout the United States a glimpse of the new kinds of weapons and leadership which would be required to complete the task of achieving equality of opportunity.

The most recent legal challenge to the exclusion of Negroes, solely because of race, from lunch counters, began in the summer of 1958, when the Youth Council of the Oklahoma City Chapter, National Association for the Advancement of Colored People, following a long period of negotiations, began sit-in demonstrations in Oklahoma City.

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[52] 347 U.S. 483 (1954).

From Oklahoma City the movement spread to Wichita, Kansas. Within two years, 56 eating places were opened to Negroes in Oklahoma City.[53]

This challenge gained dramatic effect when at 4:30 p.m. on February 1, 1960, four Negro students, freshmen at North Carolina A & T College in Greensboro, North Carolina, sat down at the lunch counter at a Woolworth five and ten cent store, and tried in vain to be served. They remained sitting.

Within a week, the impulse which had moved these four students to action had moved other students to similar action in other North Carolina cities - Winston Salem, Durham, Charlotte, Fayetteville, Raleigh, Elizabeth City, and High Point. Within six weeks, the demonstrations had spread to every southern State except Mississippi, and they reached that state early in 1961.[54] The sit-ins had begun in earnest.

Although there is no known record of the extent of racial discrimination in places of public accommodation as of January, 1961, the record of demonstrations focused on public accommodations which occurred during the Kennedy Administration clearly reveals that as of the time President Kennedy took office, the practice of discriminatory policies in places of public accommodations was widespread throughout the nation, and particularly in the South.

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[53]Milton Ridvas Konvitz and Theodore Leskes, A Century of Civil Rights (New York: Columbia University Press, 1961), p. 136.

[54]"Direct Action in the South: A Southern Regional Council Report," New South (October-November, 1963), p. 3.

Voting

In spite of the Fifteenth Amendment's use of the phrase, "the right to vote," the Supreme Court was at first reluctant to give effect to such a right. Under Article I, section 2 of the U.S. Constitution, participation in Federal elections depends upon state laws prescribing the electorate, and so it is strictly true, as the Supreme Court held in the case of Minor v. Happersett, that "the Constitution of the United States does not confer the right of suffrage upon anyone."[55] Mrs. Minor had sought to compel election officials in Missouri, where suffrage was limited to male citizens, to accept her vote on the ground that she had a right to vote as a citizen of the United States under the Fourteenth Amendment, but the Court decisively rejected this contention.

The Court reconsidered this doctrine ten years later in the case of Ex parte Yarbrough,[56] in which it affirmed the conviction of several Klansmen for conspiring to intimidate a Negro from voting for a member of Congress. The South then sought other means of accomplishing Negro disfranchisement, and initially it was successful. A Mississippi law requiring voters to be able to read, understand, or interpret any section of the Constitution was upheld in Williams v. Mississippi,[57] because on its face it did not discriminate against Negroes, whatever the practices in

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[55] 21 Wall. 162 (1875).

[56] 110 U.S. 651 (1884).

[57] 170 U.S. 213 (1898).

its administration.

In 1915 the Court struck down the so-called "grandfather clause" in the case of Guinn v. United States,[58] stating that this Oklahoma law represented an attempt to evade the Fifteenth Amendment, and was therefore unconstitutional.

The authority of the Constitution and the Congress to regulate primaries was thrown into serious doubt in Newberry v. United States.[59] Five justices held that when the Constitution referred to "election" it meant the "final choice of an officer by the duly qualified electors," and that the primary was "in no real sense part of the manner of holding the election." Six years later, in Nixon v. Herndon,[60] The Supreme Court avoided a reconsideration of the constitutional status of primaries and their relationship to the Fifteenth Amendment by invalidating a Texas statute flatly prohibiting Negroes from voting in the state's Democratic primaries on the ground that it was a "direct and obvious infringement" of the equal protection clause of the Fourteenth Amendment.

On the basis of a new Texas law authorizing the state executive committee of each political party to prescribe the qualifications for voting in primaries, the Texas Democratic Party's State Executive Committee

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[58] 238 U.S. 347 (1915).

[59] 256 U.S. 232 (1921).

[60] 273 U.S. 536 (1927).

then excluded Negroes from primary elections. In Nixon v. Condon[61] the Court held that the party committee had acted as the agent of the state, which made the action equivalent to that by the state, itself, and thus unconstitutional as an official denial of equal protection. With the latest Texas statute voided, the Texas Democratic Convention, on its own authority and without any state legislation on the subject, adopted a resolution confining party membership to white citizens. By unanimous vote, the Court in Grovey v. Townsend[62] concluded that this action did not infringe the Fourteenth Amendment because it was taken by voluntary party action and not by the state.

This view of party operations was changed when, in the case of United States v. Classic,[63] the Court pointed out that the Louisiana election laws made the primary "an integral part" of the process of electing congressmen, and that in fact the Democratic primary in Louisiana was "the only stage of the election procedure" where the voters' choice was of significance.

The "private club" theory of primaries was now on very shaky legal grounds, and because of this uncertainty, a new test case was initiated in Texas which resulted in a direct reversal of the Grovey

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[61] 286 U.S. 73 (1932).

[62] 295 U.S. 45 (1935).

[63] 313 U.S. 299 (1941).

dccision. In Smith v. Allwright[64] the Court held that party primaries could no longer be regarded as private affairs, nor the parties conducting them as unaffected with public responsibilities. It was pointed out that parties and party primaries in Texas were in fact regulated by state statutes, and thus a party required to follow these directions was "an agency of the State," and if it practiced discrimination against Negroes, that was "state action within the meaning of the Fifteenth Amendment."

Noting that discriminatory primary procedures in Texas had been struck down because the party was viewed as an agency of the state, South Carolina immediately proceeded to repeal all its statutes pertaining to party primaries, thus hoping to pass off the Democratic party in that state as a "private voluntary association of individuals," which could then exclude Negroes constitutionally by "club rules." The lower Federal courts refuted this contention, and the Supreme Court refused even to grant certiorari in the case of Rice v. Elmore.[65]

With the white primary effectively removed as a barrier, Negroes began to register in increasing numbers. By 1956 in Louisiana, for example, Negroes represented 18% of the total registration. Then the purges began. In eight months Negro registration was reduced by ten thousand persons at the same time that white registration was increasing. The Citizens Councils of Louisiana set out to eliminate 90% of the Negro

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[64] 321 U.S. 649 (1944).

[65] 333 U.S. 875 (1948).

registration in that state. What happened in Ouachita Parish is probably typical of what occurred in thirteen parishes where similar efforts were made.

Members of the local Citizens Council worked in the registrar's office, preparing challenges to each of the 5700 Negro voters. By mid-April of 1956, 3,000 challenges were mailed, and when the great majority of the Negroes failed to gain retractions of the challenges, they were erased from the polls.[66]

Challenges were based on allegations of mistake in calculating age, of writing M instead of male, of C instead of colored. And if none of these "mistakes" appeared, the challenged voter was informed that his signature on the registration card didn't appear to be his signature, that his identity was questioned, that he was not who he said he was.[67] By the time the ten days were up, 595 Negroes had managed to stay on the registration rolls and 5187 or 90% of all voters challenged were erased from the rolls. Although it is estimated by Negro leaders that around 1600 went to the registrar's office in an attempt to stay on the registration rolls, less than half of these were able to do so, so obstructive and time-consuming were the methods employed by the office of the registrar.[68]

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[66]Margaret Price, The Negro and the Ballot (Atlanta, Georgia: Southern Regional Council, 1959), p. 39.

[67]Ibid., p. 40.

[68]Ibid., p. 41.

Partly because offenses such as these shocked the consciences of political leaders in many parts of the nation, in 1957 the Congress passed the first civil rights law since Reconstruction days - the Civil Rights Act of 1957.[69]

The new statute authorized the Federal government to bring civil suits in its own name to obtain injunctive relief where any person is denied or threatened in his right to vote on the basis of race. Prior to this time, this remedy had been available only to private persons, many of whom could not pay for the expensive litigation.

Secondly, it gave the Federal district courts jurisdiction of such civil proceedings without requiring that state remedies first be exhausted. The law elevated the Civil Rights Section of the Department of Justice to the status of a Division by providing for the appointment of an additional Assistant Attorney General.

Finally, the Act created the U. S. Commission on Civil Rights, and authorized it to investigate allegations of denials of the right to vote; to study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution, and to appraise the laws and policies of the Federal government with respect to equal protection.[70]

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[69]70 Stat. 634.

[70]United States Commission on Civil Rights, Freedom to the Free (Washington, D. C.: U. S. Government Printing Office, 1963), p. 194.

Under its new authority, the Department of Justice instituted suits in Macon County, Alabama, Terrell County, Georgia, and Washington Parish, Louisiana.

Three years later the Congress passed the Civil Rights Act of 1960, which, like the Civil Rights Act of 1957, was concerned principally with voting.

The 1960 Act amended the 1957 Act to provide that a discriminatory act of a registrar "shall also be deemed that of the state and the state may be joined as a party defendant." Thus, if a registrar resigns, a proceeding may be instituted against the state. The act further required that voting records be preserved for twenty-two months following any general, special or primary election. It permitted the Attorney General of the United States to gain access to them for inspection, reproduction, and copying, before filing suit in order to determine whether proceedings were warranted.[71]

The Act also provided for the appointment of judicial voting referees. Thus, if a district court, in a proceeding instituted under the 1957 Act, finds a "pattern or practice" of voting deprivation, it can appoint one or more Federal voting referees to receive applications from prospective voters who allege that they have been denied an opportunity to register or otherwise qualify to vote. If the referee agrees with the prospective voter, he reports his findings to the court, which may then issue a decree ordering

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[71] Civil Rights Act of 1960, 74 Stat. 86.

the qualified voter to be permitted to vote. Refusal to honor such a decree is punishable as contempt of court.[72]

Only four cases were prosecuted in the first three years after the passage of the Civil Rights Act of 1957: in Terrell County, Georgia, Macon County, Alabama, Washington Parish, Louisiana, and Fayette County, Tennessee. The record of the Department of Justice led the Civil Rights Commission to conclude that "its legal actions were disappointing in number, nature, and results."[73] Two more suits were filed before the Kennedy Administration entered office. Of these six, one was settled, two were tried, and the remaining three were filed too late to come to trial before President Eisenhower left office.[74]

In summary, therefore, as of the time that John F. Kennedy assumed the office of President, despite a series of highly favorable Supreme Court decisions and two significant pieces of legislation, the failure of the Eisenhower Administration to effectively implement the 1957 Act combined with bitter southern resistance to Negro voter registration, meant that as of January, 1961, millions of qualified American Negroes continued to be denied the right to vote. Steps to remedy this were to

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[72] Ibid.

[73] Richard P. Longaker, The Presidency and Individual Liberties (Ithaca, New York: Cornell University Press, 1961), p. 151.

[74] Alexander M. Bickel, "Civil Rights: The Kennedy Record," The New Republic (December 15, 1962), p. 11. The author says that although the Eisenhower Administration did sponsor the Civil Rights Acts of 1957 and 1960, it ". . . implemented them with about the vigor and imagination displayed by William McKinley in enforcing the Sherman Anti-Trust Act of 1890."

become one of the early major civil rights thrusts of the Kennedy administration.

Equal Justice Under Law

The U. S. Commission on Civil Rights declared in volume five of its 1961 report[75] that police brutality is still a serious problem in the United States. In 1931 President Hoover's Wickersham Committee found extensive evidence of police lawlessness, including unjustified violence. Sixteen years later another Presidential Committee, this one appointed by President Truman, concluded that police brutality, especially against the unpopular, the weak, and the defenseless, was a distressing problem.[76]

Most instances of unlawful police violence involve the deprivation of rights guaranteed by the Federal Constitution.[77] Police brutality is ordinarily treated as a violation of due process, but like other matters involving constitutional rights, such misconduct may involve not only denials of due process, but of equal protection as well. In a narrow view, equal protection prohibits only deliberate discrimination against a person on the basis of his membership in a racial or other minority group.[78]

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[75]U. S. Commission on Civil Rights, 1961 Report, Vol. V, Justice (Washington, D. C.: U. S. Government Printing Office, 1961), p. 1.

[76]U. S. President's Committee on Civil Rights, To Secure These Rights (Washington, D. C.: U. S. Government Printing Office, 1957), pp. 25-27.

[77]U. S. Commission on Civil Rights, op. cit., V, p. 25.

[78]Slaughter House Cases, 16 Wall. 36 (1873).

A broader interpretation would apply the equal protection provision in any case where a person is deliberately denied the enjoyment of the right (such as the right to be protected from physical harm while in the custody of the police) that is commonly afforded others in like circumstances.[79] This view would make it applicable to instances of police brutality where there was in fact improper treatment, whether or not it was deliberately directed against the victim on account of his minority status. Thus, as a practical matter, under this view, every act of police brutality would appear to constitute a denial of equal protection, since the police do not in fact brutalize all persons whom they arrest or hold in custody.

A brief review covering the passage of the Fourteenth Amendment, Reconstruction statutes bearing on federal controls over police brutality, and constitutional tests of these statutes, - should contribute to an understanding of the problems the national government was facing as of January, 1961 in prosecuting cases of alleged police brutality.

On June 13, 1866, Congress proposed the Fourteenth Amendment. Of the southern states, initially only Tennessee ratified the proposed amendment, and thus it was readmitted to the Union on July 19, 1866. By the end of the year, Texas, South Carolina, Georgia, and North Carolina had rejected it. Virginia, Louisiana, Kentucky and Maryland reached the same decision one year later.[80]

In order to compel compliance, Congress decided in the First Reconstruction Act that it would establish military governments in place

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[79] Lynch v. United States, 189 F. 2d 476, 479 (5th Cir. 1951), cert. denied, 342 U.S. 831 (1951).

[80] U.S. Commission on Civil Rights, Freedom to the Free, op. cit., p. 40.

of local governments in those southern states which were continuing to rebel. The Act accomplished its purpose, and Arkansas, Florida, North Carolina, Louisiana, South Carolina, Alabama and Georgia came into line and ratified the Amendment between April and July, 1868, as the price of readmission. On July 28, 1868, Secretary of State Seward certified that the Fourteenth Amendment was a part of the Constitution.[81]

Although it is true that coercion was employed in securing the

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[81] Ibid., pp. 42-44. In an important study of the Fourteenth Amendment, particularly relevant during the recent civil rights debate in the United States Senate, Robert J. Harris in The Quest for Equality: The Constitution, Congress and The Supreme Court (Baton Rouge, Louisiana: Louisiana State University Press, 1960) states that there are good historical grounds for believing that protection was a key concept in the thinking of the framers of the Fourteenth Amendment, and that their intent was to provide federal protection to individual Negroes of the South against inimical acts, officially or unofficially tolerated.

"First, despite differences of opinion concerning the scope of congressional power . . . , a majority of the members of the Thirty-ninth, Forty-second, and Forty-third Congresses . . . believed that the equal protection clause did more than condemn official or state action. They believed that it vested Congress at the very least with a primary power to set aside unequal state laws, and a secondary power to afford protection to all persons in their enjoyment of constitutional rights when the states failed in their primary responsibility to do so either by neglecting to enact laws or by refusal or impotence to enforce them.

"Secondly, a majority . . . regarded Congress as the primary organ for the implementation. . . . This does not mean that the Radical Republicans intended to preclude judicial action. . .; they did not. . . .

"A third principle that emerges from these debates is that the equal protection clause means absolute or perfect equality before the law and condemns every discrimination perpetrated by unequal laws, partial or maladministration of existing laws by courts or executives, or discriminations by quasi-public businesses or agencies possessing a peculiar status or privilege under the law, such as inns, public conveyences, and the like. With respect to whether the equal protection clause of its own force condemned antimiscegenation laws and segregation laws and customs, the evidence is inconclusive." pp. 53-56.

ratification of the Fourteenth Amendment by many southern states, it is necessary to say that the South played into the hands of the much vilified "Black Republicans" by a stubborn refusal even to consider suggestions that a start be made in preparing the Negro for the right of franchise.

The South employed various schemes to by-pass the Fourteenth Amendment, including the Black Codes and "grandfather-father" clauses. Reflecting on this period, Ralph McGill said:

> This building of a political system based on fraud and deceit was hardly the stuff of Jefferson, the Virginia giants, or others from the southern states who before the Civil War had given the region distinguished leadership and supplied the nation with Presidents.[82]

Most of the civil rights laws passed by Congress between 1866 and 1875 were either repealed by Congress or voided in the courts between 1875-1905. They suffered further erosion in the 1909 codification. Five civil statutes of the original Enforcement Acts remained in effect, enabling a private individual to bring suit for damages or injuctive relief against any person depriving him of rights federally secured.[83]

The only criminal statutes to survive, other than a peonage law, were fragments carried in 1955 as sections 241, 242, and 243 of the United States Code, Title 18. Under Section 241, it is a felony to conspire to deprive a person of "any right or privilege" granted by the Federal laws and Constitution. Section 242 made it a misdemeanor to deprive a person, "under color of any law," of his federally-secured rights. Section 243

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[82]Ralph McGill, The South and the Southerner (Boston: Little, Brown, 1963), p. 219.

[83]Section 42, U.S.C., paragraphs 1981, 1982, 1983, 1985 and 1986.

prohibited racial discrimination in the selection of jurors, a statute that was successfully evaded in some counties by drawing juries from voter registration lists.

From the end of Reconstruction days until the 1930's, these modest provisions were rarely used. The Federal courts held to the narrowest constructions of existing law, Congress showed little interest in providing new law, and the succession of attorneys general showing a corresponding disinterest in the many difficulties in using what meager powers remained. Without challenge, many states, especially in the South, developed formidable legal procedures to enforce segregation.

In 1939, Attorney General Frank Murphy established the Civil Rights Section in the Justice Department, and the volume of Federal prosecutions rose rapidly. Over the next two decades, most of the Federal enforcement was hinged on two criminal statutes. Section 241 was used most commonly to enforce other statutes establishing rights but carrying no sanctions. Section 242 was invoked principally in cases involving deprivation of liberty.[84]

Anderson[85] points out in his study that as basic authorities for the entire Federal civil rights program, these two statutes had limitations obvious from the beginning. Section 241 was a conspiracy law, and the prosecution had to prove, not that the defendant violated another citizen's

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[84] J. W. Anderson, op. cit., p. 8.

[85] Ibid.

Federal rights, but, quite a different matter, that he had conspired with other people to violate them. Section 242 was a misdemeanor statute, carrying a maximum sentence of only one year.

The strength of the government's position was weakened by a series of cases, beginning in the 1940's, designed to test the shortcomings of these statutes. The Screws case[86] put a particularly heavy burden on the prosecutors of rights violations under Section 242. Mr. Screws, Sheriff of Baker County, Georgia, had arrested Robert Hall on a charge of stealing a tire. With a policeman and special deputy, Screws took Hall from his home late at night. The three officers beat the prisoner with their fists and a blackjack, and then dragged him, feet first, through the court house yard and into the jail, where he was thrown upon the floor, dying. There was evidence of a grudge between Screws and the dead man.[87]

Writing for the Supreme Court, Justice Douglas condemned the crime but held that the jury had not been properly instructed. He said that only a narrow reading of Section 242 could prevent its being voided entirely as unconstitutional. While the value of the two criminal statutes to the government lay in their application to the full range of Federal rights, the Screws decisions held that this useful breadth was achieved through a dangerous vagueness of language, enabling the Civil Rights Section to

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[86] Screws v. United States, 325 U. S. 91 (1945).

[87] Anderson, op. cit., pp. 8-9.

define a right by bringing a prosecution, and to seek affirmation of it by the courts in subsequent appeals.

The Court ordered a new trial for Screws, who was acquitted, and later became a state senator.

The issue remained a clouded one, but was clarified somewhat in the 1951 decision, Williams v. United States.[88] Williams, a private detective, investigating a series of thefts, located four suspects, and extracted confessions from them through physical torture. The Court upheld his conviction under Section 242.

In a companion case[89] the Court was also asked whether Williams could be prosecuted under Section 241, and the Court replied that he could not. Frankfurter, writing for the Court, declared that Section 241 applied only to interference with rights which arise from the relation of the victim and the Federal government. As was true in the earlier case, the Court was split, reflecting the unsettled state of legal opinion on the constitutional concepts around which these cases turned.

The determination of many Americans to deny Negroes the basic elements of justice, combined with the ineffective statutory authority available to the Department of Justice, meant that Negroes continued to suffer at the hands of policemen and the courts. In many communities, judges, prosecuting attorneys, minor court officials, sheriffs, the chiefs

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[88] 341 U.S. 97 (1951).

[89] U.S. v. Williams, 341 U.S. 70 (1951).

of police, and in some small towns, the entire police force, were either elected for limited terms or were dependent for their offices upon political representatives of this uncertain tenure.[90] The dependence of the judge on local prejudice critically and often adversely affected orderly government. The jury system tended to strengthen the dependence of justice upon local popular opinion.

Myrdal quotes W. E. B. DuBois as saying: ". . . the Negro is coming more and more to look upon law and justice, not as protecting safeguards, but as sources of humiliation and oppression."[91] Figures compiled by the U. S. Department of Justice, covering the period from

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[90] Gunnar Myrdal, With the Assistance of Richard Sterner and Arnold Rose, An American Dilemma: The Negro Problem and Modern Democracy (New York: Harper and Brothers, 1944), p. 523.

[91] Ibid., p. 525. Myrdal continues: "The average Southern policeman is a promoted poor white with a legal sanction to use a weapon. His social heritage has taught him to despise the Negroes, and he has had little education which could have changed him. As a result of the kinds of contacts he makes with Negroes, . . . probably no group of whites in America have a lower opinion of Negro people and are more fixed in their views than Southern policemen. To most of them, no Negro woman knows what virtue is - 'we just don't talk about prostitution among the Negroes,' said one of the chiefs of police in a big Southern city to the present author - and practically every Negro man is a potential criminal. . . . On the other hand, I have also found that some of the younger policemen, particularly if they have had any education, do tend to have slightly more moderate views." p. 541.

In an interview with the writer on February 13, 1964, Deputy Attorney General Nicholas deB. Katzenbach indicated that Myrdal's last statement increasingly reflects the state of training and state of mind of police in the larger cities of the South. The major problem now, in terms of police brutality, Katzenbach said, lies with law enforcement officers in small towns.

January 1, 1958 through June 30, 1960, show a total of 1328 allegations of police brutality. 895 were from southern states. Of those, 38.4% were Negro and other minority victims, 35% were white, and 26.6% were unknown.[92]

One recurrent problem has been the reluctance of the FBI to investigate anything but specific complaints. The Bureau is averse to "fishing expeditions" but also is interested in guarding its relationships with appropriations committees in the Congress, and its broader responsibility for criminal investigation. The latter consideration makes the Bureau hesitant to damage associations with local sheriffs and other law enforcement officials in the states.[93]

The U.S. Commission on Civil Rights has criticized the information gathering activities of the Civil Rights Division of the Department of Justice, which relies on the FBI for most of its investigations. In volume five of its 1961 report, the Commission said:

> The Division's information-gathering activities could probably be improved. Greater willingness to authorize investigations on the basis of newspaper reports might uncover more violations of the law. A somewhat less skeptical attitude toward those who refuse to sign complaints and an increased willingness to bring borderline cases to trial are needed. . . . The difficulties with investigations . . . might be overcome . . . by a new administrative

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[92]U.S. Commission on Civil Rights, 1961 Report, 5 vols (Washington, D.C.: U.S. Government Printing Office, 1961), V, p. 26.

[93]Richard P. Longaker, The Presidency And Individual Liberties (Ithaca, New York: Cornell University Press, 1961), pp. 149-150.

> arrangement within the Department of Justice to ease the problem of FBI agents having to investigate police officers with whom they work daily on other cases.[94]

It is an unhappy commentary on the status of justice in many parts of the nation, that for reasons such as those enumerated in this chapter, in 1960, the year John F. Kennedy ran for the Presidency, an incident such as the one that follows could take place. A Negro veteran testified before the U. S. Commission on Civil Rights as follows:

> On the night of March 19, 1960, I was driving home from Bessemer, Alabama to Montevallo, a distance of about 20 miles. I was driving about 60 miles an hour. . . . When we passed through Helena, Alabama, I noticed a car some distance behind us, but paid no attention. After driving about four miles further /sic/, this car caught up with me and bumped into my car from behind, almost knocking my car off the highway.
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> /The police officer/ made me put my hands up on his car, and he began to search me. And while I was standing with my hands up on his car, he shot me in the back, paralyzing me from the waist down.[95]

Following an FBI investigation, the Federal Department of Justice presented the case to a grand jury, and got an indictment. The defendant, a chief of police in a small town, said the Negro had advanced on him with a knife and that he shot in self-defense. The trial jury's verdict was "not guilty."[96]

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[94]Wallace Mendelson, Discrimination (New York: Spectrum Books, 1962), p. 165.

[95]Ibid., pp. 153-154.

[96]Ibid., p. 154.

Employment

Cotton remained as a dominant element in the economy of the southern states until the 1930's. Racism grew up as an American ideology partly in response to the need to maintain a reliable and permanent work force in the difficult tasks of growing cotton.

But when Negroes migrated into the cities, as industrialization eliminated cotton agriculture as the dominant source of southern wealth, the elaborate requirements of the caste system could hardly be maintained. Relationships in the city were too casual to require the constant manifestations of subordination on the part of Negroes that characterized the rural caste system.[97]

In search of employment, great numbers of Negroes moved from the South to northern cities until about 1940, and then the movement moved westward, too. Arnold Rose, in a special postscript to the 1962 edition of Myrdal's An American Dilemma, says that the main significance of the northward and westward migrations for the Negroes was that it separated them from the full-blown caste system of the South, even though they met other forms of discrimination and prejudice in other regions of the country. In the North and West they could vote freely and have almost the full protection of the laws and law-enforcement machinery. Thus,

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[97]Gunnar Myrdal, with the assistance of Richard Sterner and Arnold Rose, An American Dilemma: The Negro Problem and Modern Democracy (Twentieth Anniversary ed., New York: Harper and Brothers, 1962), xxviii.

Negroes have been in a better position to improve their conditions in the North, and have used their improved condition, and especially the vote, to help Negroes still in the South.[98]

During World War II and into the early postwar boom, Negroes made remarkable economic strides. The median income of urban Negro males moved up from less than 40% of the white income in 1939 to 60% in 1952.[99]

However, a radical change in this trend occurred in the 1950's, continues today, and is a major reason for the rising discontent of Negroes and their supporters in the United States.

The problem is particularly acute in the South. In a remarkable study based on an examination of censuses of population and housing of the fourteen southern states, James D. Cowhig and Calvin L. Beale of the Economic Research Service, U.S. Department of Agriculture concluded that

> Comparison of changes in the urban and rural populations, based on economic, educational, demographic, and housing measures, shows that despite substantial absolute improvement for all residence-color categories, the socio-economic position of non-whites relative to whites was generally lower in 1960 than in 1950.[100]

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[98] Ibid., p. xxix.

[99] Charles E. Silberman, "The City and the Negro," Reprint, Fortune Magazine, March, 1962, p. 3.

[100] James D. Cowhig and Calvin L. Beale, "Relative Socioeconomic Status of Southern Whites and Nonwhites, 1950-1960" (Unpublished manuscript, Economic Research Service, U.S. Department of Agriculture, Washington, D.C., 1963), p. i.

They point out that in urban areas of nine states and in rural-nonfarm areas of ten, the relative income position of nonwhites was lower in 1960 than in 1950. In no state did the relative income position of nonwhites improve over the decade. "More significant than the minor changes in the magnitude of unemployment and occupational differentials, was the general and substantial widening of white-nonwhite income differences."[101]

Cowhig and Beale state that the deteriorating position of rural nonwhites is particularly serious. Migration to urban areas might ease this situation somewhat, since the urban setting is more favorable to Negroes. But, they say

> Despite the very rapid displacement of manpower in agriculture that took place in the South from 1950 to 1960, and the large-scale movement of nonwhites to cities, 23.4% (4.8 million) of the total U.S. nonwhite population lived in the rural South in 1960. Unless the current rate of outmovement is accelerated - which we think to be unlikely in view of its present high level - or the nonwhite increase in fertility is reversed, the rural population of the South will include several million nonwhites at least through the rest of this century.[102]

As President Kennedy entered into office in January, 1961, the picture for the nation as a whole was no better. White male unemployment had moved from 4.8% in 1960 to 5.7% in 1961, and nonwhite male unemployment had gone from 10.7% in 1960 to 12.9%, meaning that percentagewise, nonwhite male unemployment had increased almost two

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[101] Ibid., p. 3.

[102] Ibid., pp. 6-7.

and one-half times as much as white male unemployment.[103] In Detroit, where Negroes accounted in 1960 for 19% of the work force, they constituted 61% of the unemployed.[104]

Given this disturbing indication of racial discrimination in employment, an initial question the President had to ask was: to what extent is this true in the Federal establishment?

William Peters conducted a survey in the South in 1958 which showed that ". . . with rare exceptions, Negroes are not employed above the level of janitorial and labor services by Federal agencies in the South."[105] He found that of the twenty Federal agencies in Greensboro, North Carolina, only two employed Negroes in other than menial jobs. While about 40% of the Charleston, South Carolina Naval Yard's 7,000 employees were Negroes, only half a dozen at most held supervisory jobs, and some of those were supervisors in name only, since they had few, if any employees working under them. He found only three Negro typists in the entire clerical department of the Naval Yard. Yet, as Peters points out, the Navy had cited that Yard as an example of a site that had ended discrimination.[106]

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[103]U. S. Department of Labor, The Economic Situation of Negroes in the United States (Washington, D. C.: U. S. Government Printing Office, 1962), p. 5.

[104]Mendelson, op. cit., p. 69.

[105]William Peters, The Southern Temper (Garden City, New York: Doubleday & Company, Inc., 1959), p. 244.

[106]Ibid., pp. 244-245.

Continuing his survey, he found that in Knoxville, Tennessee, the Departments of Agriculture, Commerce, Health, Education and Welfare, Labor, and Treasury, as well as the FBI, Federal Housing Authority, Geological Survey, Small Business Administration, Referee in Bankruptcy and the Veterans Administration - had no Negroes in their employment in any capacity. The Post Office in Knoxville, however, did have 24 Negro carriers, clerks, and custodial employees.[107] Of more than 30 major Federal agencies in Atlanta, only five had permanent Negro employees above the level of janitorial and labor services.[108]

A 1960 survey by the U. S. Commission on Civil Rights showed that the percentage of Negroes in Federal government white collar jobs ranged from 3.8% in Atlanta and 4.5% in Dallas-Ft. Worth to 32.6% in Chicago and 34.8% in Detroit.[109] Wallace Mendelson concludes:

> If the policies enunciated in presidential orders had been fully enforced, opportunities for Negroes in federal jobs presumably would have been greater than the opportunities available in private industry - particularly in the South. Yet the Commission on Civil Rights found that in the cities surveyed the patterns of federal employment did not differ substantially from private employment patterns.
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> The Eisenhower Committee's ultimate conclusion was that racial discrimination unquestionably exists in federal employment. Indeed, Chairman A. J. Carey, Jr., observed late in 1960 that it 'is deeply entrenched and widely practiced.'[110]

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[107] Ibid., p. 247.

[108] Ibid., p. 250.

[109] Mendelson, op. cit., p. 79.

[110] Ibid., p. 81.

President Kennedy found on becoming President that the 1961 Federal budget provided about $7.5 billion for over 60 grant-in-aid programs administered by state or local governments, providing thousands of jobs, none of which ever had been within the jurisdiction of Federal nondiscrimination committees.[111]

Since 1943, a non-discrimination clause had been required in all Federal government procurement contracts, yet enforcement all but vanished with the end of FEPC in 1946. It was revitalized pursuant to recommendations by the Truman Committee on Government Contract Compliance, but investigation by that agency revealed that the non-discrimination clause was ". . . almost forgotten, dead and buried under thousands of words of standard legal and technical language in government procurement contracts." Only 40 complaints were filed between July 1, 1950 and June 6, 1952.[112]

The Eisenhower Committee on Government Contracts, headed by Vice President Nixon, began with a Washington staff of nine and a budget of $125,000 and finally acquired two regional offices, in Chicago and Los Angeles, a staff of twenty-five, and a budget of $375,000. That committee improved complaint procedures. From August 13, 1953 to October 31, 1960, 1042 complaints were received. Federal contracting

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[111] Ibid., p. 95.

[112] Ibid., p. 84.

agencies were induced to make regular and spot-check compliance surveys, and by the end of 1960, almost 2500 had been completed.[113]

Nonetheless, compliance activities in both government and contract employment were limited, and in some cases nonexistent. Thus, while the Bureau of Public Roads had had a non-discrimination clause in its agreements with the states since 1941, it had not been enforced through 1960.[114] While the Federal Airport Act of 1946 did include a regulation prohibiting use of these funds for the construction of facilities on a segregated basis, it was not until April 5, 1961, after President Kennedy came to office, that the Federal Aviation Agency required a non-discrimination clause in all airport grant construction contracts. Enforcement, however, was left to local project sponsors by the FAA.[115] Millions of dollars had been spent annually for years on hospitals, utilizing Federal Hill-Burton Act funds, yet no Federal regulation outlawed racial discrimination in the expenditure of those Federal funds for construction wages and salaries.[116] Clearly, significant improvement was called for in terms of non-discrimination regulations, effectively enforced.

But the matter of the disadvantaged position of the Negro in employment went deeper than that. A National Urban League report

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[113] Ibid., pp. 84-86.

[114] Ibid., p. 96.

[115] Ibid., p. 96.

[116] Ibid., pp. 95-96.

issued in 1961, and based on 1960 data, showed that on the average, non-white male workers had about 3 1/2 years less schooling than did white workers. Nonwhites had about 4 years less schooling than whites in the South, whereas in the rest of the nation, the gap was about 2 1/2 years for men, and 1 1/2 years for women. The same report revealed that the median income of the Negro family in 1960 was $3233, as compared to the median white family income of $5835.[117]

Education, and more particularly technical education, including vocational education and apprenticeship training, might well have helped to fill the educational gap pointed up in the Urban League study. The need for this was made even more obvious by a Department of Labor study showing that the demand for unskilled labor, where a huge percentage of Negro employees find themselves, would continue to shrink, while the need for trained craftsmen would accelerate. Training was essential, therefore.

Since the Smith-Hughes Act of 1917, the Federal government has granted funds to the states to help pay the salaries of teachers, supervisors, and directors of agricultural subjects, and teachers of trade, home economics, and industrial subjects, and in the preparation of teachers. As of 1961, there were four million students and 90,000 teachers in the program.[118]

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[117]National Urban League, Economic and Social Status of the Negro In the United States (New York: National Urban League, 1961), p. 12.

[118]Mendelson, op. cit., p. 101.

A 1948 regulation had stated: "In the expenditure of federal funds and in the administration of federally aided programs of vocational education, there shall be no discrimination because of race, creed or color."[119] And yet, this had not barred the Department of Health, Education and Welfare from giving funds to segregated schools, nor from providing better programs in white schools than in Negro schools. Mendelson again draws on his Civil Rights Commission experience to report:

> The curriculum of the Negro vocational high school in Atlanta, for example, provides training only in 'those occupations that Negroes could get employment in, in this community.' By this standard, which HEW has approved, training opportunities are far more limited for Negroes than for whites. The former can prepare only for menial and low-skill jobs for which there is relatively little demand. White students, on the other hand, have training opportunities in a number of the higher skill trades for which there is greater demand - and, of course, higher pay. What this means in effect is that the Federal government has adopted the 'biases' of private employers and labor unions.[120]

The general picture in the area of apprenticeship training was equally dismal at the beginning of 1961. Most of the 7800 apprenticeship programs in the United States were operated jointly by employers and labor unions. Although the Federal government provided no funds, through the Bureau of Apprenticeship and Training of the Department of

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[119] Ibid.

[120] Ibid.

Labor, it encouraged these programs and provided technical assistance. Studies completed by the United States Commission on Civil Rights reveal very limited Negro participation in these training programs.

In St. Louis, for example, a total of seven Negroes participated in only 2 out of 27 apprenticeship programs. In New Jersey, the Commission found that "Of 3973 apprentices /in the whole state/ in 1960, only 14 . . . were nonwhite." The New York State Commission Against Discrimination concluded that "at most, 2% of the registered apprentices in major programs in the state are Negro."[121]

The Leadership Conference on Civil Rights quoted a NAACP study, illustrating the limited extent of Negro employment in several trades, in most of which the major method of gaining entree would be via an apprenticeship program. The figures are as follows:

locomotive engineers	0.08%	compositors and typesetters	1.6 %	122
locomotive servicemen	.11%	engravers	1.09%	
coppersmiths and sheet metal workers	.84%	electricians	1.02%	
opticians	.88%			

Automation progress only added to the seriousness of this problem. In the period from 1953 to 1960, automation eliminated 200,000 mining jobs, 400,000 railroad jobs, and 1,500,000 jobs in factory production

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[121] Ibid., p. 103.

[122] Leadership Conference on Civil Rights, Federally Supported Discrimination (New York: Leadership Conference on Civil Rights, 1961), p. 41.

and maintenance. This disappearance took place at the same time that the labor force was increasing by 6,500,000 workers.[123]

The implications of these data were all too clear to Negroes, who traditionally have been concentrated in those job categories in which automation, therefore, served to underscore the need for greater participation by Negroes in apprenticeship training programs - "the most important means of attaining skilled training for skilled positions."[124]

The NAACP study revealed another reason for admitting Negroes to apprenticeship programs: the supply of skilled craftsmen had declined due to low input of young men, attrition due to deaths and retirements, and a decline in immigration.[125] As a result of this fact and shifts in employment needs, the report showed that "Skilled-craft shortages have developed or are likely to develop in Arizona, Colorado, Hawaii, Connecticut, Idaho, Wisconsin, Puerto Rico, and in the St. Louis portion of the St. Louis metropolitan area, among others."[126]

The Leadership Conference on Civil Rights concluded: "Given a continuation of the present rate of advance, it will take Negroes 138 years

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[123]National Urban League, Automation and the Retraining of Negro Workers (New York: National Urban League, 1962), p. 3.

[124]National Association for the Advancement of Colored People, The Negro Wage-Earner and Apprenticeship Training Programs (New York: National Association for the Advancement of Colored People, 1960), p. 3.

[125]Ibid., p. 4,

[126]Ibid., p. 3.

. . . to secure equal participation in skilled-craft training and employment."[127]

In surveying the status of equality of opportunity in employment, it is necessary, finally, to examine the degree to which Negroes had equal access to government-supported employment offices.

When John F. Kennedy took office, approximately 1800 public employment offices had been established in various states under Federal law. Grants in the amount of 100% were then and continue to be made to them by the Bureau of Employment Security of the U. S. Department of Labor, in order to finance the operation of these offices. In fiscal 1960, the cost of financing them was $7,261,000.[128]

The Leadership Conference found that "Segregation and discrimination are widely practiced by state employment offices. In some localities, separate buildings are maintained for white and colored; in others, separate rooms; in still others, separate job lists."[129] Even in localities where open discrimination is not practiced, the Leadership Conference said, discriminatory job orders are accepted and discriminatory referrals are made.

This review of Negro employment problems in the nation as of early 1961 reveals that President Kennedy faced a situation in which Negro unemployment was approximately double that of whites, Negro

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[127]Leadership Conference on Civil Rights, op. cit., p. 41.

[128]Ibid.

[129]Ibid.

median income was about one-half that of white median income, Negro workers had less education than white workers, and they were discriminated against in vocational education programs aided by the Federal government, apprenticeship training, state employment services financed completely by the Federal government, Federal employment, and in Federal grants and contract employment.

It was not surprising, therefore, that Charles Silberman, writing in Fortune, could make this observation, based on data available through 1960:

> . . . impatience is turning into bitterness, anger and hatred. The danger is not violence but something much deeper and harder to combat: a sense of permanent alienation from American society. Unless the Negro position improves very quickly, Negroes of whatever class may come to regard their separation from American society as permanent, and so consider themselves permanently outside the constraints and allegiances of American society. . . . In such a situation, communication between the races would become impossible.[130]

Housing

In the early part of the twentieth century, a number of southern cities, including Louisville, Kentucky, adopted municipal segregation ordinances. The Louisville ordinance came before the Supreme Court in Buchanan v. Warley[131] and was ruled unconstitutional on the ground

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[130] Charles Silberman, op. cit., p. 3.

[131] 245 U.S. 60 (1917).

that it was an unconstitutional interference with the right of a property owner to dispose of his real estate. Efforts were made to circumvent the Buchanan decision, but each of them failed, and by 1930 the unconstitutionality of municipal segregation ordinances was firmly established.[132]

Meanwhile, the practice of excluding Negroes from privately controlled developments through the device of restrictive covenants written into leases and deeds had grown. Although the practice had been believed to be beyond the reach of law, in two 1948 decisions[133] the Court held that while racially restrictive covenants were not in themselves unlawful, they were unenforceable in any court of law, Federal or state. To permit a state court to enforce one of the restrictive covenants made the state a party to the discrimination involved, and brought it, therefore, under the prohibitions of the Fourteenth Amendment.

In 1953 the Supreme Court bolstered this important rule by holding in Barrows v. Jackson[134] that a restrictive covenant may not be enforced by a suit for damages against the white co-covenanter who broke the covenant. In short, under this ruling, restrictive covenants became merely gentlemen's agreements which could persist only as long as the parties to them felt bound to observe them.

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[132]C. Herman Pritchett, The American Constitution (New York: McGraw-Hill Book Company, Inc., 1959).

[133]Shelley v. Kraemer, 334 U.S. 1 (1948), and Hurd v. Hodge, 334 U.S. 24 (1948).

[134]346 U.S. 249 (1953).

Despite these forward steps, in 1959 the U. S. Commission on Civil Rights found that "housing . . . seems to be the one commodity in the American market that is not freely available on equal terms to everyone who can afford to pay."[135] Two years later, in its 1961 report, the Commission found that the situation had not improved.

Much of the housing market in America was closed to Negroes when President Kennedy assumed office, and for reasons unrelated to the personal worth of Negroes nor their ability to pay. New housing then, was available, by and large, only to whites. And in the restricted market open to them, Negroes generally had to pay more for equivalent housing than did the favored majority group.

As a consequence, racial ghettos grew, largely in the decaying centers of American cities.

The growing financial ability of Negroes to purchase homes is well illustrated in a study completed by the U. S. Housing and Home Finance Agency: Potential Housing Demand of Non-White Population in Selected Metropolitan Areas.[136] In 21 areas analyzed the total number of non-white persons earning more than $4,000 a year increased nearly fifteen times between 1949 and 1959, from about 59,000 to 940,000. An

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[135] U. S. Commission on Civil Rights, 1961 Report (5 vols, Washington: U. S. Government Printing Office, 1961), IV, p. 1.

[136] U. S. Housing and Home Finance Agency, Potential Housing Demand of Non-White Population in Selected Metropolitan Areas (Washington, D. C.: April, 1963).

even greater increase - nearly 17 times, occurred for those with incomes of more than $6,000. The analysis showed that if non-white families had owned homes valued at $15,000 or more in the same proportion as white homeowners in 17 metropolitan areas, the number of minority owners in the better housing group would have been nearly 70,000, compared to about 25,000 who owned homes worth $15,000 or more in 1959.[137]

Dr. Robert C. Weaver, now Administrator of the Federal Housing and Home Finance Agency, once attributed housing segregation to three sources: prejudice, the influence of upper-class patterns of residential exclusion, and the fear that minorities would subvert local residential standards.[138] Dennis Clark adds that the real estate business is controlled to a large extent by white personnel. Negro brokers are usually excluded from real estate boards, and their operations have generally been confined to segregated areas, where housing is likely to be of poor quality and low value.[139]

Since entering the field of housing in the mid 1930's, the Federal government had become the single most important factor in the nation's housing market. Utilizing an extensive array of powers, funds, and credit-aid, the government had become a controlling factor in the planning,

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[137] Ibid., p. iii.

[138] Dennis Clark, The Ghetto Game: Racial Conflicts in the City (New York: Sheed and Ward, 1962), p. 55.

[139] Ibid., pp. 85-86.

development, marketing and management of dwelling units. By 1961, 40% of the outstanding home mortgage loans were insured or guaranteed by Federal agencies.[140]

In 1961, more than 80% of all public housing projects were racially segregated in one fashion or another.[141] The Veterans Administration was not enforcing an anti-discrimination policy in its housing loans, and the Civil Rights Commission reported that the Veterans organization was "neutral" on the issue of open occupancy.[142]

In its 1961 report on Housing, the Civil Rights Commission commented on the policies then of the Federal Housing Administration (FHA), the Public Housing Administration (PHA), and the Urban Renewal Administration (URA):

> Like FHA and PHA, URA has not effectively insisted that its tools be used to assure equal opportunity to all Americans. Like FHA and PHA, it contends this is a matter for presidential or legislative action (which has not been forthcoming). The consequences of such permissiveness are now legend: FHA added impetus to the growth of all-white suburbia; PHA built shiny ghettos. If URA maintains a "no policy" posture it may reduce the inventory of available nonwhite housing with no guarantee that the rebuilt sites will be available to all. In the face of a closed housing market, urban renewal,

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[140] Leadership Conference on Civil Rights, op. cit., pp. 43-44.

[141] Ibid., p. 46.

[142] Ibid., p. 47.

> though it beautifies cities, may offer nothing more than increased misery to low-income nonwhites.[143]

A study by W. H. Reynolds of the University of Southern California covering 21 relocation programs over a four year period (1955-1958), indicated that 26 of the 41 cities confined their relocation efforts mainly to taking a census of threatened families and advising them of probable deadlines. In 14 of those cities, families to be relocated received no official information about their displacement other than handbills announcing the demolition dates and the new uses of the land. About 93% of those families were non-white.[144]

In January, 1960, the URA assigned special personnel to give staff assistance in intergroup relations. Their purpose was to help the Urban Renewal Administration deal appropriately with intergroup relations problems, and to prevent the clearance of old slums from breeding new ones, or intensifying the problems of old ones.[145]

As of January of 1961, therefore, while the courts had struck

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[143] U. S. Commission on Civil Rights, op. cit., IV, p. 108. The report continues: "Another important consideration is the posture which the Federal Government assumes in those communities that restrict the nonwhite's access to the housing market. It is folly indeed to suppose that urban renewal can be successful in large metropolitan centers, without opening all avenues of housing to all minority groups. . . . As the Commission's Rhode Island Advisory Committee was told: 'Urban Renewal will fail unless a free housing market can be established.' p. 108.

[144] Mendelson, op. cit., p. 134.

[145] Ibid., p. 135.

down municipal segregation ordinances and court enforcement of restrictive covenants, the fact was that the resistance of white home owners, realtors and home builders to permitting Negroes equality of opportunity in housing, and the refusal of the Federal housing agencies to vigorously pursue such a policy, resulted in the continued existence of Negro ghettos in cities throughout America. As a candidate for the Presidency, Mr. Kennedy had criticized President Eisenhower for not having issued an executive order preventing discrimination in federally-assisted housing. Civil rights leaders waited with interest for Mr. Kennedy to execute "the stroke of the pen."

Military

On July 26, 1948, President Harry S. Truman issued Executive Order 9981, declaring it to be the policy of the President "that there shall be equality of treatment and opportunity for all persons in the armed services, without regard to race, color, religion or national origin."[146]

Enforcement of this Executive Order would have ended all vestiges of racial discrimination in the Armed Forces. However, in separate reports issued at about the time of President Kennedy's inauguration,

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[146] American Veterans Committee, Civil Rights Audit of the National Guard, 1961 (Washington, D. C.: American Veterans Committee, 1961), p. 1.

the U. S. Commission on Civil Rights,[147] the Southern Regional Council,[148] The Leadership Conference on Civil Rights,[149] The National Association for the Advancement of Colored People,[150] and the American Veterans Committee[151] found numerous indications of continued discrimination and segregation in the United States Armed Services.

The NAACP, for example, identified the following indications of failure to comply with the Executive Order: admission by the Department of Defense that quotas are used in the assignment of colored servicemen; the concentration of non-white military personnel in certain job classifications of a menial nature (the stewards in the Navy being a prime example); the failure of military authorities to consider the extra difficulties encountered by colored personnel in securing adequate housing because of community mores; failure to give assistance to colored servicemen in combating off-base unconstitutional discrimination; discrepancies between

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[147] U. S. Commission on Civil Rights, 1961 Report (5 vols, Washington, D. C.: U. S. Government Printing Office, 1961), III, pp. 45-53.

[148] Southern Regional Council, Executive Support for Civil Rights (Atlanta, Georgia: Southern Regional Council, 1962), p. 42.

[149] Leadership Conference on Civil Rights, Federally-Supported Discrimination (New York: Leadership Conference on Civil Rights, 1961), pp. 20-28.

[150] National Association for the Advancement of Colored People, Executive Power and Civil Rights (New York: National Association for the Advancement of Colored People, 1960), pp. 1-2.

[151] American Veterans Committee, op. cit.

court martial sentences and other disciplinary action meted out to white and colored servicemen for the same or similar offenses. NAACP also found that Defense Department officials had indicated reluctance to end discriminatory practices in many reserve units, on the grounds that they are voluntary.[152]

Although the President has the authority to require the National Guard, which receives 95% of its financial support from the national defense budget,[153] to adhere to President Truman's Executive Order 9981,[154] The Southern Regional Council found that "The National Guard

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[152]National Association for the Advancement of Colored People, op. cit., pp. 1-2.

[153]American Veterans Committee, op. cit., p. 2.

[154]Ibid. The AVC pointed out, first of all, that the National Guard Bureau is a joint agency of the Departments of the Army and Air Force, and is responsible to those Departments for formulating and coordinating with the States, plans and programs for the Army National Guard and the Air National Guard.

Their study indicated that a review of the 1958 edition, U.S. Code, National Guard Section 104 (b), states that "Except as otherwise specifically provided in this title, the organization of the Army National Guard and the composition of its units shall be the same as those prescribed for the Army . . ." The same requirement applies to the Air Force.

The report goes on to quote United States Code 108 (August 10, 1956, chap 1041, Sec. 2, 70A, Stat 600) as follows: "If, within a time to be fixed by the President, a State does not comply with or enforce a requirement of, or reguiation prescribed under, this title, its National Guard is barred, wholly or partly, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law."

The power and authority of the President to order full equality of treatment and opportunity for persons in the National Guard is also indicated in United States Code Section 110 (August 10, 1956, ch. 1041, Sec. 2 70A, Stat 600): "The President shall prescribe regulations, and issue orders, necessary to organize discipline, and govern the National Guard."

of the eleven Southern states is lily-white."[155] The American Veterans Committee found instances of unequal treatment and opportunity in the National Guard in those eleven states of the South, and in Idaho, Missouri, Oklahoma, West Virginia and Wyoming.[156]

Although there is no question but that the Negro, on the whole, has enjoyed greater opportunities in the military than he has in civilian employment, the fact was that on January 20, 1961, complete equality of opportunity in the military had not been achieved.

These are some, but not all, of the civil rights issues which faced John F. Kennedy as he sat at his desk for the first time in the Executive Wing of the White House on January 22, 1961. Despite substantial progress over the years, the depth and scope of these problems was impressive. And having found voluntary methods for achieving progress unsatisfactory, civil rights leaders were turning increasingly for assistance to the government, and, in particular, to the Federal government.

Before reviewing the civil rights actions of the Kennedy Administration, this study will examine both the civil rights actions of his three immediate predecessors, and, the political factors which influenced President Kennedy's civil rights decisions.

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[155]Southern Regional Council, op. cit., p. 42.

[156]American Veterans Committee, op. cit., p. 3.

CHAPTER III

THE CIVIL RIGHTS ACTIONS OF PRESIDENTS FRANKLIN D. ROOSEVELT, HARRY S. TRUMAN AND DWIGHT D. EISENHOWER

Although there had been very little opportunity for the Negro to participate in the affairs of government, he was a factor of growing importance in politics after the Civil War.

Increasingly, political leaders sought to make it clear that they were persons of good will. For example, in his 1909 inaugural address, President Taft said:

> Personally, I have not the slightest race prejudice or feeling, and recognition of its existence only awakens in my heart a deeper sympathy with those who have to bear it or suffer from it, and I question the wisdom of a policy which is likely to increase it.[157]

During the presidential campaign of 1912, Woodrow Wilson openly appealed for the support of Negroes. During the campaign, Wilson wrote that he wished to see "justice done them /the Negroes/ in every matter; and not merely grudging justice, but justice executed with liberality and

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[157] U. S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 82.

cordial good feeling."[158] Many Negroes, long loyal to Republicanism, turned their support to Wilson.

Toward the beginning of his administration, President Wilson listened sympathetically to the proposal of Oswald Garrison Villard that he appoint a National Race Commission to conduct a "non partisan, scientific study of the status of the Negro in the life of the nation."[159] Wilson, however, did not take that step.

During the first few months of the Wilson administration, Congressmen introduced a number of bills designed to establish a national policy of segregation. For example, in June, 1913, Representative James B. Aswell of Louisiana introduced a bill "to effect certain reforms in the civil service by segregating clerks and employees of the white race from those of African blood or descent."[160] While these bills were not enacted into law, they did indicate the feeling of certain members of Congress whose influence with the President was increasing.

Soon the Post Office and Treasury Department instituted segregation in offices, shops, restrooms and lunchrooms.

> Within a matter of months, the National Capitol and offices of the Federal Government had about as many practices of segregation and discrimination as any capitol in the former Confederate States. The New Freedom of

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[158] Ibid., pp. 83-84.

[159] Ibid., p. 84.

[160] Ibid.

> Wilson had meant nothing to Negroes. Booker T. Washington, after spending several days in Washington in 1913, commented significantly: 'I have never seen the colored people so discouraged and bitter as they are at the present time.'[161]

Many factors contributed to a rise in tensions. During the last six months of 1919 there were some 25 race riots in various parts of the nation.

Sensitive to the inequities in the administration of justice suffered by Negroes, President Warren G. Harding, in a special message to an extraordinary session of Congress, said: "Congress ought to wipe out the stain of barbaric lynching from the banners of a free and orderly, representative democracy."[162] In that session of the Congress, Representative L. C. Dyer of Missouri introduced a bill "to assure to persons within the jurisdiction of every State the equal protection of the laws and to punish the crime of lynching."[163] The bill passed the House, but failed in the Senate.

In his annual message of December, 1923, President Calvin Coolidge asserted that under the Constitution, the rights of Negroes were "just as sacred as those of any other citizen," and it was "both a public and a private duty to protect these rights." The President called on Congress "to exercise all its powers of prevention and punishment against

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[161] Ibid., p. 85.

[162] U. S. Congressional Record, v. 61, p. 13142 (1921).

[163] U. S. Commission on Civil Rights, op. cit., pp. 100-101.

the hideous crime of lynching."[164]

The fact is that between 1889 and 1959, 3,819 Negroes were lynched in America.[165] During this time, Congress refused to pass a Federal anti-lynching law. There is none today.

In 1928, in order to regain support in the white South, the Republican high command ignored the Negro Republican leaders who had carried the party banner in the South since Reconstruction. Instead, the party gave its patronage to white Republican leaders and seated white Republicans at the National Convention.[166]

The failure of Republican Administrations since the end of World War I to support civil rights advances, combined with the snub registered by the Republican party, led to a major movement of Negroes from the Republican to the Democratic party during the administration of Herbert Hoover. The transfer was motivated not by bright Democratic promises, but rather, by disappointment and anger at the Republicans. Indeed, in 1932 there were few if any indications that Negroes would fare any better under Franklin D. Roosevelt as President.

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[164]U. S. Congressional Record, v. 65, pp. 96 and 98 (1923).

[165]National Broadcasting Company, Transcript of "The American Revolution of '63," Telecast over the NBC Television Network on September 2, 1963 (New York: National Broadcasting Company, 1963), p. 58.

[166]Louis E. Lomax, The Negro Revolt (New York: The New American Library of World Literature, Inc., 1962), p. 241.

The Civil Rights Actions of President Franklin D. Roosevelt

Few Negroes outside New York were acquainted with Roosevelt when he ran for the presidency in 1932. Many feared that a Democratic victory would lead to the ascendency of southern politicians in Washington, with the consequent degradation of the Negro, as had happened during Wilson's administration. Subsequent rumors of FDR's ill health terrified Negroes, as they contemplated the possibility of John Nance Garner, a Texan, succeeding him as President.[167]

But Mr. Roosevelt had not been long in office before he gained a growing following among Negroes. The dramatic manner in which he tackled the problems before him captured the imagination of Negroes, as it did most Americans. His "Fireside Chats" were impressive. Negroes regarded his relief and recovery programs as especially beneficial to them. The President frequently received Negro visitors, and it was widely known, says Dr. John Hope Franklin, in his scholarly work, Slavery To Freedom, that Robert L. Vann of Pittsburgh, Julian Rainey of Boston, William T. Thompkins of Kansas City, and F. B. Ranson of Indianapolis were high in the councils of the Democratic party. FDR's ability to cope with his handicap was an inspiration to Negroes. "He had overcome his; perhaps, some day, they could overcome theirs," said Dr. Franklin.[168]

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[167] John Hope Franklin, From Slavery to Freedom: A History of American Negroes (New York: Alfred A. Knopf, 1948), p. 516.

[168] Ibid.

The extent of the shift of Negroes to the Democratic party was illustrated in 1934 when Arthur W. Mitchell, who only four years earlier had been registered as a Republican, was elected to the Congress on the Democratic ticket to replace Oscar DePriest. Mitchell became the first Negro Democrat to sit in Congress. In 1936, as a further indication of this political change, a majority of the Negro press supported FDR.[169]

One of the most important factors in the achievement of political respectability on the part of Negroes in the United States was the New Deal policy of securing the assistance of Negro specialists and advisers. Negro advisers had been used before; the distinction in this case lay in the fact that the number was relatively large, they were skilled administrators, and many of them occupied positions of importance in the Federal government.[170]

During the same period, Negroes in government employment increased from 50,000 in 1933 to about 200,000 before the end of 1946. The majority were in low, unskilled positions, but there was a sprinkling of economists, statisticians, chemists, and physicists.

Despite these advances, there were serious inequities in the Roosevelt Administration. The U.S. Civil Rights Commission, in its 100th anniversary Emancipation Proclamation volume, Freedom To The Free, quotes Sam Rosenman, longtime adviser to FDR:

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[169] Ibid., p. 517.

[170] Ibid., p. 519.

> Under AAA, Negro tenant farmers and sharecroppers were the first to be thrown off farms as a consequence of the crop-reduction policy. Under NRA, Negroes either had to accept racial differentials in wages or run the risk of displacement by unemployed white men; in the case of jobs still reserved for Negroes, a complicated system of exemptions minimized the application of the codes; and local control of compliance machinery made it almost impossible to seek effective redress.[171]

The Tennessee Valley Authority hired Negroes only for unskilled posts and excluded them from the TVA training program and the TVA town of Norris, Tennessee. The Federal housing programs, while making decent housing available to many impoverished Negro families, also intensified segregated housing patterns in many communities. Federal officials encouraged the use of racial and religious exclusionary covenants on the ground that "if a neighborhood is to retain stability, it is necessary that the properties shall continue to be occupied by the same social and racial groups.[172]

The depression brought great hardships to Negroes. Although both the National Industrial Recovery Act and the National Labor Relations Act gave protection to workers in unions, this did not benefit Negroes in a significant fashion both because most Negroes found themselves in semi-skilled and unskilled positions, where there was little or no labor union organization, and because frequently the unions discriminated

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[171] U. S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 105.

[172] Ibid., p. 106.

against Negroes who were otherwise qualified for membership.[173] However, Negroes were substantially aided by the programs of the Farm Security Administration, the National Youth Administration, and the Civilian Conservation Corps.[174]

By 1940, a decline in Negro support for FDR was apparent. Negroes accused the administration of discriminating in some of its relief agencies and of excluding Negroes from preliminary defense preparations. Some Negroes, moreover, discovered a ring of sincerity in Wendell Willkie's promises, and were inclined to desert what they were inclined to call "The Dirty Deal."[175]

Although Roosevelt did not advance civil rights legislation,[176] he did approve the action of Attorney General Frank Murphy in creating a Civil Rights Unit in the U. S. Department of Justice. Explaining the civil rights philosophy of the administration, Murphy said:

> In a democracy, an important function of the law enforcement branch of government is the aggressive protection of fundamental rights inherent in a free people.

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[173]John Hope Franklin, op. cit., p. 529.

[174]Ibid., p. 524.

[175]Ibid., p. 517.

[176]Longaker, op. cit., The author quotes from an interview with Mrs. Franklin D. Roosevelt, in which she said that FDR, for all his personal sympathy for the Negro, "placed civil rights legislation on down the list [of his priorities] because he did not want to lose Southern support in Congress for the overwhelming necessities of defense preparation." pp. 41-42.

> In America, these guarantees are contained in express provisions of the Constitution and in acts of Congress. It is the purpose of the Department of Justice to pursue a program of vigilant action in the prosecution of infringement of these rights.
>
> It must be borne in mind that the authority of the Federal government in this field is somewhat limited by the fact that many of the constitutional guarantees are guarantees against abuses by the Federal Government itself or by State Governments, and are not guarantees against infringement by individuals or groups of individuals.[177]

The Civil Rights Staff received 8,000 to 14,000 complaints annually, but took action in only a few,[178] partly because it was necessary to rely on a few fugitive and largely moribund statutes, all nearly 75 years old. For its part, in the first Scottsboro case[179] and in the many civil rights cases cited in Chapter I, the U.S. Supreme Court demonstrated that it was now willing to go further than ever to protect the constitutional rights of those who had been denied them because of their race.[180]

With the approach of World War II, President Roosevelt found that he was confronted with two very specific civil rights problems: racial discrimination in the Armed Forces and in defense contract employment.

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[177] Robert K. Carr, Federal Protection of Civil Rights: Quest For a Sword (Ithaca, New York: Cornell University Press, 1947), p. 1.

[178] U.S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 108.

[179] Powell v. Alabama, 287 U.S. 45, 58, 70 (1932).

[180] Morroe Berger, Equality By Statute: Legal Controls Over Group Discrimination (New York: Columbia University Press, 1952), p. 72.

As the number of officers and soldiers in the Army decreased after World War I, the number of Negro soldiers declined to one of relative insignificance. By 1940 there were less than 4,000 Negroes in an army composed of 230,000 enlisted men and officers. Only 4 Negro units - the 24th and 25th Infantries, and the 9th and 10th Cavalries, were up to full strength. At the beginning of the emergency, there were less than a dozen Negro officers in the regular army.[181]

When the Selective Service Act of 1940 was passed, it was amended by a clause forbidding discrimination in the drafting and training of men. For a period, however, draft boards took only white men for training, on the grounds that there was a lack of housing facilities for Negroes in camps.[182]

With the exception of the two Army infantry and two cavalry units cited above,[183] the Navy was the only other service which admitted Negroes. Other branches of the Armed Services were barred to them. With reference to Navy policy, Secretary of the Navy Knox stated that

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[181] Franklin, op. cit., p. 559.

[182] Ibid.

[183] Ibid., The War Department declared in 1940 that Negroes would be received into the army in proportion to the Negro population of the country, but in separate units. Negro units which were officered by whites would receive no Negro officers other than medical officers and chaplains. Negroes were furious and made known their indignation to the press. p. 560.

Negroes were acceptable aboard ship only as messmen. In this he was supported by the Chief of the Bureau of Navigation, Admiral Chester W. Nimitz, who claimed that discrimination in the Navy was "in the interest of harmony and efficiency."[184]

In 1940, Walter White, long time Executive Secretary of the National Association for the Advancement of Colored People, A. Philip Randolph of the Brotherhood of Sleeping Car Portors, and T. Arnold Hill of the National Urban League, and other Negro leaders, submitted to President Roosevelt a seven point program for the abolition of segregation in the military services. In another action, a Howard University student, Yancy Williams, filed suit to compel the War Department to consider his application for the Army Air Corps, which at that time was admitting no Negroes.[185]

In 1942 the Navy agreed to accept Negroes for general service, but established a separate compound, Camp Robert Salls (named after the Negro hero of the Civil War), at the Great Lakes Naval Training Station, for their training. Both the WAC and the WAVES accepted limited numbers of Negro women, some for officer training in unsegregated units.[186]

Langston Hughes says that the NAACP was called upon thousands of times regarding discrimination in recruitment, mistreatment because

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[184]Langston Hughes, Fight For Freedom: The Story of the NAACP (New York: Norton, 1962), p. 90.

[185]Ibid.

of race during military training, and failure to upgrade Negro servicemen because of color. That a score of 39 was required of Negroes on army qualification tests whereas whites needed to score only 15, caused the NAACP to protest to the Secretary of War, but the ruling was not changed.[187]

> A Negro soldier who entered a white USO or service club on a post might be arrested and court-martialed. The same thing might happen if he entered a white latrine because the call of nature was urgent. Buses might refuse to carry Negro soldiers who were on furlough and awaiting transportation at the camp gates. Trains arrived at Southern stations with only a single Jim Crow coach that was usually so crowded that no other Negroes could board the train, but there would be a dozen cars for whites. At the Union Station in Washington, taxicabs often refused to carry Negro fares, soldier or civilian. But worst of all was the unpunished brutality that Southern police, MP's and civilians, were permitted to inflict upon Negro soldiers, and the fact that their commanding officers ordered the Negroes not to retaliate.[188]

Not until the American advance crossed the Rhine into Germany was any effort made to integrate white and Negro soldiers in the same basis. Throughout the war, the Red Cross stored "Negro plasma" in segregated blood banks and shipped it in distinctively marked containers - even though it was impossible to make any scientific differentiation on a racial basis.[189]

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[187] Ibid., p. 92.

[188] Ibid., p. 93. "In the South, German prisoners of war were served promptly in railway station restaurants, whereas the Negro soldiers guarding them often had to go hungry." p. 94.

[189] John Pearson Roche, The Quest For The Dream: The Development of Civil Rights and Human Relations in Modern America (New York: Macmillan, 1963), p. 206.

Equally difficult problems were faced by Negroes who sought employment in defense industries. Some efforts were made by the government to correct this situation as early as 1940. The U.S. Office of Education, for example, declared that in the expenditure of funds in defense training programs, there should be no discrimination on account of race, creed or color. In August, 1940, the National Defense Advisory Committee issued a statement opposing the refusal of defense plants to hire Negroes. In September, 1940, the President spoke out against racial discrimination in a message to the Congress.[190]

Many defense industries made it clear in 1941 that they had no intention of employing Negroes on a non-discriminatory basis. Vultee Aircraft of Nashville, Tennessee said: "We do not believe it advisable to include colored people in our regular working force. We may at a later date be in a position to add some colored people in minor capacities such as porters and cleaners."[191]

Said North American Aviation, Inc.:

> We will receive applications from both white and colored workers. However, the Negro will be considered only as janitors and in other similar capacities. . . . It is against the company policy to employ them as mechanics or aircraft workers. . . . There will be

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[190] Franklin, op. cit., p. 562.

[191] Louis Coleridge Kesselman, The Social Politics of FEPC: A Study in Reform Pressure (Chapel Hill, North Carolina: The University of North Carolina Press, 1948), p. 7.

> some jobs as janitors for Negroes. Regardless of their training as aircraft workers, we will not employ them. . . .[192]

Eighteen international unions maintained constitutional or "ritualistic" restrictions against Negroes. The general organizer of Aeronautical Mechanics, Local Number 751, of Seattle, International Association of Machinists, declared to the press: "Organized labor has been called upon to make many sacrifices for defense and has made them gladly, but this /admission of Negroes/ is asking too much."[193]

Despite a series of statements by the President and the Congress, little progress was made. In a manner reminiscent of World War I, the National Defense Advisory Commission in July, 1940 appointed Robert C. Weaver to the post of Administrative Assistant in its Labor Division. His task was to facilitate the training and employment of Negroes in defense industry, but without formal power and a staff to assist him, he was able to accomplish little.[194] Myrdal was quoted as stating that whereas ". . . in October, 1940, only 5.4% of all Employment Service placements in 20 selected defense industries (airplanes, automobiles, ships, machinery, iron, steel, chemicals, etc.) were non-white, this proportion had, by April, 1941, declined to 2.5%.[195]

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[192] Ibid.

[193] Louis Ruchames, Race, Jobs and Politics (New York: Columbia University Press, 1953), p. 12.

[194] Ibid., p. 11.

[195] Ibid., p. 12.

In November, 1940, Negro and white leaders from many walks of life attended a conference at Hampton Institute in Hampton, Virginia on "Participation of the Negro in National Defense." The conference urged the cooperation of government, industry, and labor in bringing about a non-discrimination policy in national defense.

President Roosevelt was repeatedly asked to take action against discrimination in defense industries, but, as Walter White wrote a friend, ". . . the President gave as his reason for not taking definitive action against this discrimination that 'the South would rise up in protest'."[196]

On May 2, 1941, Channing Tobias, Walter White, Mary McLeed Bethune and Lester Granger, all Negro leaders, met with Sidney Hillman of the War Manpower Board to discuss the possibility of the issuance of an executive order prohibiting discrimination in defense industries. Meanwhile, a suggestion by A. Philip Randolph that Negroes march on Washington "to exact their rights in national defense employment and the armed forces of the country" gained support.

On June 18, 1941, A. Philip Randolph, Frank R. Crosswaith, Layle Lane and Walter White met with the President. He sought in vain to persuade them not to proceed with plans for the March, saying that it would do more harm than good. President Roosevelt then designated a committee including Fiorello LaGuardia, Chairman, Secretary of War

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[196] Ibid., p. 13.

Stimson, Secretary of Navy Knox, Knudsen, Hillman, Aubrey Williams, and Anna Rosenberg, to draw up a plan to solve the problem.[197]

During the last three weeks of June, many efforts were made to cancel the March, including pleas by Mrs. Franklin D. Roosevelt and Mr. LaGuardia. The President then sent for Randolph, but little came of the meeting. Washington officials grew increasingly apprehensive as the time for the March grew closer. Finally, the President told Randolph that if he would call off the March, he would issue an order "with teeth in it" prohibiting discrimination in employment in defense industries and in the government.[198]

Executive Order 8802 was issued by President Roosevelt on June 25, 1941, declaring discrimination in defense industries to be a violation of public policy, and establishing a five man Committee on Fair Employment Practice to receive and investigate complaints of discrimination and to take appropriate steps to redress valid grievances.[199] Some Negro leaders hailed the Order as the most significant move on the part of the Government since the Emancipation Proclamation.

The Committee made investigations, and when violations were found, it issued orders to firms to correct practices. But the Committee

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[197] Ibid., p. 20.

[198] Franklin, op. cit., p. 562.

[199] Kesselman, op. cit., p. 15.

was limited in bringing sanctions to bear on offenders. In the two years that it existed, it was hamstrung by administrative frictions, lack of sufficient funds, and inadequate powers and personnel. It lacked a clear-cut organizational status, and was shifted by FDR from agency to agency.[200]

In June, 1942 the FEPC was transferred to the War Manpower Commission under Paul McNutt. Immediately, civil rights leaders protested vigorously. In January, 1943, without prior consultation with the Committee, McNutt indefinitely postponed Committee hearings on discrimination in the railroad industry because of pressure brought by the railroad industry and southern Congressmen. Several members of the committee as well as staff demonstrated their strong disapproval by resigning. In effect, that ended the work of that Committee.

On May 27, 1943 President Roosevelt issued Executive Order 9346 creating a new Fair Employment Practice Committee, redefined its powers, and named Monsignor Francis J. Haas, Dean of the School of Social Sciences at Catholic University, as Chairman.[201]

The Committee was placed in the Executive Office of the President, 12 regional offices were established, and the budget was increased from $147,619 in fiscal year 1943 to $431,609 in fiscal year 1944. The Committee was empowered to hold hearings, and to take appropriate steps

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[200] Ibid., p. 16.

[201] Ruchames, op. cit., p. 56.

to eliminate discrimination. Anti-bias clauses were extended to include sub-contracts.[202]

Despite these important indications of support from the Executive Branch, Congress mounted an attack which grew in intensity. On February 11, 1943, the House of Representatives created a Special Committee to Investigate Executive Agencies, headed by Representative Howard W. Smith of Virginia. The committee held hearings on FEPC from January 11, 1944 through March 13, 1944, issued no final report, but in the hearings, many Congressmen did attack the actions of FEPC as going beyond its authority.

Although President Harry S. Truman urged Congress to establish a permanent FEPC, on July 13, 1946 a bill became law which provided funds for the termination of FEPC. Congress then passed an amendment to the law stating that the $250,000 appropriated for the Committee would not be available for expenditure after June 30, 1946, thus effectively terminating the nation's second FEPC effort.[203]

FEPC's accomplishments had nonetheless been significant. Whereas Negroes represented only 2.5 to 3.0% of the nation's defense workers in March, 1942, that figure had increased to 8.3% by November, 1944. During the same period, the percentage of Negroes employed by

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[202] Kesselman, op. cit., pp. 18 and 22.

[203] Ruchames, op. cit., p. 132.

the Federal government had gone from 8.4% to 19.2%.[204]

"Under Franklin D. Roosevelt," says Roche, ". . . the United States left the paths of tribalism for the high road of due process of law and substantive justice and equality." When he died, says the author, ". . . he left a nation far different from the one he inherited from the 'old order' in the dark days of 1933, a nation which had fought the greatest war in history without chauvinism or xenophobia, and in which even the most downtrodden minority, the Negroes, were sensing the light that heralds the dawn."[205]

At the end of the war "the inevitable confrontation between American precepts and American practice, which had been avoided for almost a century, could no longer be put off. The Negro was about to challenge his status as the 'invisible man' and demand his rightful inheritance." Thus, he says, World War II can be seen ". . . clearly as . . . a prelude to a militant struggle for full equality, for the realization of the full logical implications of a victory over Nazi racism."[206]

This militant struggle did not reach its zenith until John F. Kennedy assumed office, but President Harry S. Truman, who succeeded to the presidency in 1945, did contribute in a positive and significant way

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[204] Ibid., p. 159.

[205] Roche, op. cit., p. 134.

[206] Ibid., p. 207.

to the national government's assuming new, major responsibilities directed toward the achievement of full equality for all men.

The Civil Rights Actions of President Harry S. Truman

At the end of World War II, the crusade for Negro rights was still essentially a private affair. While some progress in civil rights had been made while Franklin D. Roosevelt was President, his actions had been taken only in response to irresistible pressures. Although on March 12, 1945, Governor Thomas E. Dewey of New York had approved the first state Fair Employment Practices Law in the nation, the burden of the campaign for equality of opportunity lay in the hands of organizations such as the NAACP, the American Civil Liberties Union, and the Urban League, - each limited by the lack of resources. At best, their efforts were sporadic and almost by definition, defensive, as they rallied to fight lynchings, housing and education problems. They were unable, however, to undertake a comprehensive effort to alter the basic conditions which nourished prejudice. "As long as the President of the United States maintained the hands-off attitude which had prevailed since Grant left the White House," says Roche, "it was impossible to do more than cope in an episodic fashion with the consequences of racial flare-ups."[207]

Strong executive leadership, heretofore lacking, was essential, and to the surprise of many, it came from that remarkable small-town

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[207] Ibid., p. 237.

politician and democratic visionary, Harry S. Truman.

As a United States Senator from Missouri, Mr. Truman had supported anti poll tax bills in 1942 and 1944, and had voted in favor of appropriations for the President's Committee on Fair Employment Practice. As Vice President, he had expressed himself as favoring a permanent FEPC with strong enforcement powers.[208]

On becoming President in April, 1945, Mr. Truman continued in his forthright support of FEPC legislation. In conferences with the NAACP's Walter White and Negro newspapermen in May, he indicated that the House of Representatives was the stumbling block, and that if FEPC supporters could force the bill through the lower chamber, he could get it through the Senate. On June 6, 1945, the President addressed a strong letter to Chairman Adolph J. Sabath of Illinois of the House Rules Committee, calling for a rule to permit the appropriation for the President's Committee to reach the floor for debate and a vote.[209]

Because of the determined opposition of many in Congress, FEPC died in 1946. However, the President was not to be deterred in his efforts to bring the national government to a position of greater responsibility in the area of civil rights.

On December 5, 1946, President Truman issued Executive Order 9808, creating the Committee on Civil Rights, "to inquire into and to

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[208]Kesselman, op. cit., p. 212.

[209]Ibid., p. 213.

determine whether and in what respect current law-enforcement measures and the authority and means possessed by Federal, State and local governments can be strengthened and improved to safeguard the civil rights of the people."[210] Said the President to the fifteen member Committee, after it was appointed:

> I want our Bill of Rights implemented in fact. We have been trying to do this for 150 years. We are making progress, but we are not making progress fast enough. This country could very easily be faced with a situation similar to the one with which it was faced in 1922.[211]

Six months later, in an address at the Lincoln Memorial in Washington on June 29, 1947, the President expanded on his civil rights philosophy:

> We cannot be content with a civil liberties program which emphasizes only the need for protection against the possibility of tyranny by the Government. . . . We must keep moving forward, with new concepts of civil rights to safeguard our heritage. The extension of civil rights today means, not protection of the people against the government, but protection of the people by the Government.[212]

The President's Committee on Civil Rights, headed by Charles E. /General Electric/ Wilson, obviously was guided by this point of view when it issued its report late in 1947.[213] The report called for:

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[210]Executive Order 9808, 11 Fed. Reg. 14153 (1946).

[211]Roche, op. cit., p. 238.

[212]Carr, op. cit., p. vii.

[213]U.S. President's Committee on Civil Rights, To Secure These Rights (Washington, D.C.: United States Government Printing Office, 1947).

1. Reorganization and strengthening of the Civil Rights Section of the Department of Justice.

2. Creation by the states of divisions similar to the federal Civil Rights Section.

3. Special training for federal and state police in the handling of cases involving civil rights.

4. Establishment of federal and state permanent commissions on civil rights to maintain constant surveillance.

5. Clarification and strengthening of federal statutes to make clear what is and what is not a federal crime.

6. Federal legislation outlawing police brutality, lynching, and all forms of peonage.

7. Federal legislation outlawing the poll tax and other impediments to voting.

8. Self-government for the District of Columbia.

9. Citizenship for the people of Guam and Samoa.

10. Repeal of state laws discriminating against aliens.

11. Federal and state laws ending Jim Crow laws and other forms of racial segregation and discrimination.

12. Withholding federal grants-in-aid from public and private agencies that practice discrimination and segregation.[214]

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[214]Louis W. Koenig (ed.), The Truman Administration: Its Principles And Practice (New York: New York University Press, 1956), p. 108.

President Truman wasted no time in asking for legislative enactment of most of the recommendations of his Committee. In a message to the Congress on February 2, 1948, Truman referred to his Civil Rights Committee's report, and then recommended ". . . that the Congress enact legislation at this session, directed toward the following specific objectives:

1. Establishing a permanent commission on civil rights, a joint Congressional committee on civil rights, and a Civil Rights Division in the Department of Justice.

2. Strengthening existing civil rights statutes.

3. . . . Federal protection against lynching.

4. Protecting more adequately the right to vote.

5. Establishing a Fair Employment Practice Commission to prevent unfair discrimination in employment.

6. Prohibiting discrimination in interstate transportation facilities.

7. Providing home rule and suffrage in presidential elections for the residents of the District of Columbia.

8. Providing statehood for Hawaii and Alaska and a greater measure of self-government for our island possessions.

9. Equalizing the opportunities for residents of the United States to become naturalized citizens.

10. Settling the evacuation claims of Japanese-Americans.[215]

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[215] Ibid., p. 111.

The President's recommendations to Congress met with immediate opposition, but he was determined. The writer well remembers being received by the President in his office, along with other Members of the U.S. National Commission for UNESCO, in the Spring of 1948. Although it had been expected that the President would comment on the importance of increasing international understanding, he immediately zeroed in on the Congress for refusing to proceed more rapidly with his civil rights legislation.

At the 1948 Democratic National Convention the President supported Hubert Humphrey and other liberal Democrats in their successful effort to write the recommendations of the President's Committee on Civil Rights into the Democratic platform. The result was the walkout of many of the southerners, and the eventual formation of the "Dixiecrat" party.[216] He then called the Congress back into session, and demanded action in the area of civil rights. Said Mr. Truman in his July 27, 1948 message to Congress:

> Finally, I again urge upon the Congress the measures I recommended last February to protect and extend basic civil rights of citizenship and human liberty. A number of bills to carry out my recommendations have been introduced into Congress. Many of them have already received careful consideration by Congressional committees. Only one bill, however, has been enacted, a bill relating to the rights of Americans of Japanese origin.

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[216] Roche, op. cit., p. 239.

> I believe that it is necessary to enact the laws I have recommended in order to make the guarantees of the Constitution real and vital.[217]

The President was now the Democratic nominee for the presidency. There was little likelihood that the Congress would pass effective civil rights legislation, yet it was essential, since so many southerners had at least temporarily bolted the Democratic party in favor of the "Dixiecrats," that the President score heavily in northern industrial cities, where the "civil rights vote" was crucial. For this reason, among others, one day before his message to Congress, on July 26, 1948, the President issued Executive Order 9981, barring segregation in the Armed Forces. The Order stated:

> It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the Armed Services without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.[218]

The effect of the order was to nullify "separate but equal" recruitment, training and service. At the same time that he issued the Executive Order, Mr. Truman created in the military establishment the President's Committee on Equality of Treatment and Opportunity in the Armed Services.[219]

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[217]Koenig, op. cit., p. 117.

[218]Executive Order 9918, 13 Fed. Reg. 4313 (1948).

[219]United States Commission on Civil Rights, Freedom to the Free, p. 125.

The President and his Armed Services Cabinet members saw to it that the order was enforced. Said Secretary of the Air Force Stuart Symington to his colleagues: "We're going to end segregation. Those are my orders from the Commander-in-Chief. You've got to stop the double talk and act."[220] Bearing in mind the fact that during much of World War II, the Air Force admitted no Negroes, this stand was significant.

On the same day that he banned segregation in the Armed Forces, the President issued Executive Order 9980, proclaiming the "long established policy" of "fair employment throughout the Federal establishment, without discrimination because of race, color, religion or national origin." The same Order established a Fair Employment Board within the Civil Service Commission, to implement the Order with respect to civilian employment in the Executive Branch.[221] In the weeks that followed, the White House was active in jogging agencies which resisted the policy of nondiscrimination, and the President personally encouraged the Board.[222]

Three years later the President furthered the Federal government's efforts in the equal employment opportunity field with the establishment, over the objection of southern Democrats, of the Committee on

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[220]Longaker, op. cit., p. 116.

[221]Executive Order 9980, 13 Fed. Reg., 4311 (1948).

[222]Longaker, op. cit., p. 118.

Government Contract Compliance.[223] The Committee possessed limited powers to investigate violations of nondiscrimination clauses and could "confer and advise" with firms in order to bring about compliance. The limited staff, funds and powers of the Committee, together with the current strong opposition in Congress to anything closely resembling FEPC, restricted its effectiveness.[224]

Limited action was also taken by the President in the area of equal opportunity in housing. On December 2, 1949, in a meeting of state committees on "Discrimination in Housing Administration," U.S. Solicitor General Philip B. Perlman announced that Federal Housing Administration financing would be refused for any new houses or apartments whose occupancy or use was restricted on the basis of race, creed, or color. In commenting on this policy, Perlman said: "President Truman has been working on this matter for some time, and is most happy over the results of his efforts."[225]

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[223]Executive Order 10308, 16 Fed. Reg., 12303 (1951).

[224]Longaker, op. cit., p. 123.

[225]Koenig, op. cit., p. 121. Longaker, op. cit., states in a footnote on page 68 that the Truman papers contain some evidence of the administration's interest in keeping some civil rights questions out of Congress. One memo was written to discourage congressional attention to discrimination in housing. Philleo Nash in a memorandum to Charles S. Murphy on September 20, 1951, stated: "We are making progress in the practice of non-discrimination in the field of housing, as we are in other fields, by the use of administrative measures, far more rapidly than we will if we engage in legislative battles which arise when hard and fast clauses are introduced on the Hill." p. 68.

As a result of the efforts of President Harry S. Truman, the issue of Negro rights, which had been successfully depoliticized since Reconstruction days, was now sharply and irretrievably injected into the national conscience and onto the national and local political scene. With the President leading the way, the national government had undertaken a vigorous assault on discrimination and segregation. His Executive Order ending racial discrimination and segregation in the Armed Forces was without parallel, and while he was not immediately successful with civil rights legislation, his legislative proposals laid the groundwork for the Civil Rights Acts of 1957, 1960, and 1964. No President had equalled that record.

The Civil Rights Actions of President Dwight D. Eisenhower

General Eisenhower, the popular wartime hero, defeated Adlai Stevenson by landslide proportions in November, 1952, and assumed office in January, 1953. Only an estimated 21% of Negro voters supported Mr. Eisenhower at the polls, many, no doubt, remembering that he had testified against President Truman's order to desegregate the Armed Forces. Mr. Eisenhower's point was that such a move would be resented by white troops and therefore might harm combat efficiency, but insofar as Negroes were concerned, his position was too close for comfort to the stand of white supremacists. Four years later, with the 1954 school desegregation decision a matter of record, 40% of the Negro voters

supported Mr. Eisenhower.[226]

When the administration took office, it was plunged into the whirlpool of the Korean War, the question of policy toward Formosa, the budget, the "new look" in military preparedness, the Bricker Amendment, and relations with the right wing in Congress. In the process, civil rights got relatively little attention.

The President did, however, give immediate attention to the matter of ending racial segregation in the District of Columbia and in the Armed Forces, and he directed his Associate Counsel, Maxwell Rabb to pursue both of these matters.[227]

> New orders, issued quietly, immediately took effect. For example, children on Army posts going to schools administered by the Department of Health, Education and Welfare, were no longer to attend segregated classes. The forty-seven veterans hospitals which had been practicing segregation were no longer to separate the races. By the end of the year segregation in the Navy and Air Force was a thing of the past, and the Army was getting ready to eliminate its last all-Negro unit.[228]

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[226] Louis E. Lomax, The Negro Revolt (New York: The New American Library of World Literature, Inc., 1962), p. 242.

[227] Dwight D. Eisenhower, The White House Years: Mandate For Change (Garden City, New York: Doubleday & Company, Inc., 1963), p. 235.

[228] Ibid., p. 236. Robert J. Donovan in Eisenhower: The Inside Story (New York: Harper & Brothers, Publishers, 1956), points out the background to the action taken by the Department of Health, Education and Welfare. On June 4, 1953, the President received an open wire from Congressman Adam Clayton Powell, asserting that Mrs. Hobby, Secretary of Health, Education and Welfare, had "virtually countermanded" the President's policy on segregation in schools on Army posts, which are paid for by that Department. The author says that Presidential Assistant Sherman Adams found out, on checking up, ". . . that while Powell may have overstated it, he had a case." The problem was cleared up under the direction of Maxwell Rabb. p. 156.

Three months after his State of the Union message, the Federal government appeared before the United States Supreme Court in the capacity of friend of the court, arguing that an 1873 District of Columbia anti-discrimination public accommodations law was still in effect. In June, the court ruled that the ordinance was enforceable.[229]

In the same month, the National Capitol Housing Authority adopted a general policy of open occupancy for all public and low-rent housing in the District.[230] The President named a number of Negroes to prominent positions in the Federal government - including J. Ernest Wilkins as Assistant Secretary of Labor (the first Negro to serve as a subcabinet officer), Scovel Richardson as Chairman of the U.S. Board of Parole, Charles Mahoney as the first Negro to be a full delegate to the United Nations from the United States, E. Frederick Morrow as Administrative Officer on the White House staff, Clifton R. Wharton as Minister to Rumania, and J. Ernest Wilkins and George M. Johnson as Members of the United States Commission on Civil Rights.

In examining the civil rights programs of President Eisenhower, it is important to understand how he functioned with reference to his staff. The President believed in delegating as much responsibility as possible, so that he would be left with time to work on major problems.

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[229] District of Columbia v. John R. Thompson Co., 346 U.S. 100 (1953).

[230] U.S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 123.

Consequently, regular conferences of the White House staff were held, not in the President's office, but in that of the Assistant to the President, Sherman Adams. When discussions of policies and programs took place, President Eisenhower normally was not present to listen to the arguments. Instead, recommendations were drawn up under the direction of Sherman Adams and then submitted to the President for his approval or disapproval. Mr. Eisenhower preferred that his assistants present him with a consensus, which he would either accept, modify or reject. Seldom, however, did he reject staff recommendations.[231] As we shall see in Chapter 5, this method differed radically from the working methods of President Kennedy.

Not only did the President refrain from participating in problem analyses, but he had access to only very limited unofficial sources of information. Binkley[232] says that Eisenhower may have been just about the least interested in newspapers of any president since Lincoln, who was an avid and purposeful reader of them. The President frequently astonished a news conference with the statement: "I have never heard of that" concerning a matter of common knowledge to the public. The London Economist concluded: "Amid the mechanical apparatus, the presidency is insulated from information and pressures which stimulate

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[231]"How Kennedy Differs From Ike," U.S. News and World Report, November 13, 1961, p. 69.

[232]Wilfred E. Binkley, The Man In The White House: His Powers And Duties (Baltimore: The Johns Hopkins Press, 1958).

imagination, feed inspiration, foster insight, and develop sensitivity."[233]

Maxwell Rabb, Associate Counsel to the President, had principal responsibility for civil rights of those on the White House staff, and apparently was more sensitive than other Presidential aides to minority needs.[234] The top ranking Negro on the White House staff from 1955-1961 was E. Frederick Morrow, who carried the title of Administrative Officer for Special Projects, but who also served informally as an adviser to more senior staff members on race relations.[235]

The President seldom met with Negro leaders. Morrow reports that in a memorandum to Sherman Adams on December 16, 1955, following the Emmet Till murder, when racial tensions were particularly acute, he

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[233] Ibid., pp. 217-218.

[234] E. Frederick Morrow, Black Man In The White House (New York: Macfadden Books, 1963). Commenting on Rabb's decision to leave the White House in May, 1958, Morrow says: "I must honestly confess that he was perhaps the only one on the White House staff who showed deep personal concern about the plight of the Negro and other minorities in this country." p. 162.

[235] But Morrow's advice was not always sought. He points out in the entry to his dairy on September 10, 1957, when Governor Faubus had called out the militia to prevent school desegregation at Little Rock, and when there were racial troubles in Nashville, Tennessee: "I have been powerless to do anything. The President's advisers have not asked me my thinking on these matters, and I am too well-schooled in protocol to advance any uninvited ideas.

"The only thing that annoys me about this whole matter is the fact that things like this that vitally involve the Negro race are decided by men who have had little or no experience or contact with Negroes, and who must base their decisions almost entirely upon their own meager knowledge - or often upon the suggestions given them by social or political friends who may be equally uninformed." pp. 123-125.

suggested that a dozen or more leading ministers, Negro and white, be called under the auspices of the Administration, to discuss what could be done. His suggestion was vetoed "by higher authority" in the White House.[236] Repeatedly, year after year, Negro leaders sought to meet with the President, but it was not until June 19, 1958, five years and five months after his Inauguration, and long after a series of serious racial problems, that the President finally consented to his first face-to-face encounter with Negro leaders since he had entered the White House.[237]

Reference has been made in the section dealing with "Employment" in Chapter II of this study to the President's Committee on Government Contracts, established by Executive Order 10479,[238] and strengthened by Executive Order 10557.[239] These Orders set up a Committee with an elaborate procedure for processing complaints through the contracting agency (a government department or agency) and ultimately through the Committee. A program of publicity and education within industry was instituted. In the first phase of its work, the Committee seldom intervened directly with firms which were laggard in meeting standards of non-discrimination, but relied, rather, on less forceful means of persuasion.[240]

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[236] Ibid., p. 32.

[237] Ibid., p. 165.

[238] Executive Order 10479, 18 Fed. Reg. 4899 (1953).

[239] Executive Order 10482, 18 Fed. Reg. 4944 (1953).

[240] Longaker, op. cit., p. 123.

In its second phase, under a new Executive Director, the Committee's operations were invigorated by direct contacts with many of the firms still practicing discrimination in their hiring and promotion practices. However, the power to terminate contracts in the face of discrimination was not used by the Eisenhower committee, although on occasion threats to withhold contracts or the right to bid on government contracts, brought about an improvement in discriminatory standards.[241] Nonetheless, the fact that it was called the President's Committee, and that it was chaired by Vice President Nixon, gave it considerable political support, increased its prestige and strengthened the administration's anti-discrimination efforts.

In January, 1961, the highly respected Southern Regional Council issued a report, The Federal Executive and Civil Rights, which criticized the Eisenhower Committee:

> The Government Contract Committee and its predecessor seem to have accomplished little to arrest discrimination in employment. The Committee has devoted a good deal of its effort to education, and has processed complaints. Some educational activity is perhaps desirable, but the government needs to remember that performance and example are its best educational means.
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> .....
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> Yet, the present posture of the government is intolerable. Every government contract and many sub-contracts contain an antidiscrimination clause, the text of which is posted in suppliers' shops and offices. The clause is, in

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[241] Ibid., p. 124.

> effect, an oath. It has become another of the non-enforced declarations of principle and policy. We think there is real danger to public morals in this practice. The people need to know that the government takes its words seriously. For the government to lay down laws and order which it does not intend, or is not prepared, to enforce, is a practice which encourages social and individual indifference.[242]

The President recognized that equality of employment opportunity was also a matter of unfinished business within the Federal establishment, so in 1955 he replaced Truman's Fair Employment Board with a 7 Member President's Committee on Government Employment Policy,[243] charged with responsibility for advising and assisting executive agencies in administering the fair employment policy of the Federal government.

From January 18, 1955 to December 31, 1960, 1053 complaints of discrimination by Federal agencies were filed, 225 were referred for review and advisory opinion, and the remainder were settled at the departmental or agency level.[244]

In an unusual candid report issued in 1958, the Committee reflected on the strong and weak points of the Eisenhower administration's record:

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[242]Southern Regional Council, The Federal Executive And Civil Rights, op. cit., pp. 33-34.

[243]Executive Order 10590, 20 Fed. Reg. 409 (1955).

[244]United States Commission on Civil Rights, Freedom To The Free, op. cit., pp. 128-129.

> Today, according to a government survey, one out of four positions in the Federal government in Washington is held by a Negro, although most of these are custodial or other minor positions. In the South, however, (the claims of some sanguine administrators to the contrary), discrimination in employment within the Federal establishment is still the common pattern.[245]

In February, 1964, the writer conferred with a man who had been one of the high officials of this Eisenhower Committee, who asked not to be identified. He said: "We made feeble attempts to move ahead, but strong White House support, which was crucial to our success, was never forthcoming."

During the Eisenhower Administration, some progress was made in the area of equal opportunity in housing. It will be recalled that in 1948, in the case of Shelley v. Kraemer,[246] the United States Supreme Court declared that restrictive covenants are unenforceable in the courts. Until 1948, the Federal Housing Administration had actually encouraged restrictive covenants and homogeneous neighborhoods,[247] but in December, 1949, responding both to Shelley and to the 1949 Housing Act, which called on the Federal government to develop desegregated neighborhoods, FHA revised its Underwriting Manual to read: ". . . homogeneity or heterogeneity of neighborhoods as to race, creed, color or nationality is not a

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[245] Longaker, op. cit., p. 109.

[246] op. cit.

[247] U.S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 140.

consideration in establishing eligibility" for mortgage insurance.[248] The Housing Administration announced at the same time that it would not insure mortgages on homes on which such restrictive covenants were filed after February 15, 1960.[249]

In President Eisenhower's message to Congress on January 25, 1954, he recognized the need for further Executive action:

> We shall take steps to insure that families of minority groups displaced by urban redevelopment operations have a fair opportunity to acquire adequate housing; we shall prevent the dislocation of such families through the misuse of slum clearance programs; and we shall encourage adequate mortgage financing for the construction of new housing for such families on good, well located sites.[250]

In a series of decisions in state and Federal courts, segregation in federally-assisted public housing projects was held to violate the 5th and 14th amendments.[251] Nonetheless, progress by the Federal government was halting, at best. On July 16, 1954, FHA announced a policy of "active steps to encourage the development of demonstration open-occupancy

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[248] U.S. Federal Housing Administration, FHA Manual, Sec. 70303, (1962).

[249] U.S. Commission on Civil Rights, 1959 Report (Washington, D.C.: United States Government Printing Office, 1959), p. 464.

[250] 100 Congressional Record, pp. 738-739 (1959).

[251] Detroit Housing Commission v. Lewis, 226 F. 2d 180 (6th Cir. 1955); Banks v. Housing Authority, 260 P 2d 668 (Cal. Dist. Ct. App. 1953), cert. denied, 347 U.S. 974 (1954).

projects in suitable areas."[252] Congress, recognizing the existence of inequalities in home financing, created the Voluntary Home Mortgage Credit Program (VHMCP), a joint government-industry program to assist minority group members to obtain home mortgage financing.[253]

Now it is well to turn to the role of President Eisenhower in helping to secure the passage of the Civil Rights Act of 1957 - the first civil rights legislation since Reconstruction days.

Attorney General Brownell was one of a minority among leaders in the Eisenhower Administration interested in civil rights as a matter of principle, but during his first three years in the White House, Mr. Eisenhower gave Brownell no support for civil rights action.[254] When the President was convalescing following his September, 1955, heart attack, however, Brownell received the approval of the Cabinet to submit to the Congress over his (Brownell's) name - a proposed civil rights bill. The President supported this in his State of the Union message delivered in January, 1956.[255]

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[252]U.S. Federal Housing Authority, "Message from FHA Commissioner to be read by Insuring Office Directors at NAHB Local Meetings Relating to Providing Homes Available to Minorities," No. 118130, June 16, 1954.

[253]U.S. Voluntary Home Mortgage Credit Program, "Operating Policy Statement No. 1." (1954).

[254]J.W. Anderson, op. cit., p. 3.

[255]Ibid., pp. 4-5.

Anderson, now an editorial writer for The Washington Post, describes the unusual efforts undertaken by Brownell to secure the passage of civil rights legislation, which had minimum White House support.

The Department of Justice began in January, 1956 to write what eventually became the Civil Rights Act of 1957. Attention was devoted particularly to covering the full range of rights, as first defined in the two criminal sections 241 and 242,[256] of Title 18, United States Code, and to voting rights.

But at this point Senator Knowland protested to the White House about Brownell's civil rights bills. On March 9, 1956, the Attorney General discussed the bills with the Cabinet, with the President now present. The President was opposed to coercion, and the conclusion of the Cabinet was that Brownell should not proceed further with the more drastic of his four civil rights bills.[257] This became more specific during the first week in April, when the White House ordered the Justice Department to drop the general civil rights bill, which would have extended criminal sanctions, and the voting bill. Says Anderson: "It meant dropping all of the new enforcement authority from the program, stripping it merely to a bill setting up the /United States Civil Rights/ Commission and a bill authorizing a new Assistant Attorney General."

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[256] United States Code, Title 18, op. cit.

[257] J.W. Anderson, op. cit., p. 29.

But then, Congressman Keating asked Brownell for copies of the enforcement bills, and he sent them to Mr. Keating.[258]

Brownell appeared before the Senate Judiciary Committee on May 16, 1956, took up each of the four bills, but pointed out that only the first two had accompanied the letter to the Vice President. In the weeks after the bills went to Congress, the White House maintained a glacial silence on the subject. "The White House staff members understood Brownell's maneuver," says Anderson, "but they were hardly in a position to tell the public, in an election year, that the administration's civil rights bills were not supported by the Administration. . . . In his astonishingly bold tactics, Brownell had deliberately jeopardized his own office to get this set of powerful bills introduced; it appeared that he had, as a Cabinet member, overstepped the line that divided initiative from insubordination."[259]

No civil rights bill passed the Congress in 1956. Brownell's proposals had reached the Congress in April, which is late for legislation. Secondly, many congressmen guessed that Brownell had gone farther than the President wished. Some concluded that he had prepared the bills only for the purpose of embarassing the Democrats.[260]

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[258] Ibid., p. 41.

[259] Ibid., p. 43.

[260] Ibid., p. 45.

Although late in April, 1956, the President sent Representative James Roosevelt a letter indicating his support for all four civil rights bills, on May 24, 1956, his press secretary issued a list of "must legislation," which included only the civil rights bills providing for an additional Assistant Attorney General and for the Civil Rights Commission.[261] When congressional leaders called on the President at his farm in July, his "must" legislation in the civil rights category included only the establishment of the Civil Rights Commission.[262]

A civil rights bill did pass the House on July 23, 1956 by a vote of 276 to 126, but because Senate liberals failed to divert it from the Senate Judiciary Committee, the Senate took no action in that session.[263]

For a number of reasons, however, congressmen decided that civil rights action had to be taken in 1957. Republicans were aware that Negroes had shifted in significant numbers to their party in the period from 1952 to 1956; many Democrats realized that the determination of their southern members to stop civil rights legislation had been a mistake in that it had cost the party a considerable number of liberal and Negro votes. Both parties stood to gain, in short, by taking a stronger position on civil rights. In addition, congressmen were conscious of the growing importance of Africa in world affairs, and knew that the attitudes of

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[261] Ibid., p. 61.

[262] Ibid., p. 83.

[263] Ibid., pp. 99-100.

African leaders toward the United States would depend in part on civil rights progress.

The 1957 Civil Rights Act has been summarized in Chapter II under "Voting." The major new aspect of the bill submitted by the Administration was Part III, which would have empowered the Attorney General to go into Federal courts to seek injunctive relief on behalf of persons whose constitutional rights had been violated.

Legislative leadership in dealing with this bill was marred by what Longaker termed "clumsiness and uncertainty."[264] Questioned at his July 17, 1957 press conference about the all-important Part III, President Eisenhower said:

> I personally believe that if you try to go too far too fast in laws in this delicate field that has involved the emotions of so many millions of Americans, you are making a mistake. I believe we have got to have laws that go along with education and understanding, and I believe if you go beyond that at any one time, you cause trouble rather than benefit.[265]

Commented Sherman Adams later: "This uncertainty about some of the technicalities in the bill divided the supporters of civil rights legislation in Congress and played into the hands of the southern Senators, as they intended."[266] Ultimately, Part III was struck from the bill.

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[264] Longaker, op. cit., p. 47.

[265] Ibid.

[266] Sherman Adams, First Hand Report: The Story of the Eisenhower Administration (New York: Harper, 1961), p. 342.

As it passed the Congress, the Civil Rights Act of 1957[267] (1) authorized the Federal government to bring civil suits in its own name to obtain injunctive relief where any person is denied or threatened with denial of his right to vote, (2) gave Federal district courts jurisdiction over such civil proceedings without requiring that state remedies first be exhausted, (3) elevated the Civil Rights Section of the Justice Department to the status of a Division by providing for the appointment of an additional Assistant Attorney General, and (4) created the United States Commission on Civil Rights.

The President's indecision in dealing with the 1957 Civil Rights Act had a direct bearing on school desegregation in 1957 at Little Rock: the most serious civil rights crisis of the Eisenhower Administration. Because this experience provided President Kennedy with so many lessons, it is appropriate that we should examine with care the role of the Eisenhower Administration in dealing with school desegregation at Little Rock.

On May 17, 1954, in the case of Brown v. Board of Education,[268] the Supreme Court in a unanimous decision ruled that separate educational facilities are inherently unequal, and that the system deprived students of equal protection of the laws guaranteed by the Fourteenth Amendment.

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[267] 70 Stat. 634.

[268] 347 U.S. 483 (1954).

President Eisenhower's immediate actions indicated support for the decision. On the day following the decision, he summoned the District of Columbia Commissioners to his office and told them that he hoped that Washington would be a model for the rest of the country in integrating Negro and white children in the public schools.[269] In the months which followed, however, when most of the instruments of presidential persuasion and guidance might have been put to use in support of the decision, the White House was virtually inactive. As opposition to the Supreme Court decision grew in the South, ". . . long presidential silences were broken only by half-developed statements of constitutional and social propriety expressed in a spirit of puzzled good will. Southern statements of defiance of the Supreme Court and other signs of resistance met with no national counterforce."[270] Said the President:

> I have always declined /to state my personal opinion on desegregation/ for the simple reason that here was something that the Supreme Court says this is the direction of the Constitution, this is the instruction of the Constitution. That is, they say this is the meaning of the Constitution.
>
> Now, I am sworn to one thing, to defend the Constitution of the United States and execute its laws. Therefore, for me to weaken public opinion by discussion of complete-separate cases, where I might agree or disagree, seems to me to be completely unwise and not a good thing to do.

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[269] Donovan, op. cit., p. 162.

[270] Longaker, op. cit., p. 214.

> I have an oath. I expect to carry it out. And the mere fact that I could disagree very violently with a decision, and would so express myself, then my duty would be much more difficult to carry out I think. So I think it is just not good business for me to do so.[271]

In 1955 when it appeared that implementation was to be gradual and that neither Congress nor the Executive would provide specific support to implement the decision, many states proclaimed outright defiance. North Carolina and Texas, alone, of the group of eleven former Confederate states, enacted no interposition resolutions, issued no call for the impeachment of Supreme Court justices, and made no petition to Congress to declare the Fourteenth Amendment unconstitutional. Ninteen Senators and 82 Representatives from these eleven states in a "Declaration of Constitutional Principles" introduced in the House of Senate on March 12, 1956, decried the "Supreme Court's encroachment on rights reserved to the states and to the people," and commended the "motives of those states which have declared the intention to resist forced integration by any lawful means.[272]

In his new book, Mandate For Change: The White House Years,[273] Mr. Eisenhower states his opinion on the decision: "I have questioned many eminent lawyers on the soundness of this decision, and without

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[271] Ibid., pp. 216-217.

[272] U.S. Commission on Civil Rights, Freedom To The Free, op. cit., pp. 152-153.

[273] Eisenhower, op. cit.

exception they have expressed the opinion that it conformed to the Constitution of the United States."[274] He continued: "Although, as President, I never expressed either approbation or disapproval of a Court decision, in this instance there can be no question that the judgement of the Court was right."[275]

According to Emmet John Hughes, who served as speech writer for Mr. Eisenhower while he was President, the Chief Executive then had severe misgivings about enforcing the Court's decision. Mr. Hughes remembered the following statement by the President:

> "I am convinced," he insisted, "that the Supreme Court decision set back progress in the South at least fifteen years. . . . It's all very well to talk about school integration - if you remember you may be also talking about social dis-integration. Feelings are deep on this, especially where children are involved. . . . You take the attitude of a fellow like Jimmy Byrnes. We used to be pretty good friends, and now I've not heard from him even once in the last eighteen months- all because of bitterness on this thing. . . . We can't demand perfection in these moral questions. All we can do is keep working toward a goal and keep it high. And the fellow who tries to tell me that you do these things by force is just plain nuts /Italics are Mr. Hughes's/.[276]

The question of the use of force to implement the Brown decision became a matter of great practical importance when Governor Faubus

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[274] Ibid., p. 229.

[275] Ibid., p. 230.

[276] Hughes, op. cit., p. 201.

decided to obstruct school desegregation at Little Rock Central High School in the fall of 1957.

On May 22, 1954, five days after the Brown decision, the Little Rock, Arkansas Board of Education issued a statement saying it would comply with the Supreme Court decision when the Court outlined a method to be followed and the time to be allowed. Approximately one year later, on May 24, 1955, the Little Rock School Board adopted a plan for gradual desegregation, under which the high school grades would be desegregated, beginning in September, 1957.

On August 26, 1957, Governor Orval Faubus of Arkansas met with the Little Rock School Board. Although pressed to do so by the Board, the Governor declined to issue a statement saying that the forces of the state would be used to preserve law and order.[277]

On the following day, August 27th, Mrs. Clyde Thomason, Recording Secretary of the Mother's League of Little Rock High School, brought suit in the state Chancery Court of Chancellor Murray O. Reed, asking that the School Board be enjoined from starting desegregation, because it would be contrary to legislation passed by the last legislature.

Police Chief Potts, Dr. Cooper, a member of the Board of Education, and Little Rock School Superintendent Virgil T. Blossom were called on to testify. Blossom says that "Potts said he had found no

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[277]Virgil T. Blossom, It Has Happened Here (New York: Harper and Brothers, 1959), p. 59.

evidence of planned violence and Dr. Cooper said none was expected. . . . We made it clear, however, that we did not know what might be planned by persons outside of Little Rock."[278]

Placing special emphasis on the testimony of the Governor that there would be violence, Chancellor Reed granted the injunction. The School Board countered with a petition to the United States District Court, asking for an injunction to prevent anyone from using Chancellor Reed's order and from interfering with the Board's desegregation plan. On August 30, 1957, Federal District Judge Davies ruled that the state Chancery Court did not have authority to interfere with the operation of the School Board's plan, and ordered the Board to proceed with desegregation as planned on September third.

That evening the Little Rock School Board met with Governor Faubus. Governor Luther Hodges of North Carolina had issued a firm statement saying he would not tolerate violence in connection with school desegregation there, and again the School Board expressed the hope to Faubus that he would follow Hodges' example. "If I make such a statement," Faubus replied, "it would make me look like an integrationist."[279]

On Monday evening, September 2, 1957, only hours before the desegregated Central High School was to open for the new school year,

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[278] Ibid., p. 60.

[279] Ibid., p. 62.

Governor Faubus appeared on television. He reported that caravans of persons from other parts of the state were moving "peaceably" on Little Rock, and that there had been an unusually large sale of weapons in Little Rock.[280] The Governor pleaded for a delay in school desegregation, and concluded by stating that in the interest of public safety, Arkansas National Guardsmen had been placed around Central High School, and that they would be responsible for barring the entrance of Negro students.

An editorial in the Arkansas Gazette defined the constitutional issue:

> . . . Now it remains for Mr. Faubus to decide whether he intends to pose what could be the most serious constitutional question to face the national government since the Civil War. The effect of his action so far is to interpose his state office between the local school district and the United States Court. . . . Thus the issue is no longer segregation vs. integration. The question has now become the supremacy of the government of the United States in all matters of law. . . .[281]

The nation looked to the President for leadership. He probably was remembering the March 13, 1956 "Southern Manifesto" signed by 90 Members of Congress, as well as a West Coast statement made earlier by Adlai Stevenson, who told a group of Negroes ". . . that he would not use the Army to enforce the Supreme Court decision in the South,

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[280] Ibid. Superintendent Blossom states that subsequent investigation showed both statements were inaccurate. p. 74.

[281] Ibid., p. 78.

since it was such an action that had brought on the Civil War,"[282] when, at a July 17, 1957 press conference he said:

> I can't imagine any set of circumstances that would ever induce me to send federal troops . . . into an area to enforce the orders of a federal court, because I believe that the common sense of America will never require it. . . . I would never believe that it would be a wise thing to do.[283]

This statement, combined with Eisenhower's weak support for the 1957 civil rights bill could scarcely have filled Faubus with fear as he considered the possibility of Federal intervention.

On September fourth, Negro students attempted to enter Central High School, but were denied entrance by Arkansas National Guardsmen. On September fifth, believing that race rioting was imminent, the School Board petitioned Judge Davies for a delay in desegregation, but this was denied. The need for Federal assistance at this moment was spelled out subsequently by School Superintendent Blossom. Said he:

> The Board itself felt that all hands were raised against our honest and carefully prepared program for observing the Supreme Court decisions under very difficult circumstances. We had had no help from any branch of the government. . . .[284]

On September eighth, the FBI delivered a four hundred page report on responsibility for developments at Central High School to Judge

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[282]Morrow, op. cit., p. 32.

[283]Emmet John Hughes, Ordeal of Power, p. 243.

[284]Blossom, op. cit., p. 89.

Davies, who promptly ordered U.S. District Attorney Orso Cobb and U.S. Attorney General Herbert Brownell to file a petition for an injunction against Governor Faubus, Major General Sherman T. Clinger, the State Adjutant General, and Lieutenant Colonel Marion E. Johnson, Commander of the Arkansas National Guard troops stationed at Central High School. All were told to appear in court on September 20th.

On the same day that Judge Davies issued his order, Arkansas Congressman Brooks Hays called Sherman Adams, Assistant to President Eisenhower, and offered to assist in resolving the impasse. Adams said that should there be favorable answers to the following questions, steps could be taken to arrange a visit between President Eisenhower and Governor Faubus:

> 1. Would the Governor come with an attitude of constructiveness, with a give and take approach, with a desire to achieve something that would preserve the dignity and authority of law?
>
> 2. Would the Governor indicate that he expected to comply with court orders, that he would avoid defiance, and would accept jurisdiction of federal authority in the field of school integration?
>
> 3. Would the Governor indicate that "upon the President's request" he would remove the troops from the high school?[285]

The Governor replied "yes" to the first question, and gave qualified answers to the other two. On September 11th Faubus requested the

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[285]Brooks Hays, A Southern Moderate Speaks (Chapel Hill: The University of North Carolina Press, 1959), p. 138.

conference, and three hours later the President agreed to the meeting to be held the following Saturday at Newport, Rhode Island, where he was vacationing.

Attorney General Brownell was doubtful about the value of the meeting, but the President reasoned that the Governor must be coming to Newport to find some means of working out with the Federal government a procedure for achieving compliance with the court order, without surrendering his own prerogatives.[286] This uncertainty stemmed from the fact that the lines of communication were not open between Little Rock and the White House.

The September 14th meeting at Newport involved President Eisenhower, Governor Faubus, Sherman Adams, Congressman Hays, and, toward the end, James Hagerty and Attorney General Brownell. Hays says that timing was discussed, Faubus expressed the hope that the court would give him more time, but no definite conclusions were reached.

Judge Davies held a hearing on September 20th, and at the request of Mr. Brownell, he granted the petition for a temporary injunction prohibiting Governor Faubus and the National Guard from interfering with desegregation. Later that afternoon, the troops were removed by Faubus.

Little Rock school authorities then conferred with Little Rock police about security measures. Since the police did not wish to escort

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[286] Sherman Adams, op. cit., p. 350.

the Negro children to Central High School, Little Rock authorities asked the Justice Department if Federal marshalls could be provided for that purpose. That authority was not forthcoming.

By 8 a.m. on Monday morning, September 23rd, one thousand persons had gathered in front of Central High School. When the Negro students appeared, they immediately found themselves on the receiving end of verbal insults, kicks, and punches. Several adults accompanying them were brutally assaulted. By noon, the situation had deteriorated to the point that the local police secretly removed the Negroes from the school and took them home.

Before the day was out, President Eisenhower issued a proclamation from Newport, calling on the citizens of Little Rock who had been obstructing justice to cease and desist and disperse.[287]

On the same afternoon, September 23rd, Maxwell Rabb, Presidential Assistant on minority matters, telephoned Little Rock Mayor Mann, who suggested that Federal troops be called in. The mayor pointed out in a message to Eisenhower:

> The mob is much larger. . . . People are converging on the scene from all directions. Mob is armed and engaged in fisticuffs and other acts of violence. Situation out of control and police cannot disperse the mob. I am pleading with you as President of the United States . . . to provide the necessary troops within several hours.[288]

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[287] New York Times, September 24, 1957, p. 1.

[288] Blossom, op. cit., pp. 113-114.

At 5:30 a.m. on September 24th, Mayor Mann called Maxwell Rabb to learn if a decision had been reached, and learned that the matter was then in the hands of Herbert Brownell, and that no decision had been made as of that moment. At 8:00 a.m. the Mayor called Rabb again to say that the Presidential proclamation had not been effective, and that a huge crowd was then outside the high school, attempting to break through the police lines. Twenty-four minutes later Mayor Mann again called Rabb, who then said that Mann should prepare a telegram requesting Federal troops.

The telegram was sent at 9:15 a.m., and one hour later, President Eisenhower issued Executive Order 10730, "Providing Assistance for the Removal of an Obstruction of Justice Within the State of Arkansas." He ordered the Arkansas National Guard into Federal service, thus removing Governor Faubus's command, and sent one thousand members of the 101st Airborne Infantry Division to assist in maintaining peace and order at Central High School.[289]

The troops arrived the following day, and on September 25th, Negro students again begain attending Little Rock's Central High School. On November 6th the number of Federal troops was reduced to 250, and three weeks later they were removed, leaving Arkansas National Guardsmen. Eight of the nine Negro students completed the school year at Central

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[289]Corinne Silverman, The Little Rock Story (University, Alabama: The University of Alabama Press, 1958), p. 5.

High School.

A review of events leading up to the Little Rock crisis makes it apparent that the President was neither prepared for nor committed to decisive Federal action in Little Rock. The Chief Executive had been the captive of events and of the parochial sentiments of Governor Faubus. Little or nothing had been done to prepare for a constitutional crisis of these dimensions.

There is no public evidence available showing that the Department of Justice had prepared for contingencies similar to Little Rock in the interval between 1954 and 1957. More serious was the President's "over my dead body" doctrine, expressing his resolve not to use troops in the South, which seemed to remove from the realm of possible Federal actions the ultimate sanction of the law. Taken together with presidential statements casting doubt on the wisdom of the Supreme Court decision and desegregation by law, alone, this statement invited defiance and helped to create the need for the very force which the President declared he would not use.

The Administration showed in some respects that it had profited from the Little Rock experience. Subsequently marshalls were deputized and sent to Washington for training in police work and riot control, briefs were prepared in anticipation of action in the courts, and officials in the Department of Justice were delegated to study and keep in touch with developments in Little Rock and in Virginia. The Department of Justice

was from that point on careful to obtain accurate intelligence from the South while, at the same time, making certain that the point of view and intentions of the Federal government were given publicity.[290]

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School desegregation was an important element in President Eisenhower's proposals for a civil rights bill in 1960, but the major concern of that bill was voting, as had been the case three years earlier.

The first report of the United States Commission on Civil Rights, issued on September 9, 1959, dealt at length with voting. Five of the six commissioners recommended that the problem of interference with voting rights could be effectively dealt with by the appointment of temporary Federal registrars.[291] But at a press conference following his 1960 State of the Union message, President Eisenhower threw cold water on the proposal, stating that he didn't know whether it was constitutional. The Commission's initiative, however, without doubt did influence the direction of thinking on the voting aspects of the 1960 civil rights bill.[292]

After considerable delay and amid an air of hesitancy, the Eisenhower Administration did propose a civil rights program. The obvious deficiencies of the 1957 statute, together with criticisms of the

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[290]Longaker, op. cit., p. 170.

[291]Daniel M. Berman, A Bill Becomes A Law: The Civil Rights Act of 1960 (New York: The MacMillan Company, 1962), p. 35.

[292]Ibid., p. 39.

administration by the Civil Rights Commission joined with the urgencies of an election year to bring about the introduction of a full-scale administration program. The administration avoided the controversial Part III, therefore committing itself to a "moderate" approach, but it did support a new statutory provision for additional protection for voting rights by assisting Negroes to register, after rather complicated proceedings, with the help of local "referees" appointed by Federal district judges. The referee provision, said Longaker, with remarkable foresight,

> . . . was interlaced with enough procedural trip wires and ambiguity to make a decided increase in Negro voting under its provisions problematical at best. Nevertheless, small but significant amendments were added to ease the enforcement of the 1957 statute, and the referee provision itself promised a slow and modest advance if implemented by ingenious and determined administration by the Department of Justice.[293]

As passed by the Congress, the 1960 Civil Rights Act provided that a discriminatory act of a registrars "shall also be deemed that of the state and the state may be joined as a party defendant." Thus, if a registrar resigns, a "proceeding may be instituted against the state." The act further required that voting records be preserved for twenty-two months following any general, special, or primary election. It permitted the Attorney General to gain access to them for "inspection, reproduction, and copying" before filing suit in order to determine whether proceedings

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[293] Longaker, op. cit., p. 52.

were warranted.[294]

As indicated earlier, the Act provided for the appointment of judicial voting referees. Thus, if a district court, in a proceeding instituted under the 1957 Act, should find a "pattern or practice" of voting deprivation, it could appoint one or more Federal voting referees to receive applications from prospective voters who alleged that they had been denied an opportunity to register or otherwise qualify to vote. If the referee should agree with the prospective voter, he would report his findings to the court, which could then issue a decree ordering that the qualified voter be permitted to vote. Refusal to honor the decree would be punishable as contempt of court.

The 1960 Act did not deal with the question of discrimination and segregation in public accommodations - an issue which grew in importance beginning with the first sit-ins in Greensboro, North Carolina in the Spring of that year. As a result of increasing pressures growing out of the sit-in movement which followed the action at Greensboro, on June 1, 1960, Attorney General William P. Rogers met with representatives of several national variety stores and secured their promises to have their local managers confer with public officials and citizens' committees to work out means of desegregating lunch counters. On August 10th, the Attorney General announced that the national chains had made

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[294] Civil Rights Act of 1960, 74 Stat. 86.

good on their promises by desegregating counters in 69 southern communities.[295]

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As President Kennedy assumed office on January 20, 1961, and considered the many issues facing him as Chief Executive, including those civil rights problems outlined in Chapter II of this study, he was influenced by a number of factors, but high among them were the precedents established by his predecessors. Some of these precedents added to the power and responsibility of the national government and the presidency in the area of civil rights, some emerged as mistakes never to be repeated, but all of them provided a guide to the effective use of presidential power in dealing with a most complex set of problems.

President Franklin D. Roosevelt's experience showed that a dramatic effort to relieve the economic hardships of the nation and particularly of the less fortunate, which group includes a high proportion of Negroes in the United States, could yield huge political dividends - in the form of votes during presidential elections. But a new era in civil rights began after World War II, and therefore it was essential that Kennedy should recognize that an attack on economic problems, alone, including those of the Negro, without a concomitant effort in other civil rights areas, would imperil his political strength in the industrial North.

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[295]American Jewish Committee, Newsletter, August 11, 1960, p. 3.

In short, because of these new conditions, FDR's reluctance to act in the general civil rights field was no longer an applicable guide to the use of presidential power.

President Harry S. Truman's strong civil rights stand, contributing to the defection of a high proportion of southern Democrats from the Democratic party in 1948, demonstrated that an advanced civil rights position could be good politics. Truman's legislative proposals in 1948 were of such impact that they were reflected in the Civil Rights Acts of 1957 and 1960, and in the proposed Civil Rights Act of 1964; and his Executive Order in desegregating the Armed Services provided a significant precedent for Presidents who followed him.

The conclusion by Negro and other civil rights groups after World War II that they must turn from private negotiation to public bodies and particularly the national government in order to achieve civil rights gains; the almost revolutionary increase in the political power of civil rights forces, demonstrated dramatically as early as the 1948 elections; the added vitality of the equal protection clause of the Fourteenth Amendment as seen, for example, in the cases of Morgan v. Virginia in 1946,[296] Shelley v. Kraemer in 1948,[297] and Brown v. Board of Education in

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[296] 328 U.S. 373 (1946).

[297] 334 U.S. 1 (1948).

1954;[298] the new concept of national government and presidential responsibility in the civil rights field, stemming from the legislative and executive actions of President Truman, - meant that President Eisenhower was in power during a civil rights era that was without precedent in American history. The substantive problems were not necessarily greater, but the constitutional, legal, political and economic forces supporting civil rights progress had created a great surge, a dramatic, multi-faceted demand for civil rights progress - which at one and the same time brought about and ran head on against the solid and bitter determination of powerful forces in the Old South not to change. Demanded was creative and effective use of presidential power to help guide these dynamic forces, to the end that the nation could avoid a potentially disastrous conflict, and peacefully effect this transition.

President Eisenhower must be credited with increased national government activity in the area of equality of employment opportunity, in eventually making it clear through the example at Little Rock that the Federal government would enforce Federal court orders, and in supporting at varying levels of enthusiasm and effectiveness - the bills which led to the Civil Rights Acts of 1957 and 1960.

But leadership of a high order was required in this crucial period.

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[298] 347 U.S. 483 (1954).

Negroes found this lacking in President Eisenhower,[299] as did authorities in constitutional law. Said Professor Eugene V. Rostow, Dean of the Yale University Law School:

> The failure of Presidential leadership during the Eisenhower Administration allowed a situation to develop in the South - and to lesser extent in other parts of the country as well - that can only be described as a crisis in the rule of law. State and local officers, sworn to uphold the Constitution, have emerged with impunity in programs of open or covert resistance to what they know are the plain commands of the law.[300]

During the Kennedy Administration, civil rights emerged as one of the most complex issues facing the nation. The President's task was to fill the leadership vacuum created by President Eisenhower with effective use of presidential power in dealing with what soon was to become a crisis. Presidential precedent was an important and useful guide to action. So were a number of other factors, which will be reviewed in Chapter IV.

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[299]E. Frederick Morrow, op. cit., the top ranking Negro on the White House staff during the Eisenhower administration, commented as follows in his diary: "I feel ridiculous standing on platforms all over the country, trying to defend the Administration's record on civil rights. While it is true that the Administration has made more significant appointments than any other in recent history and that gestures have been made - such as sending troops into Little Rock to maintain law and order so that Negro children can go to school - there is no strong clarion commanding voice from the White House, righteously indignant over the plight of 18,000,000 Negroes in the United States, who are fighting for their God-given rights of human dignity and self-determination." p. 130.

[300]Eugene V. Rostow, "The Freedom Riders And The Future," The Reporter, June 22, 1961, p. 19.

CHAPTER IV

OTHER FACTORS INFLUENCING THE DEVELOPMENT OF THE KENNEDY ADMINISTRATION'S CIVIL RIGHTS PROGRAM

Among the important components in the effective use of presidential power are an understanding by the Chief Executive of his constitutional and legal authorities for action, and an ability to assess and manage the political, economic and social pressures which are brought to bear on him. This chapter will concern itself with some other factors which had a bearing on the civil rights programs of the Kennedy Administration: the evolution of John F. Kennedy's thinking about civil rights, an assessment of the growing political power of the Negro, the 1960 Democratic Convention and the presidential campaign which followed it, the relative importance of other problems facing Mr. Kennedy after he became President, the international aspects of United States' civil rights problems, and finally, a section dealing with the 1963 civil rights "crisis" and the organizations which articulated civil rights demands directed to the national government in general, and to the President in particular.

The Evolution of John F. Kennedy's Civil Rights Thinking

James MacGregor Burns, who has written one of the best political commentaries on Mr. Kennedy,[301] states that during the time he served in the House of Representatives, although Mr. Kennedy

> . . . had few close political friends, he was well liked by his colleagues in the House; and not only his fellow Democrats from New England, but many Southerners and Republicans as well felt that, despite his economic liberalism, he had special sympathy for them and their problems.[302]

But it was not possible to bracket Kennedy in any one narrowly defined political group. Thus, in 1953, despite his friendship for many southerners, in one of his first speeches in the Senate, he attacked discrimination directed against Negroes and other minority groups in government employment.[303] In a 1956 address he stated that

> . . . President Truman was returned to the White House in 1948 despite a firm stand on civil rights that led even to a third party effort in the South. . . . We might alienate southern support by the Supreme Court decision, but it is the law of the land.[304]

Nonetheless, at the 1956 Democratic National Convention, southerners overwhelmingly favored Kennedy over Estes Kefauver in the contest for

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[301] James MacGregor Burns, John Kennedy: A Political Profile (New York: Harcourt, Brace & World, Inc., 1961).

[302] Ibid., p. 98.

[303] Ibid., p. 135.

[304] New York Times, February 8, 1956, p. 1.

the Vice Presidential nomination.[305] Kefauver's tendency to act independently of and to sometimes embarrass southern Congressmen was probably an important contributing factor in this decision.

In 1957 Mr. Kennedy faced a sharp political dilemma in deciding how to vote on the 1957 Civil Rights bill. On the one hand, he had close ties with southern political leaders who had supported him for the Vice Presidency the previous year at Chicago; but on the other hand, bearing in mind his increasing interest in running for the presidency, he had to prove his liberalism to northern progressives.

The first vote on the civil rights bill threatened to place him in the embrace of Senator James Eastland of Mississippi, considered by many civil rights leaders to be the symbol of southern racism. Under normal Senate procedure, the civil rights bill passed by the House of Representatives would go through the Judiciary Committee of the Senate, chaired by Mr. Eastland, prior to reaching the Senate floor. Knowing of Mr. Eastland's capacity for stalling tactics, liberals sought to invoke a rarely used Senate rule which would permit the bill to by-pass the Judiciary Committee.[306]

Senator Kennedy did not agree with that procedure. The temporary

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[305]Harry Golden, Mr. Kennedy And The Negroes (Cleveland, Ohio: World Publishing Company, 1964), p. 127.

[306]Burns, op. cit., p. 201.

advantage to be gained by by-passing Eastland's committee, he said, would not be worth a dangerous precedent, which liberals subsequently would regret. He argued that a discharge petition could be used to get the bill out of the Judiciary Committee. Most liberals, however, favored the by-pass, and that procedure was adopted by the Senate.

The most controversial section of the bill was Part III, which would have authorized the Attorney General to use injunctive power to enforce school desegregation and other civil rights, relieving many Negroes of the costs of expensive civil suits. Mr. Kennedy, to the surprise of many, supported that section publicly on the floor of the Senate. He said that the debate over Part III had persuaded the nation and the world that the vote on it would be taken as a stand for or against the Supreme Court decision on school desegregation. "My own endorsement of that decision, and its support in the State I have the honor, in part, to represent, has been too clear to permit me to cast a vote that will be interpreted as a repudiation of it," he said.[307] However, a conservative Democratic and Republican coalition defeated that part of the bill.

At that point, politically, Kennedy's political score was one-to-one: he had supported the South on the question of the Senate's following regular procedure by chanelling the bill to Eastland's Committee; and

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[307] Ibid., p. 202.

he had pleased the industrial North and other civil rights groups by his position on Part III. However, the test of his thinking on the civil rights bill was not yet over, but was reached in the debate on the issue of jury trials.

Many Senators, including some liberals and moderates, were disturbed because the bill did not include a requirement for jury trials in criminal contempt cases involving voting rights. Other liberals feared that the insertion of such a requirement would place the enforcement of voting rights in the hands of white southern juries, which would rule in favor of white election officials, regardless of the charges.

Now Senator Kennedy was caught in what Burns describes as ". . . the severest pressure he had known in the Senate."[308] Labor, ADA and NAACP leaders informed Kennedy of their bitter opposition to the jury trial amendment proposed by Senator O'Mahoney. Southern governors wired Kennedy urgent requests to vote for the amendment.

Mr. Kennedy turned to a group of legal advisors for advice, and they concluded that the jury trial amendment probably would not hurt the effectiveness of the bill in a major way. Professor Paul Freund of Harvard, for example, said that the O'Mahoney amendment would not seriously weaken the bill. Kennedy found that these arguments supported his political thinking, and he decided to back the jury trial amendment.

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[308] Ibid., p. 203.

In a Senate address on this subject, Senator Kennedy said that the major portion of the civil rights bill would be left intact in that the civil contempt power of Federal judges could be used effectively in behalf of persons wishing to vote. Congress could, if necessary, strengthen the legislation in the future. Finally, he said, as a practical political matter, southerners might filibuster the bill to death unless they got jury trials.[309]

Kennedy faced the scorn of civil rights groups. Roy Wilkins, Executive Secretary of the NAACP, assailed Kennedy as a "compromiser with evil." Kennedy became alarmed, sought to explain his position, but Wilkins refused, according to Kennedy critic Victor Lasky, to acknowledge Kennedy's letters.[310] Later, however, they "made up."

James Reston, writing in the New York Times, pointed out that the South,

> which had supported his candidacy for the Vice Presidential nomination in the early ballots at Chicago last summer, would not take kindly to any Presidential candidate who insisted on rejecting the jury trial principle of the bill.
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> It may be, of course, that Mr. Kennedy was merely persuaded by the philosophical and historical

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[309] Ibid., p. 204.

[310] Victor Lasky, JFK: The Man And The Myth (New York: The MacMillan Company, 1963), p. 251. Although Lasky is bitterly biased against Mr. Kennedy, checks by this writer indicate that although his book contains some gross errors, by and large his facts appear to be accurate.

> arguments about the tradition of jury trial and decided to brave the wrath of those who favored the Administration's policy. But, in any event, his vote eventually went to Mr. Johnson, when before it had been confidently expected by Mr. Knowland.[311]

Said Negro leader Mrs. Marjorie Lawson, who, along with her husband, Belford, was put on the Kennedy payroll at about that time in order to assist the Massachusetts Senator on civil rights matters:

> I believe that Jack is for equality and that he realizes that this must start with economic equality, equality of opportunity. He is a practical man and this is a practical approach. Certainly I was disappointed on his voting /on the jury trial amendment/ on the civil rights bill. He made a mistake. Everyone can make a mistake. You can't discard a person because of a single mistake.[312]

Biographer Burns concluded that in his decisions on the 1957 civil rights bill, Kennedy ". . . showed a profile in caution and moderation."

> He walked a teetering tightrope; at the same time that he was telling liberals of the effectiveness of a bill that included the O'Mahoney provision, he was assuring worried Southerners that it was a moderate bill that would be enforced by Southern courts and Southern juries. /Burns's italics/ .
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> For moderate liberals like Kennedy, the issue boiled down to the practical one of how strong a bill could be gained in the existing legislative situation. He insisted that he would not surrender principle for the sake of

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[311] Ibid., p. 250.

[312] Ralph G. Martin and Ed Plaut, Front Runner, Dark Horse (Garden City, New York: Doubleday & Company, 1960), p. 197.

> expediency; indeed, the main question he directed at his civil-libertarian friends was whether the O'Mahoney amendment did involve a "betrayal of principle," and was assured by them that it did not.[313]

With Senator Kennedy's civil rights beliefs still under fire, in the fall of 1957 he flew to Jackson, Mississippi to deliver a campaign speech. He was told after arriving that the Republican state chairman had challenged him to declare himself on school desegregation. Speaking to this southern audience, shortly after Little Rock, Kennedy demonstrated the adroitness which characterized his presidential press conference performances after January, 1961. Said he:

> I have no hesitancy in telling the Republican chairman the same thing I said in my own city of Boston, that I accept the Supreme Court decision as the supreme law of the land. I know that we do not all agree on that issue, but I think most of us do agree on the necessity to uphold law and order in every part of the land.[314]

There was not a sound from the audience. "And now I challenge the Republican chairman to tell where he stands on Eisenhower and Nixon," Kennedy said. This time, Burns says, the crowd broke into cheers.[315]

Following the Jackson address, Doris Fleeson, writing in the St. Petersburg Times on October 24, 1957, noted the South's disappointment at Kennedy's more liberal stand. Said Miss Fleeson:

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[313] Burns, op. cit., pp. 204-205.

[314] Ibid., p. 205.

[315] Ibid., p. 206.

> Senator John F. Kennedy's romance with the South, one of the most provocative features of the 1956 Democratic Convention, is the latest victim of Little Rock. . . . Since his return to Washington /from Mississippi/ his mail, a part of it written more in sorrow than in anger, has indicated that he cannot expect from the South in 1960 the same support, which in coalition with big state delegations, almost put him over for the vice presidential nomination last year. . . ."[316]

Clearly, Kennedy was seeking to please both the North and the South, but in 1958 and 1959 he seemed to make little significant progress with either. Appearing on a "Meet the Press" television program following his re-election victory as a United States Senator from Massachusetts in November, 1958, he was asked whether he thought Eisenhower was doing all he could to bring about compliance with Supreme Court decisions. Said Senator Kennedy in reply:

> I think probably looking back since 1954 I would say that he has not done it in perhaps the way other people might have. I think perhaps in recent months that he has done the best he can, yes.[317]

Civil rights leaders, long critical of President Eisenhower's vacillation in dealing with school desegregation, found this reply most unsatisfactory. They were even less happy when in June, 1959, thirteen months before the 1960 Democratic Convention, Alabama's Governor John Patterson announced that he favored Kennedy for the presidency.

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[316]Golden, op. cit., p. 130.

[317]New York Post, November 16, 1958, p. 9-M.

This came after Patterson and Sam Englehardt, a leader of the White Citizens Councils of the South, had breakfasted with Kennedy at his Georgetown home in Washington, D.C.[318] "If elected," Patterson said, "Senator Kennedy will be sympathetic to the problems of the South."[319] Later that month, on June 29, 1959, Representative Adam Clayton Powell called on delegates to the 1960 Convention to "repudiate" Kennedy as a presidential candidate because of his acceptance of support from "Negro-hating" Alabama officials.[320]

Asked by a newsman how he expected to retain the support of southerners like Governor Patterson and win Negro support, Kennedy replied:

> Well, Governor Patterson has announced his support of me, and as far as I know that support still stands. It seems to me the real question here is that if - I think I have made my views quite precise on civil rights. I hope I have. I am delighted to do so at any time in the future. If anyone then decides they want to support me knowing what my views are, it seems to me that is within their rights. That goes for anyone in the Democratic party.[321]

On January 2, 1960, Senator Kennedy announced his candidacy for the presidency. He stated the "real issues for 1960" as follows:

> How to end or alter the burdensome arms race, where Soviet gains already threaten our very existence; how

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[318] Lasky, op. cit., p. 252.

[319] Ibid., p. 253.

[320] Washington Star, June 30, 1959, p. 4.

[321] Lasky, op. cit., p. 254.

> to maintain freedom and order in the newly-emerging nations; how to rebuild the stature of American science and education; how to prevent the collapse of our farm economy and the decay of our cities; how to achieve, without further inflation or unemployment, expanded economic growth benefiting all Americans; and how to give direction to our traditional moral purpose, awakening every American to the dangers and opportunities that confront us.

In short, civil rights did not appear on his agenda of priority issues.[322]

However, Kennedy's posture with civil rights groups did improve during debates on the 1960 civil rights bill, when, despite absences on several important quorum calls, he generally aligned himself with Senate liberals.

Indeed, a more clearly defined Kennedy position on civil rights was beginning to emerge as time for the 1960 Democratic Convention grew nearer. One reason may well have been his recognition of the political importance of the Negro vote.

The Negro Vote

Until 1936, the Negro vote was regarded by the Republican party as one of the safest of fixed assets - a kind of perpetual monument to

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[322] Ibid., p. 253. Despite this omission, it is important to remember that in 1958 and 1959 Kennedy backed many liberal measures, including comprehensive housing legislation, he introduced a ten point "bill of rights" for improved living conditions for older people; introduced the first Senate bill to outlaw the bombing of homes, churches, schools, and community centers; continued to advocate statehood for Alaska and Hawaii (considered a civil-rights matter by southerners); and worked for an anti-lynching bill and an anti-poll tax bill. Burns, op. cit., p. 268.

Reconstruction days. But Franklin D. Roosevelt's WPA, public housing, and social security changed a whole racial alliance almost overnight, and from 1936 to 1952 close to 80% of Negroes voting did vote for Democratic presidential candidates.[323] Increasingly, the Negro became an important part of the coalition which kept Democrats in the White House until the Eisenhower victory in 1952.

Truman's 1948 election victory, despite his strong civil rights stand, showed Negroes that increasingly the political facts of life were on their side, and the 1954 Brown decision[324] caused them to conclude that the Constitution, too, was on their side. Negroes were moving in increasing numbers from the rural South to the industrial North and to states with large blocs of electoral votes, which further increased their sense of strength and confidence.

Partly because of the Brown decision, however, a shift in the Negro voting pattern occurred in the 1956 presidential election. While Eisenhower had won relatively few Negro votes in 1952, in 1956 he won a majority of the Negro vote in a number of northern cities and in several southern cities.[325] Richard Lyons, a reporter for The Washington Post reviewed the results in 22 cities and concluded:

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[323]Robert Bendiner, "The Negro Vote and the Democrats," The Reporter, May 31, 1956, p. 8.

[324]347 U.S. 483 (1954).

[325]Anderson, op. cit., p. 138.

> In every city surveyed, President Eisenhower won a larger percentage of the Negro vote than he did in 1952. And further: while Negro leaders gave various reasons for the change, the vote pattern indicated that the overriding issue was civil rights. . . .[326]

Shoemaker indicates that in 86 urban centers with a high concentration of Negroes, Eisenhower increased his share of the votes from 25% to 36%; and southern Negro precincts, which gave Eisenhower 19% of their vote in 1952, gave him 47% in 1956.[327] Partly as a result of his appeal to Negroes, Eisenhower carried six southern states in 1956.

The tendency of Negroes to relate the Brown decision to Eisenhower was a factor, but so was the increasing dissatisfaction of Negroes with the Democratic party in the early nineteen fifties. Said Clarence Mitchell, Director of the NAACP's Washington Bureau: "If the Democratic party persists in weighing itself down with such an 'albatross' as Senator Eastland, it may have to kiss our votes good-by."[328]

Adlai Stevenson was also the target of criticism by Negroes. At the height of reactions over the expulsion of Miss Autherine Lucy by the University of Alabama, and the murder of Emmet Till, Stevenson said:

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[326] Ibid., p. 139.

[327] Don Shoemaker, ed., With All Deliberate Speed: Segregation-Desegregation in Southern Schools (New York: Harper & Brothers, 1957), p. 117.

[328] Bendiner, op. cit., p. 9.

> We must preceed gradually. We cannot by the stroke of a pen reverse customs and traditions that are older than the Republic. We will not improve the present condition . . . by coercive Federal action. . . .[329]

But by this time, "gradualism" was a red flag to Negroes. These factors, taken together with the signing of the "Southern Manifesto" by such Democratic party stalwarts as Senators Hill, Sparkman and Fulbright, seriously impaired Negro support for the Democratic party. It was critically important that this trend be reversed in 1960.

An analysis of the Negro voting potential in 1960 showed major shifts of Negroes from the South to the North, and significant increases in Negro population in northern industrial cities. Whereas in 1910, 90% of all American Negroes lived in the states of the old South, the 1960 census revealed that only 52% of American Negroes still lived in that area.[330] By 1960, Washington, D.C. became the first major city in the world to count a Negro majority in its population, with Negroes representing 54% of the total, as compared to a figure of 35% there in 1950. New York's Negro population had grown from 775,000 in 1950 (9.8%) to 1,087,000 in 1960 (14% of the total). 26% of Philadelphia's population was composed of Negroes, 29% of Detroit's, and the Negro population of Newark, New Jersey had almost doubled from 1950 to

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[329] Ibid., p. 10.

[330] White, The Making Of The President 1960, op. cit., p. 231.

1960, going from 75,000 (17%) in 1950 to 138,000 (35%) in 1960.[331]

Analyses completed by Kennedy in 1960 would have shown him that Negroes would be found in large numbers in big-city states which carry large blocs of electoral votes. Illinois, Pennsylvania, New York and Michigan in 1960 had 132 electoral votes, or almost exactly half the number needed to elect a President. In each of these, the major city of the state harbored a Negro vote that could have meant the difference between success and failure in a national election. The "winner take all" aspects of the Electoral College meant that these large cities carried unusual power in major elections. The Negro vote, in short, had become a factor of major importance.

The 1960 Democratic National Convention and the Democratic Presidential Campaign

Woodrow Wilson could afford to maintain a cool distance between himself and Negro groups, Hoover was able to remain aloof in what came to be called "the lily-White House," and Franklin D. Roosevelt never found it politically necessary to press for a civil rights program in the Congress. But beginning in 1948, presidential candidates found it

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[331] Ibid., p. 232. Helen Fuller in Year of Trial: Kennedy's Crucial Decisions (New York: Harcourt, Brace and World, 1962) indicates the percentage of Negroes found in 1960 in other large population centers, each influencing a significant electoral vote: St. Louis: 28.6%, Cincinnatti: 21.6%, Los Angeles - 13.5%, Memphis, Tennessee - 37%, Pittsburgh - 16.7%, Buffalo - 13.3%, New Orleans - 37.2%, Cleveland - 28.6%, Chicago - 22.9%, Atlanta - 38.3%, and Houston - 22.9%, pp. 112-113.

essential to give increasing attention to the Negro vote. This was one reason for the civil rights position taken by John F. Kennedy at the 1960 Democratic National Convention and in the presidential campaign which followed.

Conscious of the necessity of appealing to the Negro and the broader "civil rights" vote, on June 23, 1960, Senator Kennedy addressed a meeting of the Liberal Party of New York, and said that he hoped to win the Democratic nomination for President without a single southern vote. He said he regarded civil rights as a moral question, presumably meaning that it was above politics.[332]

Nonetheless, Kennedy entered the Convention without significant support among Negroes. He knew few Negroes. In 1957 he had employed Marjorie and Belford Lawton to assist him in improving his posture among Negroes and other civil rights groups, and just prior to the 1960 Democratic National Convention, Louis Martin, former Executive Editor of the Chicago Defender, known widely as a prominent Negro leader, joined the Kennedy organization on a full-time basis. "In the process of seeking Negro votes," said Martin, "Kennedy began to understand Negro problems."[333]

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[332] Golden, op. cit., p. 130.

[333] Interview by the writer with Louis Martin, Deputy Chairman, Democratic National Committee, Washington, D.C., on February 12, 1964.

Prior to the Convention, Mrs. Franklin D. Roosevelt had said that Senator Kennedy could not get the Negro vote. On July 12th, 1960, Congressman Adam Clayton Powell stated that Kennedy was "in trouble with the Negro voter, particularly in New York." He said it was his opinion and that of Thurgood Marshall, of the National Association for the Advancement of Colored People, that Mr. Kennedy had not explained satisfactorily his breakfast meeting in 1959 with Governor John Patterson of Alabama, and Sam Englehardt, former head of the White Citizen's Council of Alabama.[334] Theodore White, in his The Making of The President 1960 claimed that Kennedy entered the Convention as the least popular among Negroes of all Democratic candidates. Many northern Negro politicians, White says, preferred even Lyndon Johnson to Kennedy.[335]

Analyses of the 1960 National Republican and Democratic platforms show that both were ahead of their respective 1956 positions on civil rights. Roy Wilkins, speaking for the Leadership Conference on Civil Rights, said that in 1960 for the first time, both parties favored eliminating segregation and other forms of discrimination from all areas of community and national life, and both reaffirmed support of the historic right of peaceful protest "against the indignities and injustices

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[334] New York Times, July 13, 1960, p. 22.

[335] White, op cit., p. 354.

of discriminatory treatment."[336]

The Democratic platform included these statements on civil rights:

> Voting: We will support whatever action is necessary to eliminate literacy tests and the payment of poll taxes as requirements for voting.
>
> Education: A new Democratic Administration will also use its full powers - legal and moral - to ensure the beginning of good-faith compliance with the Constitutional requirement that racial discrimination be ended in public education.
>
> We believe that every school district affected by the Supreme Court's school desegregation decision should submit a plan providing for at least first-step compliance by 1963, the 100th anniversary of the Emancipation Proclamation.
>
> Legal Protection: For this and for the protection of all other constitutional rights of Americans, the Attorney General should be empowered and directed to file civil injunction suits in Federal courts to prevent the denial of any civil right on grounds of race, creed, or color.
>
> Housing: Similarly, the new Democratic Administration will take action to end discrimination in Federal housing programs, including Federally assisted housing.[337]

The civil rights plank in the Democratic platform signified a major shift in the forces which had controlled the party since 1956.

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[336]Leadership Conference on Civil Rights, "Statement on Civil Rights Plank of Republican Platform by Roy Wilkins," dated July 27, 1960, p. 1.

[337]Kirk H. Porter and Donald Bruce Johnson, National Party Platforms, 1840-1960 (2d ed., Urbana, Illinois: University of Illinois Press, 1961), pp. 599-600.

Although Democratic party chairman Paul Butler and former Ambassador Chester Bowles played major roles in bringing about this change, Anthony Lewis, writing in the New York Times on July 13, 1960, found that the dominant force in 1960 for a strong civil rights plank was John F. Kennedy. "In fact," said Lewis, "Senator Kennedy is the one candidate who has run a full-scale civil rights operation out here, with a breakfast every morning and constant button-holing of delegates by civil libertarians friendly to the Senator." He went on to point out that Kennedy had little southern support and had had no strong pressure to take a soft position on civil rights.[338]

Speaking in Los Angeles on September 9, 1960, following his nomination by the Democratic National Convention, Kennedy outlined his concepts of presidential civil rights responsibilities:

> When our next President takes office in January, he must be prepared to move forward in the field of human rights in three general areas: as a legislative leader, as Chief Executive, and as the center of the moral power of the United States. . . . As a moral leader, the next President must play his role in interpreting the great moral and educational forces which are involved in our crusade for human rights. He must exert the great moral and educational force of his office to help bring equal access to public facilities from churches to lunch counters, and to support the right of every American to stand up for his rights, even if on occasion he must sit down for them. For only the President, not the Senate and the House and not the Supreme Court, in a real sense, only the President can create the understanding and tolerance necessary as the spokesman for all the American people, as the symbol

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[338] New York Times, July 13, 1960, p. 20.

of the moral imperative upon which any free society is based.[339]

Although many of Senator Kennedy's campaign speeches included quotations from speeches by President Lincoln, references to the importance of achieving further civil rights advances, as well as critical comments about the inadequate records of Vice President Richard Nixon and the Eisenhower administration in the civil rights field, on only a few occasions during the campaign did he explain in detail his own civil rights plans, if elected president. However, this question was partially answered in Minneapolis one month before the election, when he was asked from the audience, following an address: "What legislation do you have in preparation on the civil rights issue?" Said the Senator:

> I think I will say two or three things. First, there is a good deal that can be done by the Executive branch without legislation. For example, the President could sign an executive order ending discrimination in housing tomorrow. Second, the President could compel all companies which do business with the government, and, after all, this is nearly every American company, to practice open, fair, hiring of personnel without regard to race, creed or color. . . . In addition, the Department of Justice can pursue the right to vote with far more vigor. The Vice President's Commission on Contracts has been completely ineffective. It has not instituted one suit outside of the District of Columbia. So I would say that the greater opportunity is in the Executive branch without Congressional action.
>
> The things I would ask the Congress to do are twofold. First, to pass title 3, which gives the Attorney General additional powers to institute suits to provide for

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[339] Golden, op. cit., pp. 168-169.

> constitutional rights. Secondly . . . provide technical assistance to school districts that are trying to desegregate.[340]

Not only did Kennedy state his position on these actions which should be taken by the executive and legislative branches of the government, but he also indicated his support for the Freedom Riders and sit-in protests, at a time when no other prominant national political leader was willing to take such an extreme stand.[341]

Despite the importance of these statements by Kennedy, they were dwarfed in significance in relation to his stand on the jailing of Dr. Martin Luther King, Jr.

During the summer of 1960, Mayor William Hartsfield of Atlanta, Georgia was involved in efforts designed to convince businessmen to desegregate their facilities. In the course of these negotiations, Harris Wofford, formerly a Professor of Law at the University of Notre Dame, then on the staff of presidential candidate Kennedy, telephoned Harold Fleming, then Executive Director of the Southern Regional Council in Atlanta, to discuss the Atlanta situation. Fleming suggested that someone in the Kennedy organization give Hartsfield a "pat on the back."

In a subsequent meeting with Negro leaders, Mayor Hartsfield said that persons close to John F. Kennedy had called to express their

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[340] Fuller, op. cit., pp. 114-115.

[341] Golden, op. cit., p. 172.

interest in desegregation in Atlanta. Soon the story was on the news wires: Senator Kennedy had been in close touch with the Atlanta racial situation.[342]

Dr. Martin Luther King, Jr. had been arrested earlier in the course of a demonstration in Atlanta. Prior to his Atlanta arrest, he had been picked up in DeKalb County, Georgia on a charge of driving without a license. The law in that county provides a stiff jail sentence for such a violation, but at the moment, King was placed on probation. However, following his release from the Atlanta jail, he was picked up and sentenced to four months of hard labor in the state penitentiary by DeKalb County authorities, who claimed that he had violated his probation.

On the afternoon Dr. King was committed to the penitentiary, Deputy United States Attorney General Lawrence E. Walsh composed a draft statement to support the application for release of the imprisoned minister. Two copies of the draft were sent out immediately for approval - one to the White House, and one to Vice President Nixon's traveling headquarters, then in Ohio.[343] Presidential Assistant E. Frederick Morrow, a Negro, then traveling with the Nixon campaign, states in his diary:

> I begged the Nixon managers by memo and in person, to have the Vice President make a statement deploring the

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[342]This account is based on a conversation between the writer and Mr. Harold Fleming, now Executive Vice President, The Potomac Institute, in Washington, D.C. on February 5, 1964.

[343]White, op. cit., p. 94.

> situation under which King was jailed. They demurred. They thought it bad strategy.
>
> The next day I joined the Nixon campaign train in Illinois. I urged his press secretary to have him take some action. I even drafted a telegram for the Vice President to send to the Mayor of Atlanta. The press secretary put the draft in his pocket to "think about it."[344]

Morrow reports that as early as January, 1959, Republican National Committee leaders had indicated decreasing interest in the Negro vote. He submitted numerous campaign suggestions, but found that most of his ideas were dismissed. He took two months leave without pay from his White House position during the campaign, but despite earlier promises from Leonard Hall that he would play an important role in the campaign, he received no expense money, had no clerical help, was given no literature, and his advice was never sought on civil rights matters.[345]

Louis Martin, now Deputy Chairman of the Democratic National Committee, says that the question of what action Senator Kennedy should take on the jailing of Dr. King, received the immediate attention of the Civil Rights Unit of the Kennedy campaign. This group was headed by Kennedy's brother-in-law, R. Sargent Shriver, and included Frank Reeves, Harris Wofford, and Louis Martin.[346]

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[344]Morrow, op. cit., p. 213.

[345]Ibid.

[346]Martin interview.

Three southern governors informed Kennedy headquarters that if he intruded in southern affairs to support or endorse Martin Luther King, then the South could be given up as lost to the Democratic ticket.[347] On the other hand, the Kennedy campaign group faced the fact that Martin Luther King was a genuine hero in the minds of most American Negroes, many of whom feared he would be lynched. The Civil Rights Unit of the Kennedy campaign faced a crisis.

On Tuesday evening, October 25th, Harris Wofford conceived the idea of Senator Kennedy's telephoning Mrs. King in Georgia to express his concern. Throughout the evening Wofford tried to reach Sargent Shriver, and finally located him early Wednesday morning, October 26th. Shriver reached Senator Kennedy at O'Hare Inn at Chicago's International Airport, and the candidate immediately telephoned Mrs. King, assuring her of his interest and concern in her suffering and, if necessary, his intervention. Robert Kennedy proceeded even further, and the following morning he telephoned a plea for King's release to the Georgia judge who had set the sentence. On Thursday, Dr. King was released from the Reidsville prison.[348]

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[347] White, op. cit., pp. 321-322.

[348] White, op. cit., p. 322.

Under Wofford's direction, a huge quantity[349] of a special brochure entitled "No Comment Nixon vs. a Candidate With a Heart, Senator Kennedy," were distributed to Negroes outside their churches on the Sunday before the election. Louis Martin said that a small staff telephoned practically every important Negro newspaper editor in the country. Every effort was made to get directly to Negroes through selected channels, avoiding the boomerang effect that could have resulted had the Kennedy campaign relied on the regular wire services.[350]

Reactions from Negro leaders came immediately. Said the Reverend Ralph Abernathy, Dr. King's associate in the successful Montgomery, Alabama bus boycott:

> I earnestly and sincerely feel that it is time for all of us to take off our Nixon buttons. Now I have made up my mind to vote for Senator Kennedy because I am convinced he is concerned with our struggle. . . . Senator Kennedy showed his great concern for humanity when he acted first without counting the cost. He risked his political welfare in the South. . . . We must offset whatever loss he may sustain.[351]

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[349] There is considerable dispute as to the exact number printed. White, op. cit., p. 323, reports that one million were distributed; Fuller, op. cit., p. 114, places the figure at two million; and in an interview with this writer on February 12, 1964, Louis Martin, Deputy Chairman of the Democratic National Committee, stated that the total produced by the Kennedy organization and cooperating organizations came to 17 million copies.

[350] Louis Martin interview.

[351] Fuller, op. cit., p. 114.

The father of Dr. Martin Luther King, Jr., himself a Baptist minister, who had come out for Nixon a few weeks earlier, principally on religious grounds, switched. Said he:

> Because this man was willing to wipe the tears from my daughter /in-law/'s eyes, I've got a suitcase of votes, and I'm going to dump them in his lap.[352]

It would be impossible for a political analyst to identify any one episode as being more important than any other in the final election count. Yet, bearing in mind the closeness of the presidential election popular vote, the importance of Kennedy's attention to the Negro vote becomes apparent when one remembers that Illinois was carried by only 9,000 votes, and that 250,000 Negroes there are estimated to have voted for Kennedy; that Michigan was carried by 67,000 votes and that an estimated 250,000 Negroes are estimated to have voted for JFK; and that South Carolina was carried by 10,000 votes, and that an estimated 40,000 Negroes there reportedly voted for Kennedy.[353]

An analysis of the 1960 election conducted subsequently by the Republican National Committee showed that in New York, Pennsylvania, New Jersey, Maryland, Michigan, Minnesota and Illinois, Republicans captured the outstate pluralities, but lost each of these states because of Democratic strength in the major cities. Kennedy's 1960 plurality in large cities in those states was 2,117,574 greater than the Democratic

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[352] White, op. cit., p. 323.

[353] Ibid., pp. 323-324.

plurality there in 1956.[354] These states are considered critical to the winning of a presidential election; Eisenhower captured each of them in 1956, but all went to Kennedy in 1960.

Kennedy's post election analysis would also have indicated to him the significance of the Negro vote in 1964, when eleven states will have 268 electoral votes, or 2 less than those required to elect a President. In each of them there is a concentration of population in metropolitan areas, and in the larger metropolitan areas of those states, Negroes represent a significant proportion of the voters. Here are the relevant data:

State	1964 electoral vote	Percentage of state population in metropolitan areas of more than 500,000 population	Major city	Percentage[355] Negro population in 1960
New York	43	81.3%	New York	14.7%
California	40	78.6%	Los Angeles	16.8%
Pennsylvania	29	52.8%	Philadelphia	26.7%
Illinois	26	66.5%	Chicago	23.6%

[354]Republican National Committee, "The 1960 Elections: A Summary Report With Supporting Tables" (Washington, D.C.: Republican National Committee, August, 1961), p. 16.

[355]With the exception of data in right column, this information was derived from Republican National Committee publication, op. cit., p. 44. Information on percentage of population in major cities which is Negro was derived from U.S. Housing and Home Finance Agency, Our Non-White Population And Its Housing: The Changes Between 1950 and 1960 (Washington, D.C.: U.S. Government Printing Office, 1963), p. 4.

State	1964 electoral vote	Percentage of state population in metropolitan areas of more than 500,000 population	Major city	Percentage Negro population in 1960
Ohio	26	52.1%	Cleveland	28.9%
Texas	25	37.5%	Houston	23.2%
Michigan	21	48.1%	Detroit	29.2%
New Jersey	17	69.9%	Newark	35.0%
Florida	14	33.9%	Miami	--
Massachusetts	14	52.6%	Boston	--
Indiana	13	29.7%	Indianapolis	--
	268			

It should be noted that the percentage of the population of these cities which is Negro has been increasing at a dramatic rate in recent years, and therefore it could be safely assumed that the figure would be even higher at the time of the 1964 elections.

Election data showed that 78% of the Negro vote went to Kennedy in 1960.[356] After the election, Dr. Martin Luther King, speaking to the newly formed Emancipation Proclamation Association pressed his advantage: "The Negro vote elected Kennedy," he said, "and we must not hesitate to remind him of that."[357] Like Truman, Kennedy acknowledged that if it had not been for the votes of Negroes, he probably would

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[356]William Brink and Louis Harris, The Negro Revolution in America (New York: Simon and Schuster, 1964), p. 81.

[357]Fuller, op. cit., p. 114.

not have gained the White House.[358] Certainly this was a factor of major importance as he determined what civil rights actions he would take as President of the United States.

Important though civil rights problems were to the national government in early 1961, however, Kennedy had to consider the actions he would take in dealing with them within the context of his broader presidential responsibilities.

Other Major Problems Facing the Kennedy Administration

Two days before his inauguration, President-elect John F. Kennedy and some of his advisers met at the White House with President Eisenhower and some members of his Cabinet. The group included Dean Rusk, Robert McNamara, C. Douglas Dillon, Christian Herter, Thomas S. Gates, and Robert Anderson. Subject by subject they went down to agenda - Laos, Cuba, the balance of payments, and Africa. Pointing to Asia on the map, Eisenhower said to Kennedy: "This is one of the problems I'm leaving with you that I'm not happy about. We may have to fight."[359]

Strife continued in the Congo, heightened by the murder of Congolese leader, Patrice Lumumba. Laos troubled Kennedy. He read a

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[358]Brink and Harris, op. cit., p. 79.

[359]Hugh Sidey, John F. Kennedy: A Reporter's Inside Story (New York: Atheneum Publishers, 1963), p. 38.

translation of Cuban Che' Guevera's book on guerilla warfare, La Guerra Da Guerrials, selected works on Chinese Communist guerilla tactics by Mao Tse-tung, and four volumes on guerilla warfare which Secretary of Defense McNamara brought him from the Pentagon. Not satisfied, he called in Admiral Harry Felt from the South Pacific for a report, and read biographies of Premier Boun Oum and exiled Premier Souvanna Prouma.[360]

Early in his Administration, Kennedy faced a disastrous defeat for the United States in Cuba. Training of exiled Cubans had begun under the Eisenhower Administration, and preparations continued under the Kennedy administration, but with the specific guideline that the United States would help and guide the invasion force, but would not at any time intervene with its own military might.[361] In order to risk no misunderstanding, one week before the invasion, Kennedy sent a CIA emissary to Guatamala to impress that condition on rebel leaders once more. The reservation had a particular bearing on air power.[362]

Two air strikes at Cuba were planned originally, but because of adverse reactions over the first, the second was cancelled. By the evening of April 17, 1961, it was clear that disaster loomed. Kennedy left a reception for Congressmen at the White House to meet with his

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[360] Ibid., pp. 76-77.

[361] Ibid., p. 125.

[362] Ibid., p. 128.

advisers until 4 a.m.[363] On the following morning, April 18th, Cuban Brigade 2506 laid down its arms and marched toward Castro's prisons.[364] It was a major blow to the Kennedy administration.

In early June, 1961, Kennedy met with Khrushchev at Vienna. Their talks lasted through eleven hours, two lunches, and a walk by the two men and their interpreters. Kennedy's sense of depression grew as the Russian Premier admitted the disastrous aspects of a nuclear war, but ruled out any concessions as a means of avoiding it.[365]

Foreign affairs problems continued to press in on the President. During the summer of 1961, Russian astronaut, Gherman Titov, completed 17 orbits, establishing Russian superiority in space exploration. On

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[363]Sidey's (op. cit.) description of the President's movements following the termination of that meeting, while somewhat lyrical, is indicative of presidential responsibility. "And then, near 4 a.m. when there was quiet over all of Washington, there was nothing more that these men in the White House could do or talk about. One by one they drifted off into the night. At last only the President was left in his office. He stepped to the doorway a moment to have a last word with O'Donnell and Salinger. Then, alone, he went out the French doors of his own office into the Rose Garden, hands in his pockets. He loitered a bit on his way to the mansion. This was John Kennedy's lowest moment of his months of crisis.

"He walked alone through the deep grass on the blue-black April night. The pale globes of the street lamps cast their shadows among the elms, and the gentlest morning breeze was beginning to stir in the leaves of the old magnolias which Andy Jackson had planted at the rear of the White House. There was more than physical loneliness. There was now, without question, about John Kennedy the undefinable and inevitable presidential solitude that comes with the White House just as the ghost of Abe Lincoln still walks there in his bedroom on dark nights." p. 134.

[364]Ibid., p. 135.

[365]Ibid., p. 199.

August 13th, the Berlin Wall was built, and seven days later, following a series of high level decisions, a United States Army unit pressed through the 110 miles which separated West Germany and West Berlin.[366] On August 30th, despite Khrushchev's vow that he would not resume unilateral testing, the Russian radio announced that testing of atomic weapons, including a 100 megaton bomb, would be resumed.[367] On September 17, 1961, the already serious problems facing the United Nations were worsened when it was learned that Secretary General Dag Hammerskjold had died in an air crash in Africa. Said the President: "It couldn't have come at a worse time."[368]

Foreign affairs, therefore, represented a cluster of serious problems facing the President, limiting the attention he could devote to civil rights. The same was true of domestic legislation.

By April of 1961, Congress had passed legislation creating positions for new Federal judges, increased social security benefits, set the minimum wage at $1.25 per hour, and had passed legislation related to aid to dependent children, and funds for depressed areas. Each of these required the time and attention of the President.

In the following year, having met longer than any other Congress

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[366] Ibid., pp. 236-237.

[367] Ibid., pp. 241-242.

[368] Ibid., p. 250.

since 1951, the Congress acceded to the wishes of the Kennedy administration and passed the boldest trade legislation in history, giving the President the power to slash tariffs by at least 50 per cent, and to remove some entirely.[369] This had been a major objective of the President, and the action of the legislature represented a significant victory.

Kennedy also was successful in convincing the Congress that it should assist the United Nations by purchasing $100 million in bonds. The House and Senate passed a three year program to train unemployed workers, authorized the establishment of a private communications satellite corporation, approved a Constitutional amendment to outlaw poll taxes in Federal elections, passed a farm bill with tougher production controls, increased postal rates, and passed a public works bill.[370] Moving this legislation through the Congress involved the President in weeks and months of planning and persuading - on the telephone, at leadership breakfasts, at meetings with groups of Congressmen in the White House; and through press conferences.

The space race was a major preoccupation of the United States during the Kennedy years. The Russians successfully launched their first man into space on April 11, 1961, less than three months after the President assumed office. In May, Mr. Kennedy went before the

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[369] Ibid., p. 351.

[370] Ibid.

Congress and sought a firm commitment to a new course of action. Said he: "If we are to go only halfway, or reduce our sights in the face of difficulty, in my judgement it would be better not to go at all. . . . I believe we should go to the moon."[371]

On May 5, 1961, Alan B. Shephard was the first American to soar into space, and in February, 1962, Colonel John Glenn completed three successful orbits. Finally, the new effort was beginning to show results.

Later in the Spring of 1962, - on April 10, 1962, Roger Blough, Chairman of U.S. Steel, informed President Kennedy that his company intended to boost the price of its steel by $6 per ton. Kennedy and his advisers viewed this as a repudiation of a previous understanding with the steel companies, and in the week that followed, unleashed a massive effort designed to turn back the price increase. Much was at stake, in the President's opinion - price stability, a balanced budget, reduction of trade barriers and of the gold flow, and, unemployment. By the end of the week, Bethlehem Steel, followed by U.S. Steel and then by the other big steel firms, rescinded their increases. Mr. Kennedy had won one of his most dramatic domestic victories.[372]

Any serious study of the civil rights programs of the Kennedy

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[371] Ibid., p. 123.

[372] Ibid., pp. 293-299.

administration must take into consideration these other problems facing the President. The list of issues described here is by no means complete, but it does indicate the range and complexity of the problems the President faced. Clearly, they limited the time and attention he could devote to civil rights.

International relations was probably the major concern of the President during his term of office, and civil rights certainly ranked high among his domestic concerns. The international ramifications of United States civil rights problems was a factor Mr. Kennedy had to consider in determining what civil rights actions to take, and this study will endeavor to survey that subject in the following section.

International Aspects of United States' Civil Rights Problems

Many Americans, reflecting on World War II, recognized that a major offense of the Nazis which branded the Third Reich as an outlaw power was their crime against a minority group. Hitler's doctrine of the master race had as its chief victim the Jew, but the association of that doctrine with the creed of white supremacy was inevitable in the American mind.

The Second World War had changed the United States from an isolationist, isolated nation - into a leading power, with responsibilities in every part of the world. People everywhere, and particularly those in Africa and Asia, wanting to know how the United States could be expected to treat them, naturally looked to race relations in the United

States as one indicator.

A study of foreign press comment on American race relations, covering only certain countries for the period 1949 to 1954, filled nearly a thousand pages of a paper by John A. Davis.[373] In 1955 it was the murder of Emmett Till in Mississippi, and beginning that same year and continuing into 1956, the world watched walking Negroes boycott buses in Montgomery, Alabama. Press attention abroad then focused on Autherine Lucy's expulsion from the University of Alabama, the dynamiting of the high school at Clinton, Tennessee, and then the battle over the enforcement of court decisions at Little Rock.

President Eisenhower recognized the international implications of civil rights differences in the United States, when he explained to the nation his reasons for sending troops to Little Rock:

> At a time when we face grave situations abroad because of the hatred that Communism bears toward a system of government based on human rights, it would be difficult to exaggerate the harm that is being done to the prestige and influence and indeed to the safety of our nation and the world. Our enemies are gloating over this incident and using it everywhere to misrepresent our whole nation. We are portrayed as a violator of those standards of conduct which the peoples of the world united to proclaim in the Charter of the United Nations.[374]

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[373]Harold R. Isaacs, The New World of Negro Americans (New York: The John Day Company, 1963), p. 9. The study referred to is: John A. Davis et. al., "Foreign Reactions to American Racial Problems," unpub. ms., (New York: American Information Committee on Race and Caste, 1955).

[374]Ibid., p. 13.

In 1958, the lynching of Mack Parker in Popularville, Mississippi drew critical comment from abroad. In the same year, the sentencing to death of James Wilson, a Negro who was judged guilty of stealing $1.95, drew such a surge of international attention, including an inquiry from Prime Minister Nkrumah of Ghana, that Secretary of State John Foster Dulles felt compelled to officially inform the Governor of Alabama of this "world-wide concern." A few weeks later the Governor commuted the sentence, explaining that he did so to put an end to the "international hullaballoo" over the case.[375]

Addressing a summer conference of the Elementary School Principals Division of the National Education Association in July, 1961, Ambassador U Thant of Burma added to the growing evidence of harm being done to the United States by racial problems:

> Among other things the United States of America symbolizes human freedom and human equality, but this image has been greatly tarnished by reports of violent racial conflicts in the Deep South. Understandably these happenings have tremendous repercussions abroad, especially in nonwhite countries of Asia and Africa, and they create tensions which are in many ways more explosive than political or cold war tensions.[376]

Edward R. Murrow, Director of the United States Information Agency, reporting on international response to the dynamiting and burning

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[375] Ibid., pp. 14-15.

[376] Louis E. Lomax, The Negro Revolt (New York: The New American Library of World Literature, Inc., 1962), pp. 258-259.

of a bus carrying Freedom Riders in Alabama in May, 1961, told a Congressional committee that European, Asian and African press reaction ranged along "a scale from immediate horror and disgust to longer-range concern that American world policy was being seriously compromised." The incidents, Murrow said, "have damaged America's reputation as a defender of individual rights and have provided America's detractors with obviously usable material."[377]

But it was not necessary for Americans to read foreign press reaction to understand the international implications of race relations. By 1961 the number of new African states had grown to thirty, and on July 11, 1961, the Governor of Maryland had to apologize to no fewer than four new African ambassadors who had been refused restaurant service along Route 40, one of them while on route to present his credentials to the President. On July 13th, the New York Times published a dispatch from Moscow, quoting a jeering account from the Soviet press of "how the most democratic country of the world" treated African diplomats while "they hypocritically swear friendship for the peoples of Africa."[378]

Speaking to an Equal Employment Opportunity Conference in August, 1961, Secretary of State Dean Rusk voiced his growing concern:

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[377]Isaacs, op. cit., p. 15.

[378]Ibid., p. 17.

> The biggest single burden that we carry on our backs in our foreign relations in the 1960s is the problems of racial discrimination here at home. There is just no question about it.[379]

The crisis in Birmingham, Alabama in the Spring of 1963, provided the Communists with new material, and in a period of several days following those incidents, Moscow radio devoted fully one-fifth of its total broadcast time to the Birmingham riots. Said Tass, the Soviet News Agency: ". . . if America's rulers can act like slave holders toward millions of their own people, what can the nations of Africa, Asia and Latin America expect of them?"[380]

The evidence was clear beyond the shadow of a doubt: racial discrimination and segregation in the United States, and disturbances stemming from these actions, had done serious harm to the leadership position of the United States in international affairs, particularly in Asia and Africa. Bearing in mind the strategic importance of the United States' leading these nations, this was a factor of major importance to President Kennedy as he considered the civil rights actions he would take.

But there were other important elements to consider, and one

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[379] U.S. Department of State, Press Release No. 579, dated August 18, 1961, "Report on the Conference on Equality of Employment Opportunity, United States State Department, August 16, 1961."

[380] U.S. Department of Justice, Press Release, "Address by Attorney General Robert F. Kennedy to North Carolina Cold War Seminar, Asheville, North Carolina, May 17, 1963."

of the most important, considering the political importance of the area to the Democratic party, was the nature of southern resistance to desegregation.

Southern Resistance to Desegregation

Milton Konvitz, a long-time student of civil rights, states that whenever in history slavery existed, it was considered basically as an economic institution. As a result of war or as a consequence of extreme poverty, anyone could become a slave. The Israelites in the Promised Land, says Konvitz, did not consider it a badge of shame that their forefathers had been slaves to the Pharaoh of Egypt. Slavery then, like alienage, could serve as a bond to humanity in general.[381]

The experience of slavery in the ancient world was so common that Plato suggested that every man had many slaves among his ancestors. The poet Terence and the philosopher Epictetus had been slaves, and the father of Horace was a slave. In the broad sweep of history, slavery as an institution was such that when a free man saw a slave, he could well say to himself: "There, but for the grace of God, go I." For the man (and more especially the woman or child) who was free today, might tomorrow be a slave.

In the American South, however, slavery was regarded in a different fashion. At least in the three decades which preceded the

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[381]Milton Konvitz and Theodore Leskes, A Century of Civil Rights (New York: Columbia University Press, 1961), p. 8.

Civil War, slavery was not merely a misfortune that came to a man, not merely a useful or conventional economic arrangement; instead - slavery was a racial arrangement. Furthermore, it was considered by most whites to be not a misfortune, but rather, the proper - and the only proper estate of the Negro. The South, says Konvitz, fought the Civil War not merely to preserve a profitable economic arrangement; it fought to preserve the only social arrangement that was conceivably possible in the mind of the South, between the white and Negro races.[382] The South felt that slavery was good and justified, that it was morally right, and that it was wholly consistent with justice, reason, and Christianity. Basic to slavery in the South was the firm conviction that the Negro belonged to another and an inferior species. The Negro was sub-human not because he was a slave; he was a slave because he was sub-human.[383]

The Civil War brought the defeat of the South, and with it, power passed from the hands of white southerners to their former slaves. The planter group, so long in control of the machinery of the state, found itself in political competition with the Negro. But gradually, these white southerners found ways to circumvent the Fourteenth Amendment, and proceeded to move back into the capitols and legislative halls they had recently vacated.

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382 Ibid., p. 9.

383 Ibid., p. 11.

The factor which overshadowed all others in southern politics in the 20th century, says Ezell, ". . . was the concern for maintaining white supremacy."[384] At the end of the Agrarian revolt, Ezell says, the South deliberately set out to eliminate the Negro as a voter by the use of such techniques as the poll tax, residence requirements, and the literacy test. Literacy tests proved more efficient than the poll tax as a means of eliminating the Negro voter, but, like the poll tax, they had a discouraging effect on white participation. The killing of the "grandfather clause" by the Supreme Court in 1915[385] removed a relatively easy method of discrimination.

The South therefore came to rely more and more on the closed white primary. By 1930 Negroes were barred from primaries by state party rulings everywhere in the South except Florida, North Carolina, and Tennessee, where they were kept out in certain counties by local option.[386] But, as pointed out in the section on "Voting" in Chapter II of this study, a series of Supreme Court decisions in the nineteen-forties forbade racial discrimination in party primaries.

The growing political participation of the Negro, the encouragement given him by Democratic administrations, and the limited use of

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[384]John Samuel Ezell, The South Since 1865 (New York: The Macmillan Company, 1963), p. 407.

[385]Guinn v. United States, 238 U.S. 347 (1915).

[386]Ezell, op. cit., p. 408.

Federal authority on behalf of civil rights precipitated in 1948 the first formal revolt of the South against the Democratic party in the twentieth century. When the 1948 Democratic National Convention refused to concede to the demands of southern leaders that the recommendations of President Truman's Committee on Civil Rights be withdrawn from the Congress, the States Rights Party, better known as the "Dixiecrats," was formed. With Henry Wallace campaigning as the Progressive Party candidate, and drawing votes from the Democratic party, the southerners hoped that the power of the Dixiecrats would be such that the selection of the President would be thrown to the House of Representatives, where the Democrats hopefully would select a southern Democrat over a northern Republican. The Dixiecrats failed in this effort, carrying only South Carolina, Alabama, Mississippi, and Louisiana, and securing only 39 electoral and 1,169,000 popular votes.[387]

This constituted a defeat for the South, but it was dwarfed in significance by the set-back that the South sustained in the 1954 School Segregation Cases. Nonetheless, many leaders from the Upper South issued relatively moderate statements after the Supreme Court's 1954 ruling in Brown.[388] Said Governor Francis Cherry of Arkansas: "Arkansas will obey the law." Theodore McKeldin, Governor of Maryland

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[387] Ibid., p. 420.

[388] 347 U.S, 483 (1954).

commented: "Our citizens and our officials will accept readily the United States Supreme Court's interpretation of our fundamental law." Governor Johnson Murray of Oklahoma stated that "Oklahoma has always followed the law, whatever it is," and even Governor Thomas Stanley of Virginia, though he changed his mind six weeks later, promised he would call a meeting of local and state officials to "work toward a plan which shall be acceptable to our citizens and in keeping with the edict of the court."[389] Meanwhile, as Harry Ashmore said, "deep Southern governors roared automatic outrage."[390]

The growing constitutional, legal and political pressures for desegregation were resisted in various ways by southern leaders. One method devised for dealing with school desegregation was pupil placement laws, which were passed in Alabama, Arkansas, Georgia, Louisiana, Mississippi, North and South Carolina, Tennessee, Texas and Virginia. The criteria for assignment ranged from a few broadly stated principles, such as "orderly and efficient administration of the school" to as many as twenty or more detailed considerations, including the availability of teachers and transportation, the pupil's preparation and ability, the moral and health condition of the pupil, and the anticipated effect of the

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[389] Golden, op. cit., p. 107.

[390] Harry Ashmore, An Epitaph For Dixie (New York: W.W. Norton & Company, Inc., 1958), pp. 26-27.

admission on other pupils and on the community, itself.[391]

However, organizationally, the focal points for southern resistance were the Citizens' Councils. The first Citizens' Council was formed in Indianola, Mississippi in July, 1954. One of the founders was quoted as saying that the forces to be fought included "the NAACP, politicians and parties catering to the Negro bloc vote, a considerable part of the national (and occasionally local) leadership of the Protestant and Roman Catholic churches, and large segments of the press." He also advocated the use of economic pressure against any dissenters or "troublemakers" in the community.[392]

Determined resistance to the desegregation order contained in Brown increased in 1955. Speaking to a rally of the Citizens' Council of Senatobia, Mississippi on August 12, 1955, Senator James Eastland said:

> On May 17 the Constitution of the United States was destroyed. . . . You are not required to obey any court which passes out such a ruling. In fact, you are obligated to defy it.[393]

Earlier that year, on April 22, 1955, Frederick Sullens, editor of the Jackson, Mississippi Daily News said, in an address before the

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[391]J. Kenneth Morland, Token Desegregation And Beyond (Atlanta, Georgia: Southern Regional Council, 1963), p. 1.

[392]Hodding Carter III, The South Strikes Back (Garden City, New York: Doubleday, 1959), pp. 34-35.

[393]Carl T. Rowan, Go South To Sorrow (New York: Random House, 1957), pp. 38-39.

American Society of Newspaper Editors:

> Mississippi will not obey the decision If an effort is made to send Negroes to school with white children, there will be bloodshed. The stain of that bloodshed will be on the Supreme Court steps.[394]

The Citizens' Council movement took on a national complexion when, on April 7, 1956, delegates from eleven southern states, assertedly representing 300,000 Citizens' Council members, met in New Orleans to form the Citizens' Councils of America. They represented Councils in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, Tennessee, and Virginia. The Oklahoma Citizens' Council was unable to send a delegation and gave its proxy to Texas.[395]

One of the most effective tools employed by the Citizens' Councils was economic pressure. Mr. Arthur Clark, an Indianola, Mississippi lawyer, described one plan:

> It is the thought of our group that the solution of this problem may become easier if various agitators and the like could be removed from the communities in which they now operate. We propose to accomplish this through the careful application of economic pressure upon those men who cannot be controlled otherwise. If the proper organization is perfected and proper liaison had between all elements, the medium of economic pressure can be used quite effectively to

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[394]Address by Frederick Sullens, editor of Jackson, Mississippi Daily News to the American Society of Newspaper Editors, April 22, 1955.

[395]Carter, op. cit., pp. 70-71.

> the end that those who stir up discontent may be removed from the community.[396]

One speaker at an organizational meeting of a Citizens' Council in Dallas County, Alabama said: "We intend to make it difficult, if not impossible, for any Negro who advocates desegregation to find and hold a job, get credit, or renew a mortgage."[397] Even the Montgomery, Alabama Advertiser found this unacceptable and stated its position in an editorial published on November 30, 1954:

> The stated aims of the White Citizens' Councils is to throttle free speech and impose thought control by means of an economic claw. . . . What is proposed is indecent and vicious because we find a dominant group standing in the shadows threatening to confiscate the meat, drink and shelters of dissenters.[398]

Directly or indirectly, as a result of Citizens' Council efforts, however, the pressure and the oppression increased. On August 13, 1955, Lemar Smith, a Negro, who according to the local district attorney had been "messing around" as an active supporter for one of the candidates in the Pike County supervisor's race, was shot down at midday in front of the Courthouse. Despite the time of day and the fact that there were a number of people in the immediate vicinity, the three white men who were indicted had not, as of 1959, been brought to trial

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[396] Ibid., p. 109.

[397] Ibid., p. 110.

[398] Ibid., p. 113.

in that Mississippi community.[399]

Whites who were suspected of sympathy with the cause of the Negro were bitterly criticized, too. For example, Citizens' Councils attacked Mrs. Hazel Brannon Smith, the editor of the Lexington, Mississippi Advertiser and the Durant News. Late in 1954 she was found guilty by a county jury of writing a "false" account of the shooting of a Negro by the sheriff, and was ordered to pay $10,000. Those who testified for her were termed "Communists."[400]

The attacks continued. Late in 1958, Mrs. Smith wrote the following editorial in her Lexington Advertiser, describing the atmosphere produced by massive resistance:

> Today we live in fear in Holmes County and in Mississippi. It hangs like a dark cloud over us, dominating every facet of public and private life. . . . None speaks freely without being afraid of being misunderstood. Almost every man and woman is afraid to try to do anything to promote good will and harmony between the races . . . afraid he or she will be taken as a mixer, as an integrationist, or worse . . . if there is anything worse by southern standards. . . .[401]

The Citizens' Councils focused a high proportion of their energies on removing Negroes from the registration rolls.[402] Some southern

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[399] Ibid., p. 119.

[400] Ibid., p. 148.

[401] Ibid., p. 155.

[402] For further examples of this, see the section on "Voting" in Chapter II of this study.

governments became directly involved in efforts to disfranchise citizens. A letter soliciting funds for the Association of Citizens' Councils of Louisiana indicated the relationship between the Joint Legislative Committee of the Louisiana Legislature, and the Citizens' Councils:

> . . . The thing that can stop the integration movement dead in its tracks and prevent a new Reconstruction is a thorough-going cleanup of our registration rolls. Under the leadership of the Joint Legislative Committee, the state government is doing its part to do this. The rest must be done by the people, under the leadership of the Citizens' Councils.[403]

As a result of these efforts by voluntary organizations and by southern governments, hundreds of thousands of southerners were sold the idea that the South had rights and privileges not common to other Americans, that the Supreme Court acted illegally in the segregation cases, that the Constitution is not a part of the law of the land, and that the sovereign states of the South are not really bound by it. Said Cole L. Bease, former Governor of South Carolina: "Whenever the Constitution of the United States comes between me and the virtue of white women of the South, I say to hell with the Constitution."[404] The massive resistance of the South to desegregation efforts reflected great skill by determined, energetic and effective men and women. The speed of their work, the completeness of their control of political bodies and agencies

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[403]Mendelson, op. cit., p. 12.

[404]Golden, op. cit., p. 17.

at all levels, their seizure of the offensive, and their deftness in framing the issue in the terms they wanted - all reflected a high order of political skill and technique.

The bitter determination of the South to resist desegregation efforts was even more evident toward the end of 1963. Only nine days before the death of President Kennedy, political analyst Samuel Lubell sampled a workers' precinct in Birmingham, Alabama, which in 1960 had given him a clear majority. In a day's ringing of door bells, he found only one Kennedy supporter left.

All the other voters interviewed vowed they would go Republican or for an independent party in 1964 - "anything as long as it isn't Kennedy." "He's cramming the nigger down our throats," said some, and others commented - "If he's re-elected it will be the end of America."[405]

This was the voice of the white South. Bearing in mind the fact that the support of southern states is usually important to a Democratic presidential candidate, and that a high proportion of the committees of the Congress are chaired by southerners, President Kennedy was forced to consider carefully the advisability of going counter to the wishes of these people.

But there was another voice calling for his attention - that of the increasingly articulate and politically effective civil rights groups,

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[405] Ibid., p. 133.

whose efforts culminated in a series of dramatic actions during the Spring and Summer of 1963.

The Revolution of '63

On Monday evening, September 2, 1963, the National Broadcasting Company Television Network presented a three hour documentary describing the actions of Negro and other civil rights organizations to bring an end to segregation and discrimination. NBC appropriately called the program "The American Revolution of '63."

The effectiveness of this "revolution" is attributable to the new vitality the Supreme Court had given the equal protection clause of the Fourteenth Amendment, the growing political and economic influence of the Negro, his bitter resentment against the oppressive measures of the South, outlined briefly in the preceding section, and - to the work of such organizations as the National Association for the Advancement of Colored People, the Urban League, the Southern Regional Council, the Congress on Racial Equality, the Student Nonviolent Coordinating Committee, the Southern Christian Leadership Conference, the Leadership Conference on Civil Rights, and the U.S, Commission on Civil Rights.

The theory and practice of racial protest which the nation experienced in 1963 represented a complete change from the position taken by the leaders of the slave insurrections a century earlier - Gabriel, Prosser, Denmark Vesey, and Nat Turner. These race martyrs established what was then termed the "realistic" theory of race relations,

which held that everything which stirs up the resistance of whites will deteriorate the Negroes' status, and that therefore reforms must be pushed quietly and in such ways that the whites hardly notice them before they are accomplished facts.[406]

The Negro fighters in the Abolitionist movement in the North - including William G. Allen, Dr. James McCune Smith, Sojourner Truth, Robert Purvis, Harriet Tubman, Charles Bennet Ray, John M. Langston, Frederick Douglass, among others, - represented a second early crop of Negro protest leaders. Their new pattern consisted in nonviolent activities in accord with the democratic principles of the American creed and Christian religion.[407]

When the restoration of white supremacy after the Reconstruction period robbed Negroes of suffrage and civil liberties, there was need again for protest. Many southerners didn't seem to care about Negroes. Booker T. Washington came forward as the key Negro leader of his time, advancing a pragmatic and conciliatory school of thought. For the time being, Washington was willing to give up social and political equality. Even in education and business, he accepted the Negro's "place."[408]

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[406]Myrdal, op. cit., p. 736.

[407]Ibid., p. 737.

[408]Ibid., p. 739.

The twentieth century saw the birth and development of a number of civil rights organizations. Significantly, some of the most effective of these organizations came into being after 1954, and those which had been organized earlier, enjoyed their period of greatest growth in the period after 1954. The series of actions sponsored by these organizations came to a head in 1963 - the centennial of the Emancipation Proclamation, when a "coalition of conscience" ineradicably changed the course of life in the United States. Said Dr. Martin Luther King, Jr.:

> In 1963, there arose a great Negro disappointment and disillusionment and discontent. It was the year of Birmingham, when the civil rights issue was impressed on the nation in a way that nothing else before had been able to do. It was the most decisive year in the Negro's fight for equality. Never before had there been such a coalition of conscience on this issue.[409]

Many Negro leaders considered Birmingham, Alabama to be the citadel of racial segregation in America, and had been determined for years to improve conditions there. After the Reverend Fred Shuttlesworth, leader of the Alabama Christian Movement for Human Rights, had threatened demonstrations aimed at lunch counters and discriminatory employment policies, meetings between businessmen, and Negroes began in September, 1962. Police commissioner "Bull" Connor forcefully opposed any concessions by the businessmen, and for many months he was successful.[410]

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[409]Cover story on Dr. Martin Luther King, Jr., Time, January 3, 1964, p. 13.

[410]Vincent Harding, "A Beginning in Birmingham," The Reporter, June 6, 1963, p. 14.

No progress was made, but hope was placed in a referendum to replace the 3 commissioner system with a council of 9 and a mayor. The referendum was held in November, 1962 and the city voted to end commissioner government. However, Police Commissioner Connor decided to run for mayor under the new system. He was defeated by Albert Boutwell on April 2, 1963, but Connor refused to give up and filed suit to keep his old office as Police Commissioner until the end of his term - in 1965. On May 23, 1963, the State Supreme Court ruled that Boutwell had been duly elected Mayor.[411]

Since Boutwell seemed to promise little in the way of improvement, after many postponements, it was decided to begin demonstrations at Eastertime. The first demonstrations took place on April 3, 1963 with picketing and sit-ins. Most of those picketing were arrested, and on Good Friday, both Dr. Martin Luther King, Jr., and the Reverend Ralph Abernathy were jailed. By the beginning of May almost one thousand Negroes had been arrested.[412]

A new dimension was added to the demonstrations in May when school children began to participate, many cutting classes to do so. Hundreds took to the street, and followed Dr. King's tactic of deliberately going to jail to dramatize the Negro protest against segregation.

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[411] Ibid.

[412] Ibid., pp. 14-15.

Police reacted to the increased number of demonstrators by using both fire hoses and dogs on the students, some of them not yet in their teens. Said Vincent Harding in The Reporter: "Throughout the nation and the world, the picture of a police dog jumping at a defenseless boy brought immeasurable sympathy."[413] The enraged Negroes, including onlookers, fought back at the police with bricks and bottles. The demonstrations had aroused the long-suppressed feelings of bitterness and frustration among the Negro community, for Police Commissioner Connor represented to them the despised white authority that held them down. Now the resentment came to the surface in a violent outburst, and in five days approximately 2500 Negroes were arrested, filling the jails and other detention places in what Dr. King called a fulfillment of a dream.[414]

The demonstrations reached crisis proportions on May 7th. That afternoon Assistant U.S. Attorney General Burke Marshall arrived in Birmingham and met with business leaders. In three days an agreement was finally reached by Negro leaders and white businessmen calling for desegregation of public facilities downtown within 90 days, better job opportunities, and the creation of a bi-racial committee.[415] The

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[413]Harding, op. cit., p. 15.

[414]National Broadcasting Company, Transcript of three hour news special, "The American Revolution of '63," telecast on NBC-TV on September 2, 1963. (New York: National Broadcasting Company, 1963), p. 18.

[415]Ibid., p. 19.

demonstrations had ended, at least for the time being, but not before the riots had ". . . seared the front pages of the world press, outraging millions of people."[416]

Two days after the settlement, a bomb exploded the motel used as the headquarters for Dr. King, and another bomb damaged the home of his brother, the Reverend A. D. King. Negroes poured into the streets. Said Birmingham Chief of Police Jamie Moore to State Director of Public Safety, Al Lingo, "If you'd leave, Mr. Lingo, I'd appreciate it."[417]

Commissioner Lingo refused, and, in effect, took control of the police situation. Two Negro stores had suddenly blazed up and were spreading fire to nearby buildings. Rocks flew again, and one hit Birmingham Police Inspector Bill Haley in the face. Lingo and 35 troopers went into action. Newsweek described what followed:

> Armed with shotguns, rifles, and billies . . . , up and down the street they went, shoving and clubbing spectators, clomping up on front porches, swatting bystanders with billies and gun butts, ordering "Get inside, goddamit." "I can't, I can't, the door's locked," one Negro screamed as police walloped him. The troopers bashed the door open with gun butts and shoved him inside. Then they joined a mixed party of deputies outside the motel, and, 60 strong, charged a crowd gathered in the entrance, billies and guns flailing. . . .[418]

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[416] Time, January 3, 1964, op. cit., p. 16.

[417] "Direct Action in the South: A Southern Regional Council Report," New South, October-November, 1963, p. 18.

[418] Ibid., pp. 18-19.

While in the Birmingham jail, Dr. Martin Luther King, Jr. received a letter from a group of white clergymen, criticizing him for "unwise and untimely" demonstrations. Dr. King's reply, "Letter From Birmingham City Jail," now a classic, helps to explain the reasons for the dramatic series of racial actions which had to take place, and which did occur in 1964 Dr. King said, in part:

> We have waited for more than 340 years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jetlike speed toward the goal of political independence, and we still creep at horse and buggy pace toward the gaining of a cup of coffee at a lunch counter. I guess it is easy for those who have never felt the stinging darts of segregation to say "wait."[419]

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[419] Time, January 3, 1964, p. 15. Dr. King continued: "But when you have seen victious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick, brutalize and even kill your black brothers and sisters; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six year-old daughter why she can't go to the public amusement park that has just been advertised on television; when you are humiliated day in and day out by nagging signs reading "white" and "colored," and your first name becomes "nigger" and your middle name becomes "boy" . . . and when your wife and mother are never given the respected title of "Mrs." . . . when you are forever fighting a degenerating sense of "nobodyness" - then you understand why we find it difficult to wait.

. . . . . .

Before the Pilgrims landed at Plymouth, we were here. Before the pen of Jefferson etched across the pages of history the majestic words of the Declaration of Independence, we were here. For more than two centuries, our foreparents labored in this country without wages; they made cotton "king," and they built the homes of their masters in the midst of brutal injustice and shameful humiliation - and yet out of a bottomless vitality, they continued to thrive and develop. If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands."

Although Birmingham was one of the most dramatic and effective demonstrations of 1963, it was not the first, nor the last. On April 23rd, William L. Moore, a white Baltimore postman on a "freedom walk" to Mississippi was found slain on an Alabama road. On June 11th, Governor Wallace of Alabama, confronted by National Guard troops, stepped aside to allow two Negroes to enroll at the University of Alabama.[420]

On June 12, 1963, the Mississippi Field Secretary of the National Association for the Advancement of Colored People, Medgar Evars, was shot and killed as he stepped from his car in front of his home. Following his funeral, a crowd of Negroes charged a phalanx of police, taunting the police to shoot at them, so bitter was their resentment at the assassination of the NAACP leader. More serious violence was averted when Justice Department official John Doerr walked dramatically into the bombardment and calmed the crowd.[421]

On the night before the death of Medgar Evars, racial rioting rocked the city of Cambridge, Maryland. On June 13th a huge throng of counter demonstrating whites were blocked by the police and state troopers as they sought to charge into the Negro district. Governor Millard Tawes of Maryland ordered the National Guard into Cambridge to maintain civil and military government, smothering more violent

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[420]New York Times, December 29, 1963, p. 6 E.

[421]National Broadcasting Company, op. cit., p. 55.

outbursts. When the National Guard was removed three weeks later, demonstrations resumed immediately.[422] Racial tensions remained high there through 1963.

Demonstrations developed in cities throughout the United States. "Suddenly, it seems," said the New York Times, that "the Negro is mad at everybody."[423] Interviewed by the Times, Mrs. Alice Gill, a Queens housewife and a former government worker, insisted that "many Negroes have lost faith in the word of the white man. They took to the streets because they were tired of begging and asking." Said Percy E. Sutton, a Harlem lawyer, who had participated in picketing and demonstrations:

> The mood of the Negro is one of impatience. He seeks a final breakthrough, a final toppling of the walls of segregation and discrimination. He has learned, much to his sorrow, that he can't get these things by promises - that he's got to go out and get his equality - that it won't come to him.[424]

A. Philip Randolph of the Brotherhood of Sleeping Car Porters had a psychological insight: "The demonstrations," he said, "serve as an emotional release, a focal point of participation for the masses. The situation is so crucial that an outlet has to be provided for the common people to liberate themselves, to release pent-up frustrations

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[422] Ibid., p. 23.

[423] New York Times, August 12, 1963, p. 10.

[424] Ibid.

that could explode into violence. These demonstrations give them this outlet." Walter Petry, a post office employee, took a look at history and commented:

> I think the fact that this is the hundredth anniversary of the Emancipation Proclamation had a lot to do with the blowup. Many Negroes were shocked to discover that they've been kicked around for a hundred years. A hundred years has a frightening ring to it, they decided they weren't going to wait another hundred.[425]

The demonstrations, boycotts, and picketing increased weekly, signifying the demand for action. It was heard at the national level. Delivering the keynote address at the 1963 NAACP National Convention, Executive Secretary Roy Wilkins reflected the new tone of militancy increasingly evident in that organization:

> Our NAACP Convention has come back to Chicago in 1963 - the due date of freedom. We were promised it by the man who sleeps in Illinois soil in Springfield, and we are here to collect.
>
> No one can say we have not been patient. We have given new meaning to the word
>
> Today we are finished with waiting. The debt is past due and in 1963, certain that we have done our part in full measure, pressed down and running over with our tears, our blood and our dead, we demand payment.[426]

In 1963, according to the Southern Regional Council, civil rights groups staged 930 protest demonstrations in 115 towns in the 11 southern

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[425] Ibid.

[426] National Association for the Advancement of Colored People, NAACP 54th Annual Convention Resolutions, op. cit., p. 1.

states, and 20,000 of them were arrested.[427] The U.S. Department of Justice counted a total of 2,062 demonstrations in 315 cities in 40 states in 1963. Public accomodations accounted for 1285 of these demonstrations, or almost two-thirds of the total.[428] In a year-end report, NAACP Executive Secretary Roy Wilkins reported that bail bonds for demonstrators had cost the NAACP $250,000.[429]

To focus attention on the responsibility of the national government to enact effective civil rights legislation, in the Spring of 1963, A. Philip Randolph of the Brotherhood of Sleeping Car Porters, who had conceived the planned 1941 March on Washington, proposed a 1963 March on Washington for Jobs and Freedom. Support for the March quickly came from civil rights groups throughout the country. When civil rights leaders first announced the march, President Kennedy asked them to call it off. But, said Bayard Rustin, manager of the march,

> when they . . . told him they wouldn't - he almost smothered us. We had to keep raising our demands . . . to keep him from getting ahead of us. . . . When the President finally mentioned the march in

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[427] Wall Street Journal, February 5, 1964, p. 1.

[428] U.S. Department of Justice, "A Review of the Activities of the Department of Justice in Civil Rights, 1963," (preliminary draft of a report by the Attorney General to the President, February, 1964), p. 1.

[429] New York Times, December 29, 1963, p. 20.

public, he issued something as close as possible to a social invitation.[430]

On August 28, 1963, an estimated two hundred thousand persons participated in this massive demonstration. Most of them were Negroes, but the group included thousands of whites. Despite the numbers, there was no violence. Leaders met with Congressmen, Senators, and the President, and addressed the throng massed in front of the Lincoln Memorial. Roy Wilkins' remarks reflected the thinking of many of the speakers:

> We came to speak to our Congress. We have come asking the enactment of legislation that will affirm the right to "life, liberty and the pursuit of happiness," legislation that will place the resources and the honor of the Government of all the people behind the pledge of equality in the Declaration of Independence.
>
> All over this land, but especially in parts of the Deep South, we are beaten and kicked and maltreated and shot and killed by local and state law enforcement officers. It is incomprehensible to us here today and to millions of others far from here that the United States Government, which can regulate the contents of a pill, apparently is powerless to prevent the physical abuse of citizens within its own borders.[431]

The "summer of discontent" was not yet over. On Sunday morning, September 15, 1963, a bomb wrecked the Sixteenth Street Baptist Church in Birmingham, Alabama, killing four young Negro

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[430] Murray Kempton, "The March on Washington," The New Republic, September 14, 1963, p. 19.

[431] New York Times, August 29, 1963, p. 16.

girls. The bombing occurred five days after the desegregation of three previously all-white schools in Birmingham, brought about after the Federal courts had issued a sweeping order against Governor Wallace, and President Kennedy had federalized the Alabama National Guard. The Attorney General immediately sent Assistant Attorney General Burke Marshall, two of his assistants and 25 FBI agents to Birmingham to deal with the crisis.[432]

Said James Reston two days later

> The crisis in Birmingham now is not only between white and black, and between state law and Federal law, but between order and anarchy. . . . What was destroyed in the bombing Sunday of the 16th Street Baptist Church here was not only the lives of four Negro children, but the confidence of the whole community in law and order.[433]

Novelist James Baldwin helped to focus attention on the meaning of this struggle for whites. In an interview, he spoke of a conversation he had with playwright Lorraine Hansberry, who was, he said

> very worried about a civilization which could produce these five policemen standing on the Negro woman's neck in Birmingham or wherever it was, and I am, too. I'm terrified at the moral apathy, the death of the heart, which is happening in my country. These people have deluded themselves for so long that they really don't think I'm human.[434]

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[432] New York Times, September 16, 1963, p. 1.

[433] New York Times, September 18, 1963, p. 38.

[434] Kenneth Clark, op. cit., pp. 7-8.

These were some, but not all, of the factors which President Kennedy weighed at various times during the two years and ten months he was in office, in considering the kind of civil rights program he would develop. His own philosophy of civil rights legislation appeared somewhat ambivalent until the 1960 Democratic Convention and the campaign which followed it, when he took strong civil rights stands. An evaluation of the Negro vote, civil rights organization's efforts and southern resistance to desegregation, undoubtedly was a factor in that decision, for it demonstrated (a) that since 1948, despite southern resistance, a strong civil rights stand by a Democratic candidate for the presidency could be good politics, and (b) that the strength of Negroes in high electoral vote cities of the industrial North would give them even greater strength in 1964, when he undoubtedly planned to run again, than had been the case in 1960. Other presidential responsibilities prevented his focusing more attention on civil rights during his first two years in office, and in the case of the Trade Expansion Act of 1962, in particular, advancing civil rights legislation would have cost him critically needed southern votes. A review of the international repercussions stemming from racial tensions in this country showed that the international position of the United States suffered with the continuation of these problems. Finally, the high point reached by racial protests in 1963 showed that

unless the national government took new action, law and order would be jeopardized. In addition, of course, the President's civil rights decisions depended on his analysis of the substantive civil rights problems reviewed in Chapter II of this study, and the precedents established by his predecessors, summarized in Chapter III.

The major question President Kennedy faced was whether desegregation, which in the opinion of many, by reason of the Supreme Court's Brown decision, had become a national commitment, could be left to conflicts between private lawsuits and local authorities, or whether it should become a national movement to enforce national laws, led and directed by the President.

CHAPTER V

PHILOSOPHICAL, STRATEGIC AND ORGANIZATIONAL ASPECTS OF THE KENNEDY CIVIL RIGHTS PROGRAM

Herman Finer, a student of the presidency, once described twelve important qualities he believed a President of the United States should possess.

The first quality, said Finer, is consciousness - a knowledge or perception of the facts involved in presidential decisions.

Secondly, convictions - a conscientious adherence to certain policies, a personal philosophy of the national way of life, and the rights and obligations men and women owe each other. Pointing to presidents of the United States who frequently have been labeled as "great" - Washington, Lincoln, Franklin D. Roosevelt, Wilson, Jefferson, and Jackson - he says that each had a conviction of an intense and elevated moral order, each established a new concept of America's destiny, and each was loyal to great ends.

Capacity for command is essential, says Finer, and by this he means the ability to decide that at a certain moment all the choices available shall be brought to a head, one to be preferred over all others,

and that action must be undertaken on it.

He stresses creativity - the ability to apply convictions inventively to the newly emerging problems of government, to the end that the problem is solved for the national benefit.

The President must brave the calumny of opponents, must make decisions which are painful to some, must refuse men the offices they seek, must sign death warrants, dismiss men in spite of popular clamor, - and so he must, therefore, be a man of courage.

A capacity for conciliation is most important, says Finer, for the President should be able to unify the nation as he tries to unify his party.

A seventh important quality is cleverness - resourcefulness in surmounting obstacles.

Presidential policies must reflect coherence - a recognition that one segment of policy cannot be pursued without regard for the claims of the rest.

Constancy is essential - for leadership must be constant, ever present, ever alert, ever-prescient, always touched in conscience by what may happen if those responsible fail to act.

Finally, - conscientiousness (the willing commitment to act on one's beliefs), charm (a kind of physical or spiritual attractiveness), and constitution (Woodrow Wilson said: "The office of President requires the constitution of an athlete, the patience of a mother, the

endurance of an early Christian, ") are required of a great President, says Finer.[435]

This broad range of important qualities must be exercised by the president in his manifold tasks as Chief Executive, Chief Legislator, Chief of Foreign Policy, Commander-in-Chief, Party Leader, and Chief of State. The responsibilities and powers of the president have grown over the years, and thus from Washington's time onward, each conceived of the office in heroic proportions, and each left it more powerful and influential than he found it.[436] It grew because of increased statutory authority, new constitutional interpretations, and presidential initiative, sometimes taken without direct legislative authorization. No law permitted Thomas Jefferson to double the territory of the United States through the Louisiana Purchase; and no law or part of the Constitution defined what a president should do in the Spring of 1861 when citizens in several states declared themselves independent of the Constitution, seized those post offices and forts in the southern states that made concrete the authority of the then primitive Federal government; but Lincoln perceived this as an act of war, accepted it as war, and made it war.

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[435]Herman Finer, The Presidency: Crisis and Regeneration - An Essay In Possibilities (Chicago: The University of Chicago Press, 1960), pp. 123-147.

[436]Arthur M. Schlesinger, Paths To The Present (New York: The Macmillan Company, 1949), p. 105.

The anti-trust laws of the 1880's had lain dead on the books for almost twenty years when Theodore Roosevelt became President, and it was he who made them come to life. Similarly, it was the initiative of Harry Truman that distilled new perspective out of a Mediterranean crisis in the Spring of 1947, an act of imagination that developed into a program of aid to Greece and Turkey, and then, successively, the Marshall Plan, and finally, NATO, President Kennedy's civil rights efforts were to add still another dimension to the responsibilities of the presidency.

John F. Kennedy understood the meaning of presidential power, he knew that this leadership had to be exercised at the forefront of crucial issues facing the nation, and that presidential leadership would consistently have to be characterized by courage guided by moral principles.

"This moral imperative," wrote Markmann and Sherwin, a few months after Kennedy had been President, "is very much a part of the man. Referring to such instances as Kennedy's having publicly assumed responsibility for the Bay of Pigs fiasco, they continued:

> Perhaps the strongest impression made by his personality, whether in his official acts or in the most formal of encounters, is that of an intellectual integrity that has always been rare in American public life and that is doubly surprising when it survives political success. One is immediately aware that John F. Kennedy is always, with the utmost critical detachment, observing himself quantitatively and qualitatively. Like Franklin Roosevelt, he has a sense of history and, probably, a great ambition

> to be a major element in it; he has in addition an overwhelming sense of moral and intellectual responsibility.[437]

Shortly after his nomination, as pointed out earlier, then Senator Kennedy had spoken of the President's moral responsibility in the area of human rights. A portion of his statement bears repetition:

> As a moral leader, the next President must play his role in interpreting the great moral issues which are involved in our crusade for human rights. He must exert the great moral and educational force of his office to . . . support the right of every American to stand up for his rights, even if on occasion he must sit down for them. For only the President, not the Senate and not the House and not the Supreme Court, in a real sense only the President can create the understanding and tolerance necessary as the spokesman for all the American people, as the symbol of the moral imperative upon which any free society is based.[438]

In the mounting crisis in race relations, the Federal government had been dangerously in default. When the Supreme Court outlawed segregation in public schools and in public facilities, there was left unanswered the question of how, when and by whom the new law, which differed so radically from existing custom and practice, was to be enforced. In the period following the 1954 Brown decision, there was no national policy, much less a national plan or a national program, for carrying forward legally, gradually and effectively, what was to be in

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[437] Charles Lam Markman and Mark Sherwin, John F. Kennedy: A Sense of Purpose (New York: St. Martin's Press, 1961), p. 6.

[438] Ibid., p. 316.

fact a revolutionary change in the social structure of a large portion of the nation.

The net result was that President Eisenhower and the Congress did not lead and guide the movement for equality of status. For the most part, they were spectators, some in the cheering section, and others in the booing section. In the vacuum created by the failure of the Eisenhower administration to develop an affirmative civil rights program, hostility on the part of both civil rights and white supremacy forces grew, leading to the racial clashes which the nation experienced from 1955 through 1963.

Both the 1960 Democratic platform and the campaign speeches of Mr. Kennedy reflected a determination to move ahead. However, as the Kennedy administration began, civil rights was not given a priority position.[439] In his Minneapolis address, referred to in the previous chapter, he had indicated that he would give first attention to executive action. In view of the fact that he had been elected by the narrowest of popular vote margins, and that the Democrats lost 20 seats in Congress in the same elections, he was not in a position to expect the Congress immediately to pass "radical" legislation.

Priorities were established. First, the President would seek to put the government's own house in order and, through executive

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[439]Conversation at the White House on February 7, 1964 with Lee C. White, Assistant Special Counsel to the President.

action, assure equality of opportunity in government and in the programs for which the government is responsible. Secondly, as soon as certain crucial legislation, such as the Trade Expansion Act was passed, requiring strong southern support in the Congress, he would call upon the Congress to live up to its responsibilities and provide legal remedies for the grievances that trigger unrest. Finally, the President would seek to rally the national leadership in business, in labor, in religion, and in all other fields - to support equality of opportunity.[440]

John F. Kennedy brought to civil rights problems and to all other issues facing him as President, an unusual mind. "Bobby is smart," said Democratic National Committee Deputy Chairman Louis Martin, "but Jack was a hell of a lot smarter than Bobby. Jack was the smartest man I have ever known." As an example, Martin told of the time he had accompanied the President, who was to speak to a Negro sorority in Washington. In the car, going to the meeting, Martin handed Kennedy a sheet containing basic facts about the organization - when it was founded, what it had done, who its outstanding members had been. The President read it through once, and returned it to Martin. "In his speech," Martin said, "Jack repeated accurately every single fact given on that sheet. It was a fantastic performance."[441]

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[440]Based on interview with Louis Martin, Deputy Chairman, Democratic National Committee, on February 12, 1964. Mr. Martin was one of the principal civil rights advisers to President Kennedy.

[441]Louis Martin interview.

In the Spring of 1961, Frederick W. Collins reported on the disciplined mind of the new President. He possessed, said Collins,

> A compulsive instinct for inquiring, effectively used. Utter independence. A range of concern which thrusts the Presidency far out and deep down in the government. An insistence on extracting decisions from a sum total of original materials instead of from alternatives pre-cooked by staff. An ease of decision, including decision on what needs to be decided, and when. A talent for suspended judgement, strikingly described as "an ability to live with chaos." An instinct for the relevant. A sense of personal responsibility equalling the most rigorous doctrine of command responsibility. Sharp, drift-free tuning which permits movement from one problem to another without overlap or confusion. An all encompassing political sensitivity ranging from the world to the ward. An unflagging intent of action. A zest which confers absurdity upon all of the melodramatic and maudlin folklore about the loneliness, anguish and burdens of the Presidency.[442]

Kennedy had long been a student of the presidency, and this study had taught him, among other things, that excessive delegation of responsibility by the President should be avoided at all costs. Prior to his inauguration he read Richard E. Neustadt's Presidential Power: The Politics of Leadership,[443] in which the Columbia University Professor and former Assistant to President Truman quoted "one official close to White House operations and decidedly in sympathy with Eisenhower,"

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[442]Frederick W. Collins, "The Mind of John F. Kennedy," The New Republic, May 8, 1961, p. 15.

[443]Richard E. Neustadt, Presidential Power: The Politics of Leadership (New York: John Wiley & Sons, Inc., 1960.)

who commented on the price of Eisenhower's having delegated too much authority to White House staff members:

> The process has been cumulative since the heart attack. Then there were massive delegations which simply followed the existing lines to Adams and on down. Those delegations were administered by men who told each other (and themselves), "don't bother the boss," "can't do this to him now." But the less he was bothered, the less he knew, and the less he knew, the less confidence he felt in his own judgement. He let himself grow stale. . . . That made the delegations irreversible. It made him cling tighter to the judgements of the people already around him. The less he trusted himself, the more he had to trust them.[444]

But Kennedy recognized, as Franklin D. Roosevelt had, that the first task of an executive is to guarantee himself an effective flow of information and ideas. Roosevelt's persistent effort, therefore, was to check and balance information acquired through official channels, by information acquired through a myriad of private, informal, and unorthodox channels and espionage networks. At times, says Neustadt, he seemed almost to pit his personal sources against his public sources.[445]

Kennedy's information came to him from an eighteen-button telephone console in his office, from radiophones in presidential cars and planes, and on the Kennedy yacht, Marlin, from newspaper editors, private citizens, whom he frequently asked to write him, his official

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[444] Ibid., pp. 159-160.

[445] Ibid., p. 156.

staff and advisers, and the visitors who came to see him.[446] One day, says Manchester, a hundred people were counted entering the West Wing office at the White House.[447]

Long before entering the White House, the President had decided that he would need to be at the forefront of decision-making, and that he would use a much smaller White House staff than Eisenhower had employed. He relied on his staff and other appointees to spot problems before they came in crisis form, to frame alternative solutions to those problems, to bring to the moment of decision the strongest case for and against any proposed course of action.[448]

Following the disastrous Bay of Pigs landing in Cuba, Kennedy examined the recommendations of his advisers with an even more critical eye. "The President won't assume anything from now on," Attorney General Robert F. Kennedy said then. "Simply because a man is supposed to be an expert in his field will not qualify him to the President."[449] Six months later, U.S. News and World Report said:

> . . . there is no presidential adviser, including Robert Kennedy, who has not had his ideas vetoed. The President likes to have ideas debated, pro and con, and makes

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[446]William Manchester, Portrait of a President: John F. Kennedy In Profile (Boston: Little, Brown and Company, 1962), pp. 45-46.

[447]Ibid., p. 12.

[448]Collins, op. cit., p. 16.

[449]Sidey, op. cit., pp. 147-148.

> his own decisions. Every major decision emerges from warm debate. Mr. Kennedy tends to suspect any proposal that seems to have unanimous support.[450]

In February of 1964, less than three months after the President's death, this writer asked six of his associates (Assistant Special Counsel to the President Lee C. White, Assistant Attorney General Burke Marshall, Deputy Attorney General Nicholas deB. Katzenbach, Administrative Assistant to the Attorney General John Nolan, John Feild, former Executive Director of the President's Committee on Equal Employment Opportunity, and Louis Martin, Deputy Chairman of the Democratic National Committee) - who President Kennedy's chief civil rights advisers were. These interviews, combined with further correspondence and research, indicate that he dealt with four identifiable groups of advisers on civil rights matters.

The first group included key Administration leaders who advised the President on long-range strategy. These included then Vice President Lyndon B. Johnson, Attorney General Robert F. Kennedy, Assistant Attorney General Burke Marshall, Beryl Bernhard, Staff Director of the U.S. Commission on Civil Rights, Louis Martin, Deputy Chairman of the Democratic National Committee, Deputy Attorney General Nicholas Katzenbach, Defense Secretary Robert McNamara - when civil rights problems involved the possible use of the military, and, at times,

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[450] "How Kennedy Runs The White House," U.S. News And World Report, November 13, 1961, p. 56.

Dr. Robert Weaver, Administrator of the Housing and Home Finance Agency.

Secondly, from time to time the President conferred with leaders of civil rights organizations such as Roy Wilkins of the NAACP, A. Philip Randolph of the Brotherhood of Sleeping Car Porters, James Farmer of CORE, Whitney Young of the National Urban League, and Dr. Martin Luther King, Jr. It was their function to articulate to the President the points of view of key civil rights organizations operating throughout the nation.

The third group of advisers included Presidential assistants and some staff members at the Sub-Cabinet level from certain Departments and Agencies of the Federal government. They advised the President on the substantive and tactical aspects of civil rights actions. Harris Wofford, who had served in the Civil Rights Unit of the presidential campaign, joined Kennedy's staff after his inauguration as a Special Assistant to the President, with special responsibility for civil rights. Following his departure from the White House staff in the Spring of 1962 to accept a Peace Corps responsibility in Africa, his civil rights duties were taken over by Lee C. White, Assistant Special Counsel to the President, who carried a great many responsibilities, of which civil rights was only one. Other staff members on whom the President relied included Theodore Sorensen, Special Counsel to the President, Presidential Assistants Kenneth O'Donnell and Lawrence O'Brien - specialists

on timing, in particular, and John Feild, then Executive Director of the President's Committee on Equal Employment Opportunity.

It should be emphasized that these were not highly structured groups. Whom the President consulted with depended principally on the nature of the problem, but also on who was available at the moment. "Frequently," said Louis Martin, "civil rights discussions with the President would come up without advance plan, following a White House meeting on some other matter.[451]

But as international problems grew in complexity, it became somewhat more difficult to see the President. Going through channels then became more important. "When I had a project," said Louis Martin, "I first sent memos to Bobby /Attorney General Robert F. Kennedy/, Ted /Special Counsel to the President, Theodore Sorensen/, Kenny /Presidential Appointments Secretary, Kenneth O'Donnell/, and Larry /Special Assistant to the President, Lawrence O'Brien, concerned with Congressional liaison/, and if they liked the idea, it went on to Jack /the President/.[452]

Presidential Assistant Harris Wofford's contacts sometimes were more direct in the one year he served in the White House. In a letter to this writer, he explained:

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[451] Louis Martin interview.

[452] Ibid.

> Generally, I saw the President for brief talks either before or after taking various civil rights leaders in to see him, or in connection with immediately pending issues. This averaged about once a month. One could see the President if he wished simply to sit around outside his office at the end of the day, which I never did. The other two routes were via Kenny O'Donnell or Mrs. Evelyn Lincoln /personal Secretary to the President/. I would go through O'Donnell. He was, within the limitations of the President's schedule, most cooperative.[453]

Gradually a smaller civil rights team developed, which included Wofford, his Yale Law School classmate, Berl Bernhard, Burke Marshall, whom Wofford had recommended as Assistant Attorney General in charge of the Civil Rights Division of the Justice Department, John Feild, and John Siegenthaler, Assistant to the Attorney General. The team met in Burke Marshall's office, signifying, as everyone soon come to understand, that Attorney General Robert F. Kennedy was "commander in chief for civil rights."[454] They were in daily touch with each other and with lobbyists representing private civil rights organizations.

The gravitation of civil-rights decision-making to the Justice Department ran counter to the thinking of Presidential Assistant Harris Wofford, who was well liked by private civil rights groups. The rumor at the time he left the White House staff in the Spring of 1962 was that he felt frustrated because of his increasing inability to see the President

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[453] Letter from Harris Wofford to the writer, dated March 25, 1964.

[454] Helen Fuller, op. cit., p. 124.

frequently. This rumor was not true, said Wofford in 1964:

> My leaving the White House had nothing to do with difficulty in seeing the President or in my relations with him, which were good. The negative factor for me was simply that the center of power and decision-making in civil rights was in the Department of Justice. Fortunately, a very old and good friend, Burke Marshall, in whom I had the greatest confidence, was at that center of decision-making. So this fact is not a criticism of the Administration's civil rights program.[455]

Burke Marshall pointed out to the writer, however, that President Kennedy's philosophy about staffing played a decisive role in the termination of a Presidential Assistant's being assigned mainly to civil rights:

> . . . President Eisenhower had a Special Assistant in the White House on Civil Rights matters, and so did President Kennedy for a time. Specification of function in the White House was not, however, in keeping with the manner in which President Kennedy liked his staff to function, so that since some time in 1962, Civil Rights matters in the White House have been handled by the Special Counsel to the President, or a member of that staff.[456]

Following the departure of Wofford, White House staff responsibility for civil rights fell principally to Lee C. White, Assistant Special Counsel to the President. Although he was considered by some private civil rights organization leaders as "cold" and "unimaginative," others familiar with White House operations pointed out that because White has

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[455]Wofford letter to writer.

[456]Letter to the writer from Burke Marshall, dated April 24, 1964.

a cool and analytical mind, as did Mr. Kennedy, and because he carried a number of responsibilities in addition to civil rights, his recommendations to the President carried considerable weight.[457] During the period of greatest civil rights difficulties, from the Spring of 1963 until the President's death, White had fairly easy access to the President.[458]

The fourth group of advisers on civil rights was known as the Sub-Cabinet Group on Civil Rights, and was composed of sub-cabinet officials from seventeen Federal departments and agencies. The group was thought of as both a source of ideas and of implementation through the Federal establishment. President Kennedy did not meet with the group, but did permit it to use the Cabinet Room for meetings.[459] The sessions were chaired by the Presidential Assistant principally concerned with civil rights: Harris Wofford until the Spring of 1962, and Lee C. White after that time.

One of the ideas coming from an early meeting of the Sub Cabinet Group was for concerted action in the recruitment and hiring of qualified Negroes by all Federal agencies operating in regional centers of Federal employment. In one city there were reported to be over 15,000 Federal employees, with only three Negroes above the bottom clerical or

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[457]Interviews in Washington, D.C. by the writer with Mr. E. Peter Libassi, and Louis Martin.

[458]Louis Martin interview.

[459]Letter from Harris Wofford.

janitorial level. It was decided to take one area at a time, assemblying the regional directors and personnel officers of all Federal agencies operating in the area, and outlining a program of positive action to find, train, employ or upgrade qualified minority group personnel. The meetings were held under the joint auspices of the President's Committee on Equal Employment Opportunity and the Civil Service Commission, with representation from the White House. As a result of these efforts, Federal agency staffs were integrated in a number of cities for the first time.[460]

In dealing with his civil rights advisers, Louis Martin said, the President insisted on getting at the facts - the raw data. John Feild pointed out that when information in the equal employment opportunity field, for example, appeared questionable to him, Mr. Kennedy would telephone Feild to double-check the facts. Both Burke Marshall and Nicholas Katzenbach said that it was the President's habit to listen to various alternatives, frequently interjecting ideas of his own.

Working relationships with his advisers were smooth. Said Burke Marshall:

> It was the President's procedure to listen to recommendations, which he absorbed and understood more quickly than anyone I have known. He had unusual perception. He was a wonderful man to work with.[461]

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[460]Harris Wofford, Jr., "Moving Ahead: Aims and Methods," ADL Bulletin, March, 1962, pp. 5-6.

[461]Interview with Burke Marshall.

When the moment for decision had come, the President would be the one who had read all the lessons, heard all the arguments, commanded all the information. No one would be able to write down for him all the considerations involved. Following this relentless gathering of facts, he would then make his decision.

Although President Kennedy had decided early in his administration that he would not ask Congress for civil rights legislation in 1961, Senator Clark of Pennsylvania and Representative Emanuel Celler of New York agreed that they would make an effort on their own. During the presidential campaign of 1960, Mr. Kennedy had asked them to put the Democratic party's civil rights planks in legislative form, and by May, 1961, they had completed that task, and proceeded to introduce six bills to implement the pledges.[462]

Clark and Celler had no reason to hope for White House support, but at least they wanted benevolent neutrality. Clark had previously discussed his bills with the President, who encouraged him to proceed.

But the day after Senator Clark reported this, the White House disassociated itself from the civil rights legislation introduced by Clark and Celler. The President had made it clear, White House Press Secretary Salinger said, that he did not think it necessary at that time to enact

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[462]Fuller, op. cit., p. 140.

civil rights legislation. Subsequently it was learned that on the day of Clark's announcement, United Press International had erroneously referred to the Clark-Celler measures as "Administration bills," prominent southerners had called to protest, and this resulted in the Salinger denial of White House support.[463]

Early in his Administration, the President let it be known that he considered the vote, particularly in the South, to be the key to Negro advancement. Mr. Kennedy announced that he had instructed the Attorney General to institute suits to remove impediments denying Negroes the right to vote in the South. The Justice Department proceeded to file 14 cases charging racial discrimination by various county registrars.[464]

Administration leaders let it be known that they would be pleased if civil rights organizations undertook a major Negro voter registration drive in the South. The Administration saw three major advantages in such a thrust. First, voter registration would be one civil rights item which white supremacists would find difficulty in opposing openly. Secondly, a study of civil rights abuses showed that Negroes have the most difficulty in areas where their numerical strength posed the greatest threat. Hence, if these Negroes could vote, they could elect city and county officials who might be more responsive to their needs. Finally,

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[463] Ibid., pp. 140-141.

[464] Lomax, op. cit., p. 246.

a major increase in the number of southern Negro voters would not only change local attitudes, but could also change the complexion of Congress, facilitating more advanced civil rights legislation.[465]

Following the 53rd Annual NAACP Convention in Philadelphia, 60 national and local NAACP leaders were received by the President at the White House on July 12, 1961. Again, he expressed the view that priority attention should be given the ballot.

Out of these and other discussions emerged a general plan for a pincer movement on the problem of discrimination in voter registration: the Justice Department would intensify legal actions to prosecute those who violated voting sections of civil rights statutes, and a new voter registration effort would be undertaken cooperatively by a group of civil rights organizations. The program eventually came to be known as the Voter Education Project, and it soon gained the support of the NAACP, CORE, the Southern Christian Leadership Conference, the Student Nonviolent Coordinating Committee, and the Urban League. The Taconic Foundation granted $250,000, other organizations and foundations gave lesser amounts, and it was agreed that the Project should be housed in the offices of the Southern Regional Council in Atlanta.[466]

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[465] Ibid., p. 248.

[466] Lomax, op. cit., pp. 247-249, and letter to the writer from Wiley A. Branton, Director, Voter Education Project, Southern Regional Council, dated April 30, 1964.

A philosophy and a general structure for dealing with civil rights problems was beginning to emerge, but civil rights organizations wanted action. Shortly after the inauguration, Roy Wilkins and Arnold Aronson, Chairman and Secretary, respectively, of the Leadership Conference on Civil Rights, met with the President to discuss civil rights suggestions. The President had not established a task force on civil rights prior to his inauguration, as he had done in many fields, but Harris Wofford had assembled a cross-section of ideas of what the administration might do.

The President asked Wilkins and Aronson to submit a memorandum summarizing their recommendations, and this was forthcoming on February 3rd. Three days later they were back at the White House to discuss their recommendations with Theodore Sorenson and other Presidental assistants. Sorenson pointed out that legislation would not be possible, but asked the Leadership Conference to suggest executive actions the President might take in dealing with problems of discrimination and segregation.

When the annual meeting of the Leadership Conference convened in Washington in March, 1961, the mood was stormy, for civil rights leaders were insisting that the Democratic platform could be redeemed only through legislation.[467]

Bearing in mind the continued extent of racial discrimination and

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[467] Fuller, op. cit., pp. 127-129.

segregation in education, housing, law enforcement, employment, transportation and voting, as reviewed in Chapter II of this study, and the fact that President Eisenhower had failed to exercise presidential leadership in dealing with this increasingly volatile problem, the impatience of these leaders was understandable.

It was evident to political observers in the early months of 1961 that skillful use of presidential power would be required in leading the nation as it negotiated the sharp changes now demanded in economic, legal, and social patterns. As a great respecter of the political facts of life, however, the President knew that his hairline victory in the 1960 elections, which also saw the Democrats lose 20 seats in the Congress, meant that in 1961, at least, - civil rights legislation could not be expected. Instead, he would have to turn to a more direct use of presidential power: Executive action.

CHAPTER VI

THE CIVIL RIGHTS PROGRAMS OF THE KENNEDY ADMINISTRATION: EXECUTIVE ACTION

Speaking in Minneapolis one month prior to the 1960 election on the question of civil rights actions which he believed the next President should take, John F. Kennedy stressed the scope of useful actions which could be taken without legislation, but by executive action, employing powers already available to the President.[468]

He wasted little time in applying this thinking. On the morning after his inauguration, the President telephoned the Coast Guard to ask why there had been no Negroes in its section in the Inaugural Parade. Contrary to widespread opinion, Negroes were not excluded from the Coast Guard at the time, but nonetheless, two days later, the Coast Guard began an all-out recruiting drive to enroll Negroes.[469]

At an early cabinet meeting, he queried Department heads on their hiring practices toward minorities, and followed up with orders

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[468] Fuller, op. cit., pp. 114-115.

[469] Golden, op. cit., p. 154.

that one official in each Department should be assigned to promote the employment of qualified members of minority groups. A few weeks later, he used a New Orleans school incident to declare, as President Eisenhower never had, that the decision of the Supreme Court on public school desegregation was morally just and right, as well as legally binding.[470]

He forbade segregation at any function held under government auspices - for business or pleasure. When Charleston, South Carolina refused to serve as host to a nonsegregated meeting of the Civil War Centenniel Commission, the President directed that the meeting be held elsewhere. . . . He ordered surplus foods to be sent to the Negroes of Fayette and Heywood counties, Tennessee, to relieve suffering caused by the economic boycott that the white community imposed there when Negroes tried to register to vote[471]

Said the Southern Regional Council in March, 1962, commenting on the civil rights activities of the Kennedy Administration:

> President Kennedy has brought to the defense of civil rights the new instrument of executive action. The vigor of its use has made the Administration a primary center for initiative. Negroes and civil rights groups, long dependent chiefly and ofttimes solely on their own resources, have been joined since January 20, 1961, by the federal executive in the search for sane and just race relations.

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[470] Fuller, op. cit., p. 125.

[471] Ibid.

> The numerous executive decisions taken these past 14 months represent a development of importance comparable to that of the Supreme Court's schools decision of 1954, and deserving of as much study and comprehension. The executive branch has placed its power in support of civil rights. That power is immense.[472]

Executive action moved on. The Department of the Interior issued an order making nondiscrimination in recreational use a condition of purchase of forest reserves offered to state and local governments. Secretary of the Interior Udall insisted that the Washington Redskins either hire Negro players or not use the capitol's new stadium. . . . A Yellowstone Park concessionaire was ordered to hire qualified Negroes. . . . The Defense Department issued a directive forbidding the use of military police to "quell affrays" on behalf of local authorities in support of segregation "or other forms of discrimination," and local commanders were instructed to monitor carefully any legal actions against servicemen growing from enforcement of discrimination, and to provide legal assistance, if necessary, to assure due process. . . . Peace Corps trainees were instructed on the extent and causes of discrimination. . . . The President intervened with the White House Press Photographers Association when it barred a Negro applicant. . . . The Secretary of State refused to sign a restrictive covenant when purchasing his new Washington home. . . . And the President, along with other

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[472] Southern Regional Council, Executive Support of Civil Rights (Atlanta, Georgia: Southern Regional Council, 1962), p. 1.

high officials of the government, expressed strong disapproval at the racially restrictive policies of Washington's Cosmos and Metropolitan Clubs.[473]

Following his election, Mr. Kennedy set out to locate highly qualified men and women to take top positions in the government. Sargent Shriver was placed in charge of the effort of locating Cabinet members, and he turned to other Kennedy aides to help him fill other posts. Louis Martin was given a list of 750 prospects who were Negroes, and recommended several to Mr. Kennedy In each case, said Martin, Kennedy's question usually was: "Can he do the job? Has he got guts"?

Many met the Kennedy test and were appointed to high positions. They included Robert C. Weaver as Administrator of the Housing and Home Finance Agency - the first Negro to head a Federal agency, Frank Reeves as a member of the White House staff, Dean Spottswood W. Robinson, III, as a Member of the U.S. Commission on Civil Rights, Thurgood Marshall as a Judge of the Court of Appeals, Carl T. Rowan as Deputy Assistant Secretary of State, and Andrew T. Hatcher as Associate White House Press Secretary, to name only a few.[474] The Administration was careful, however, not to appoint to high positions

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[473]Southern Regional Council, Executive Support of Civil Rights, op. cit., pp. 20-22.

[474]U.S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 191.

Negro southerners prominent in the civil rights movement, thus avoiding the hostility of southern Democratic Senators.[475]

The Department of Justice

The operating command post for the Kennedy Administration's civil rights programs was the Department of Justice, and the two key leaders in that operation were Attorney General Robert F. Kennedy and Assistant Attorney General Burke Marshall, head of the Justice Department's Civil Rights Division.

The only man who outranked the Attorney General in power and influence during the Kennedy administration was his brother, the President. Not only did Robert Kennedy head the Justice Department, but he was called upon to handle delicate foreign assignments, he helped General Maxwell Taylor assess the Bay of Pigs wreckage, was called upon by the President to examine the White House machinery, and played a leading role as a member of the Executive Committee of the National Security Council.[476]

No sooner had he been confirmed by the Senate, than he was challenged. Said Senator James Eastland of Mississippi, Chairman of the powerful Senate Committee on the Judiciary, with a wink, "Your

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[475]Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 26.

[476]Sidey, op. cit., pp. 145-147.

predecessor never brought a civil rights case in Mississippi."[477] But before the end of the Kennedy administration one of the most involved and detailed civil rights cases brought by the Justice Department was directed against the State of Mississippi, itself.

Long before that, however, Robert Kennedy stated in the South his and the administration's civil rights philosophy, in an address to the University of Georgia Law School on May 6, 1961. It was his first formal address since being named Attorney General of the United States. Said Robert Kennedy:

> And we know that if one man's rights are denied, the rights of all are endangered. In our country the courts have a most important role in safeguarding these rights. The decisions of the courts, however, much as we might disagree with them, in the final analysis must be followed and respected. If we disagree with a court decision, and, thereafter, irresponsibly assail the court and defy its rulings, we challenge the foundations of our society.[478]

He then addressed himself to the all-important question of enforcement of court orders:

> Our position is quite clear. We are upholding the law. Our action does not threaten local control. . . . In all cases - I say to you that if the orders of the court are circumvented, the Department of Justice will act. . . . We will not stand by or be aloof. We will move.[479]

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[477]Golden, op. cit., p. 136.

[478]U.S. Department of Justice, press release, Address by Robert F. Kennedy, Attorney General of the United States, prepared for delivery at the Law Day exercises, University of Georgia Law School, Athens, Georgia, Saturday, May 6, 1961, p. 2.

[479]Ibid., p. 8.

Bearing in mind the anticipated charge that the Federal government would attempt to supplant local authorities, the Attorney General sought to reassure the South:

> . . . since taking office I have conferred many times with responsible public officials and civil leaders in the South on specific situations. I shall continue to do so.
>
> We have sought to be helpful to avert violence and to get voluntary compliance. When our investigations indicate there has been a violation of law, we have asked responsible officials to take steps themselves to correct the situation. In some instances this has happened. When it has not, we have had to take legal action.[480]

The message could not be misunderstood: the orders of the courts must be followed, the Department of Justice would give local jurisdictions every reasonable opportunity to effect compliance with the law, but if they failed, the Department would move in.

The man to whom the Attorney General and frequently the President turned to carry out the Justice Department's civil rights responsibilities, and, at the same time, to keep an eye on other civil rights operations of the Federal Government, was Burke Marshall. As with Robert Kennedy, Senator Eastland wasted no time in quizzing Marshall on his intentions. "Are you going to solicit complaints"? asked Eastland. "If statistics on registration and voting in particular areas showed

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[480] Ibid., p. 11.

a heavy imbalance against race," Marshall replied, "I think we would consider that sufficient enough to start an investigation."[481]

The number of lawyers on the Civil Rights Division staff increased from 35 to 40 in 1962, and to 48 by the end of 1963.[482] Appropriations for the Division increased from $689,000 in 1961[483] to $845,000 in 1963. A budget of $1,245,000 was requested by Marshall for fiscal year 1964.[484]

Just as the Attorney General had indicated in his important address in Athens, Georgia in May, 1961, the Department worked to assist officials in troubled communities in anticipating, preventing, and responding to racial problems. Thus, Burke Marshall served as a mediator during and after the May, 1963 demonstrations in Birmingham, Alabama, and succeeded in re-establishing communication between the white and Negro communities. His first assistant, John Doar, "personally prevented a riot in Jackson, Mississippi, by walking into the middle of a growing crowd and urging demonstrators to leave"

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[481]Golden, op. cit., p. 141.

[482]Letter to the writer from Burke Marshall, dated May 6, 1964.

[483]U.S. House of Representatives, Committee on Appropriations, Subcommittee on the Departments of State and Justice, "The Judiciary And Related Agency Appropriations," Eighty-Sixth Congress, First Session, Hearings, Department of Justice, p. 192.

[484]U.S. House of Representatives, Hearings before a Subcommittee of the Committee on Appropriations, Eighty-Eighth Congress, First Session, "Department of Justice," 1963, p. 115.

following the Medgar Evars funeral. Other department officials went to Danville, Virginia, Cambridge, Maryland, Gadsden, Alabama, and Greenwood, Mississippi - in an effort to move protest demonstrations off the streets and into the conference room.[485]

One of the most vulnerable aspects of the Kennedy civil rights program lay in the administration's selection of southern Federal judges, each of whom first had to pass the scrutiny of the Justice Department. Kennedy's first judicial appointee was William Harold Cox, a friend of Senator Eastland's, who was selected and approved as Presiding Judge for the Southern District of Mississippi. He was selected in June, 1961 to ensure Senator Eastland's cooperation on other appointments, and to facilitate the necessary working relationship of the Justice Department with the Senate Judiciary Committee, headed by Senator Eastland. In the opinion of some observers, Cox's appointment was a trade for Thurgood Marshall's confirmation as a Federal judge.[486] As many expected, Judge Cox proved to be most hostile to Justice Department efforts to enforce the voting sections of the 1957 and 1960 Civil Rights Acts.

Federal District Judge E. Gordon West, another Kennedy appointee, followed the same pattern. In the opinion of many, he strengthened the hands of civil rights opponents by the following statement in

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[485]U.S. Department of Justice, "A Review of The Activities Of The Department of Justice in Civil Rights, 1963." Preliminary draft of report by the Attorney General to the President, February, 1964, p. 2.

[486]Barbara Carter, "The Fifteenth Amendment Comes to Mississippi," The Reporter, January 17, 1963, p. 20.

the case of McCain v. Davis (217 F. Supp. 661, 1963), which struck down a Louisiana statute enforcing segregation in hotels. Said the Judge:

> In my opinion, the only right involved is the right of the hotel owner to conduct his business without undue governmental interference, rather than the right of the Negro to be admitted to the hotels in question. . . . After the discriminatory law in question is held unconstitutional, and therefore no longer effective, the same private persons may continue, with complete immunity, to voluntarily discriminate to their hearts' content in the conduct of their private affairs.[487]

In the November, 1963 issue of the Yale Law Journal Stephen R. Field pointed out that of eight judges appointed by President Kennedy in Georgia, Alabama, Louisiana, and Mississippi, "four have indicated a considerable reluctance to follow the letter and spirit of the prevailing law in the civil rights area."[488]

Although the attitudes of these newly appointed Federal judges proved to be a problem both to private civil rights groups and to the Justice Department, the fact is that Federal judgeships represent some of the choicest of all political plums, and in order to secure the support of Senators from the deep South on important legislation, some of these positions had to go to their nominees, regardless of their racial views.

Now it is time to turn to two important aspects of executive action which concerned the Justice Department: voter registration and equality of treatment in law enforcement.

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[487] New Republic, October 5, 1963, p. 6.

[488] New York Times, March 2, 1964, p. 20.

Voter Registration

Fifty-two per cent of all Negroes live in the eleven states of the old South. If all were registered, the Negroes of the South could amass a total of 5,184,000 votes. Brink and Harris state that as of the end of 1963, only a little over 30% of them were registered.[489]

In a survey conducted in the South in the summer of 1963, Brink and Harris found that of those Negroes who had not registered, 64% "just hadn't gotten around to it," 2% said they were not qualified by reason of their residency or education, 11% said election officials would not allow them to register, 7% said they did not register because they could not be effective in politics, 10% did not believe in voting, 4% were not able to pay the poll tax, and 2% had not because of illness.[490]

Because motivation was such an important problem, the administration, as was indicated in the last chapter, encouraged civil rights organizations to develop an educational effort. The Voter Education Project was finally announced on March 29, 1962, and was publicly endorsed by the chairmen of the Republican and Democratic National Committees. With a staff of 5, and a budget of $260,000 a year, VEP sought to develop educational programs which would prove effective in

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[489]Brink and Harris, op. cit., p. 82. However, in an article published in the Saturday Review on June 13, 1964, Ralph McGill states that as of that date, 40% of the 1960 count of 5,016,100 Negroes in eleven southern states were registered. p. 20.

[490]Ibid., p. 84.

providing potential voters with the knowledge and the will to register.[491] Workers were found to cope with the very considerable problem of illiteracy among southern Negroes, and to persuade the apathetic and the disillusioned to register.[492]

One of the most effective organizations operating in this field was the Student Nonviolent Coordinating Committee. A representative of that organization explained their methods to a Sub-Committee of the House Judiciary Committee in the Summer of 1963:

> The techniques of operating in each county are much the same. All workers hold mass meetings at least once a week in local churches (and in tents, too, where the churches were burned last summer) for several reasons: to initiate people in voter registration work, to bring speakers, to sing, to share fellowship, and often to mitigate fear. They hold voter registration classes at least once a week to teach people to answer the various questions which will confront them on the registration form and to fill out forms. They canvass from door to door, a time-consuming process of encouraging people to register - often spending afternoons with one or two individuals getting to know them and creating the feelings of trust and confidence which are the necessary first steps for registrants. And then going back again and again until the person will finally come to a meeting or a citizenship class or go to the registrar.
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> Canvassing in rural areas was being done on foot; now cars are available in these counties. Workers often travel 200 miles a day, mostly on rural roads. A great deal of time is spent just getting people out of jail,

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[491] Voter Education Project, Southern Regional Council, First Annual Report (Atlanta, Georgia: Southern Regional Council, 1963), p. 2.

[492] "Direct Action in the South," op. cit., p. 10.

documenting stories of threats and losses of jobs on the part of applicants, and dealing with the other problems of working in this part of the South on this kind of project.[493]

While the Brink-Harris survey showed that 17% did not register because they were disinclined to do so, a total or 75% had not registered either because "they just hadn't gotten around to it" or because election officials would not allow them to register. Many "hadn't gotten around to it" because of pressures brought to bear on them which have no place in a civilized country. "The disenfranchisement of the Negro," says author Harry Golden, "made it possible for politicians such as Theodore "The Man" Bilbo to be elected Governor of Mississippi with a 'majority' vote of less than 25% of the total electorate." The process, Golden continued, had made it possible for Congressman Howard Smith of Virginia, and Senators Harry Byrd of Virginia and James Eastland of Mississippi to perpetuate themselves in office, and through seniority rules of the House and Senate, to wield tremendous power over a whole generation of Americans.[494]

On the day that John F. Kennedy was inaugurated, there were only six cases to end discrimination in voting on file in Federal courts - three years and three months after the passage of the 1957 Civil Rights

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[493]U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee of the Judiciary," op. cit., p. 1275.

[494]Golden, op. cit., p. 87.

Act.[495] Burke Marshall showed the writer a notebook he and his predecessor had maintained, recording voter registration cases. He pointed out that it had only six sheets in it when he entered office, but in February, 1964, it was 1 1/2 inches thick, - filled with records of these cases filed as of that time.

The barriers imposed by southerners to prevent voter registration were often effective. In Kingstree, South Carolina, for example, when Negroes attempted to register they found that registration had been limited to one day per month. "On registration day in March, /1962/, 138 applicants stood in line from 9 to 5, while only nine were admitted to take the test. In April, 238 again spent the day standing in line while only eleven were admitted.[496] Mississippi planters threatened Negroes working on those plantations with loss of their only means of livelihood if they registered to vote. "In a number of instances, Negroes have been driven off plantations where they had sharecropped for years after having registered to vote, or having participated openly in registration activity."[497]

Robert Moses, Field Director for the Student Nonviolent Coordinating Committee, reported to the House Judiciary Subcommittee, referring to a written report he had submitted earlier.

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[495] Fuller, op. cit., p. 132.

[496] Voter Education Project, op. cit., pp. 9-10.

[497] Ibid., p. 10.

First, on page 42, is a description of several events which occured in the lower southwestern corner of Mississippi which was a voters campaign begun in 1961.

In Amite County, as a part of this campaign one day, I accompanied two people down to the courthouse to register and wa s beaten by a local white person in the streets. I was beaten to the tune of eight stitches. . . .

As a part of the same campaign in an adjoining county and which is seen in the third paragraph, in Tylertown, one of our workers accompanied people to the courthouse and was hit by the registrar with the gun butt aside his head.

The final incident goes back to Amite County where I was beaten up. On September 25, and that is the last paragraph on page 42, a farmer was killed. Now he was killed by a State representative, Gene Hurst, and he was killed in broad daylight near the cotton gin.

Now he happened to be a farmer who was very active in voter registration campaign. Now, he was not killed at the courthouse and it happened that he did not go down to try to register. So there wasn't any attempt by the Justice Department to take this case into the Federal court, even though, the very day before he was killed, I and the official from the Justice Department were in that area, were talking to some Negroes out there and one of the things they pointed out was that three people were in danger of losing their lives.

. . . . . .

Now, in Amite County, there has been no real further voters registration activity since 1961, primarily because of this fear.[498]

Chairman Emanuel Celler of New York, after listening to more of this testimony to the House Judiciary Subcommittee, summed up his

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[498]U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings," 1963, op. cit., pp. 1249-1251.

conclusions:

> . . . But this document that you have submitted is the clearest recital for the need of additional legislation. Here are pictures, for example, of those who tried to register and dogs were sicced on them and did violence to those attempts to register. Now this whole document here is replete with violence and with heinous actions on the part of the police to prevent people from voting.[499]

Intimidation and violence continued - all intended to stop the efforts to register Negroes. On February 28, 1963, in LeFlore County, Mississippi, three white men attempted to kill three registration workers - Randolph Blackwell, Bob Moses and James Travis.[500] By mid-March, Negro applicants were forming long lines at the registrar's office, trying to register. But as interest in registration increased, so also did the acts of violence and intimidation against those active in registration. The office maintained by civil rights organizations active in the registration effort was burned, other fires of mysterious origin hit the Negro community, homes were fired into, and voter registration workers were shot at. When a large group of concerned people, led by James Foreman, Executive Director of the Student Nonviolent Coordinating Committee, and Bob Moses of the same organization, went to City Hall to ask the Mayor and the police about protection from such violence, they were turned away with the aid of a police dog, and

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[499] Ibid., p. 1262.

[500] Voter Education Project, op. cit., p. 29.

officials refused to talk with them. All registration leaders were arrested. Subsequently, as groups of 4 or 5 Negroes would gather, regardless of the purpose, the police would order them to disperse and arrested them when they failed to do so.[501]

The Civil Rights Acts of 1957 and 1960 had fixed responsibility in the Department of Justice for action in cases where the vote was denied. Racial discrimination against prospective Negro voters led to accelerated activity by the Civil Rights Division, as this table indicates:

	1958	1959	1960	1961	1962	1963	Total
Voting Records Inspection Requests (Counties)	1	0	19	25	34	50	129
Voting Cases Filed	1	3	4	17	8	25	58
Voting Cases Tried	0	1	4	4	12	14	31[502]

The 159 counties in which records had been requested included 59 of Mississippi's 82 counties, and 30 of Alabama's 67 counties.

Requests to inspect, photograph and analyze registration records are the first step in voting action, and are essential in determining whether there is a systematic pattern of discrimination against Negroes. Each case involved the department in analyzing tens of thousands of

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[501] Ibid., pp. 30-31.

[502] U.S. Department of Justice, "A Review of the Activities of the Department of Justice in Civil Rights, 1963," op. cit., p. 4.

records in detail, to see if Negroes had been treated as fairly as whites and, if not, to determine the form of the discrimination.

In certain cases, particularly in South Carolina and Georgia, the Justice Department was successful in securing voluntary action in correcting voting abuses. Where local officials refused to permit lawfully authorized inspections of their voting records, the Justice Department secured court orders to make the records available for inspection. When such records disclosed racial discrimination in the voting process, and when efforts to seek voluntary solutions proved unsuccessful, the department brought suit. Such suits, brought under the 1957 and 1960 Civil Rights Acts, sought court orders forbidding continued discrimination.[503] At the end of 1963, cases were pending in almost every large population center in the South where voting discrimination persisted.

In many cases, the effect of these suits was impressive. In Macon County, Alabama, for example, Negro registration increased from 13 to 42 percent; in Bullock County, Alabama, from 1 percent to 27.6 percent, and in Washington Parish, Louisiana, from 4.6 percent to 23.? percent.[504]

Frequently, legal action against systematic discrimination proved insufficient. Even in counties where Federal court action was successful,

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[503] Ibid., pp. 4-5.

[504] Ibid., p. 6.

public officials or private citizens used threats or intimidation to discourage voting efforts by Negroes. The Justice Department took action against such intimidation, as well as broad discrimination. Eight of the 25 voting cases filed in 1963 involved intimidation.[505]

The work load in preparing these cases was often staggering. In one voting case, for example, the Civil Rights Division examined in detail thirty-six thousand voting records, took testimony from one hundred eighty witnesses at the trial, and had four lawyers devote full time for several months to the case.[506]

Over and above the obstructions imposed by those who wished to delay or prevent Negro voter registration, the Civil Rights Division (and, much more important, those Negroes who had been denied the right to register to vote) had to contend with interminable delays by the courts in reaching decisions in voting cases. Attorney General Kennedy reported several instances to the Judiciary Committee of the Senate:

- A case in Terrell County, Georgia was brought to trial in December, 1958, and decided in September, 1960.

- In Macon, Alabama, a case brought in February, 1959 was finally settled in March of 1961.

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[505] Ibid., p. 7.

[506] U.S. Department of Justice, Press release, Address of Attorney General Robert F. Kennedy before the National Insurance Association, Los Angeles, California, July 26, 1962, p. 2.

- A Bullock County, Alabama case, brought in January, 1961, was decided in July, 1962, and a Clarke County, Mississippi case, brought in July, 1961, was still going on when the Attorney General testified on July 18, 1963.[507] Meanwhile, there had been elections, and those individuals discriminated against had lost their opportunity to vote.

A second additional problem lay in the limited applicability of Sections 241 and 242 of Title 18 of the United States Code, in prosecuting persons charged with oppressive efforts designed to prevent persons from registering or voting. This was illustrated in a discussion before the House Judiciary Subcommittee involving James Farmer, National Director of CORE, and William R. Foley, General Counsel of the Committee.

Said Mr. Farmer:

> I just returned from Gadsden, Alabama, as I told you, and found there that two of our field secretaries, and three of the task force members who were there had been arrested and not only were the field secretaries arrested, but they were brutalized by State patrolmen, troopers with cattle prods, those electric things which they use to move cattle.
>
> They showed me the scars over their bodies, where the things were jammed into them repeatedly, beaten into bloody pulp, knocked down and stomped and kicked, done by people who swore to uphold the law.
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> . . . . . .

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[507] U.S. Senate, Committee on the Judiciary, "Civil Rights - The President's Program. 1963," Hearings before the Committee on the Judiciary, Eighty-Eighth Congress, First Session, p. 148.

> We have presented evidence to the Department of Justice of such intimidations and harassment and, unfortunately, they have not felt in many cases that they have enough evidence to move, that they did not have the statutory authority to take action.[508]

Mr. Farmer expressed the view that Sections 241 and 242 of Title 18, U.S. Code,[509] could provide the basis for legal action.

General Counsel Foley pointed out that use of these sections involves two major problems. Referring to the Screws case,[510] it is necessary to prove specific intent to deprive a person of a designated

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[508] U.S. House of Representatives, Committee on the Judiciary, 1963 Civil Rights Hearings, op. cit., p. 2215.

[509] Ibid., pp. 2216-2217: Section 241 entitled "Conspiracy Against Rights of Citizens" reads: "If two or more citizens conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution of laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another with intent or threaten or hinder his free exercise or enjoyment of any right or privilege so secured - they shall be fined not more than $5,000 or imprisoned not more than ten years, or both."

Section 242, entitled "Deprivation of Rights under color of law" reads: "Whoever, under color of any law, statute, ordinance, regulation or custom willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution of the laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race than are prescribed for, the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

[510] U.S. v. Screws, 325 U.S. 91 (1945). For further discussion of this case, see the section on "Equal Justice Under Law" in Chapter II of this study.

constitutional right. Secondly, the Justice Department faces the practical problem of a criminal prosecution and a trial by jury. Southern juries have not been inclined to find whites guilty who have been charged with offenses against Negroes.[511]

Despite these problems, by 1963, some improvements were discernible. Said John Doar, Assistant to Burke Marshall, in January, 1963: "We have moved from no Negro registration to token registration."[512] Referring to the voter registration work of the Justice Department, Dr. John Morsell, Assistant to NAACP Secretary Roy Wilkins said, "Marshall and Doar are strong and committed people, and their work has been vigorous and imaginative."[513] And Mr. Wiley A. Branton, Director of the Voter Education Project, who had had some critical words for the Justice Department in the Project's First Annual Report, said, in a letter to the writer on April 30, 1964, - "There has been considerable improvement in terms of the elimination of discrimination on the part of registrars in the South since the release of our First Annual Report and a good measure of the relief can be attributed to the work of the Justice Department."

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[511] U.S. House of Representatives, Committee on the Judiciary, op. cit., p. 2217.

[512] Barbara Carter, "The Fifteenth Amendment Comes to Mississippi," op. cit., p. 24.

[513] Interview by the writer with Dr. Morsell in New York on February 19, 1964.

The Justice Department's Civil Rights Division found itself receiving not praise, but severe criticism from civil rights groups, however, in dealing with the problem of alleged police brutality. The substance of this problem together with a discussion of the validity of these criticisms will be discussed in the next section.

Police Brutality

The rights of citizens to speak freely, to assemble peacefully, and to petition the government for the redress of grievances - are guaranteed by the First Amendment to the Constitution. These rights are protected against state encroachment by the Fourteenth Amendment. However, official actions taken to interfere with civil rights demonstrators or civil rights leaders have infringed on these protected rights, and have become the object of concern and action by the Civil Rights Division of the Department of Justice.

Volume 5 of the 1961 report of the U.S. Commission on Civil Rights reported in detail on ". . . unconstitutional and violent acts by some agents of justice in the United States."[514] In its 1963 report, the Commission noted that ". . . effective legal remedies must be fashioned if unwarranted official interference is not to result in the total suppression of constitutional rights to protest "[515]

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[514]U.S. Commission on Civil Rights, 1961 Report, op. cit., v. 5, p. 1.

[515]U.S. Commission on Civil Rights, 1963 Report, op. cit., p. 107.

A number of reports on alleged police brutality followed the demonstrations in Albany, Georgia in the Spring of 1962. Howard Zinn's report on the Albany situation states, for example, that on March 26, 1962, at the trial of Albany demonstrators in the Albany Superior Court (a county court), Charles Sherrod of the Student Nonviolent Coordinating Committee, "walked toward the front of the courtroom, traditionally reserved for whites, to take a seat."

> Chief Deputy Lama Stewart knocked him to the floor and dragged him to the rear. . . . The only comment of the presiding judge, watching all of this was: "The officers were enforcing a rule of the court."[516]

This proved to be only a mild introduction to what was to follow during the summer. Zinn reports that on July 23, 1962, Mrs. Slater King, wife of the Albany Movement's Vice President, while in her sixth month of pregnancy, drove to Camilla, Georgia and sought to visit her husband, who was in jail there. She and her friends were ordered from the fence around the jail. As she left, walking slowly, ". . . . she was kicked and knocked to the ground. An officer hit her twice on the side of her head and she lost consciousness."[517] Her three children were with her at the time, including a three year old in her arms. Subsequently the pregnancy terminated and she lost that child. As of

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[516] Howard Zinn, Albany: A Study in National Responsibility (Atlanta, Georgia: Southern Regional Council, 1962), p. 7.

[517] Ibid., p. 11.

November, 1963, the Department of Justice had taken no action in her case.[518]

Five days later, on July 28, 1962, C.B. King, the first and only Negro to practice law in Albany, and the legal backbone of the Albany Movement, visited Sheriff Cull Campbell of Dougherty County. King wanted to check on the condition of William Hansen, then in jail. When the Sheriff spotted King, he said: "Nigger, haven't I told you to wait out there"? and proceeded to hit King over the head with a walking stick to the point that the cane broke. King stumbled from the office, blood streaming from his head. Said the Sheriff later:

> Yeh, I knocked hell out of him, and I'll do it again. I let him know he's a damn nigger. I'm a white man and he's a damn nigger.[519]

As of November, 1963, the Department of Justice reportedly had not acted in that case. Said the Atlanta Journal in an editorial,

> The Justice Department in the past usually has acted as if it could forget Albany. Although the federal government has clear authority in cases involving conspiracy to deny constitutional rights, the department has never moved against any such denials in Albany.[520]

Zinn was particularly critical of the FBI, stating that despite the "undisputed evidence" of beatings by sheriffs and deputy sheriffs,

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[518]"Direct Action in the South," op. cit., p. 14.

[519]Howard Zinn, op. cit., p. 31.

[520]"Direct Action In the South," op. cit., p. 15.

the FBI had not made a single arrest on behalf of Negro citizens. The one arrest made by the FBI, said Zinn, came early in September, when an FBI man, himself, was attacked by a white man near the site of a burned church.[521]

The 1963 hearings conducted by Subcommittee Number 5 of the House Judiciary Committee produced more reports of police brutality, and more charges of failure by the Civil Rights Division of the Department of Justice to act. Aaron E. Henry, President of the Mississippi State Conference of NAACP, stated that on September 25, 1962, in the town of Liberty, Mississippi, Herbert Lee, a Negro, who had been active in a voter registration campaign, was shot and killed by a white member of the Mississippi House of Representatives, E.H. Hurst. No prosecution was undertaken, the authorities explaining that the representative had shot in self-defense.[522]

Mr. Henry then detailed other acts of official intimidation:

> My wife, Mrs. Noelle Henry, who has been employed by the local school board for 11 years, has had her contract revoked because of my activity in the civil rights movement.[523]

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[521] Zinn, op. cit., p. 31.

[522] U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee on the Judiciary," op. cit., p. 1341.

[523] Ibid., p. 1334.

March 30, 1961, Jackson, Hinds County. Club swinging police and two police dogs chased more than 100 Negroes from a courthouse where 9 Negro students were convicted for staging a sit-in demonstration. Several were struck by the clubs, and at least two were bitten by dogs.

August 27 and 29, 1961, McComb, Pike County: Five Negro students from a local high school were convicted of breach of the peace following a sit-in in a variety store and bus terminal. They were sentenced to a $400 fine each and 8 months in jail. One of these students, a girl 15, named Miss Brenda Travis, was subsequently re-arrested, and sentenced to 12 months in a State school for delinquents.[524]

Subsequently National CORE Director James Farmer testified before the same Subcommittee and produced a series of signed, notarized statements. One typical one came from the Reverend R.C. Suttles. It read:

I live at 1534 Cansler Avenue, Gadsden, Alabama. On the 19th of June, 1963, I was among seven arrested on the corner of 6th and Broad Streets. They arrested me and threw me into the car and beat me up. After being arrested and put in the car, a city policeman beat me also. The city policeman had his badge covered with aluminum. City Policeman Payne stopped the beating. I was stuck with the electric prodder by city policemen and a deputy named Joe Sullivan and C.H. Dobbs. Joe Perkins stopped this beating.[525]

Reported Wavelyn Holmes, in another signed and notarized statement:

I live at 411 Court West, Birmingham, Alabama. I am 19 years of age. On Friday, June 21, 1963, I was

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[524] Ibid.

[525] Ibid., p. 2248.

> arrested on the corner of Fifth and Broad. The officer was wearing a badge reading "special agent." I was knocked to the ground by this officer and drug to a car by him and another "special officer." Upon reaching the Etowah County Courthouse, Al Lingo /Director of the Public Safety Commission of Alabama/ and three officers hit me in the stomach, across the breast and across the back with billy clubs. They also struck me with prodders on the elevator. This was done by three Etowah County deputy sheriffs.[526]

Clarence Mitchell, Washington Representative of the National Association for the Advancement of Colored People, in testimony before Subcommittee No. 5 of the House Committee on the Judiciary, charged that the Justice Department had made an administrative determination ". . . that they will go at these things in a very moderate way, giving the States the maximum opportunity to correct problems and get their own houses in order regardless of what the statutory basis for action might be. . . . I think it is important that this committee know that the Justice Department does make decisions to handle things in a way different from what the law would require."[527] Representatives of the Student Nonviolent Coordinating Committee, pursuing criticism of the Justice Department said, "Whatever the reason, the fact that police officers are rarely tried on civil rights charges had led the public to believe that few serious charges are ever made, and has reinforced

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[526] Ibid., p. 2251.

[527] Ibid., p. 1268.

the belief among offending peace officers that they may treat or mistreat Negroes as their whims direct them."[528]

The Federal Bureau of Investigation was severely criticized by civil rights leaders and some writers for its failure to take more vigorous action. Said Howard Zinn, in a letter to the New York Times:

> The Civil Rights Acts of 1957 and 1960 have been violated repeatedly by local officials, sometimes before the eyes of FBI agents and Justice Department attorneys (most notably in Selma, Alabama on October 7, 1963). FBI agents are authorized by the Administrative Code to make arrests when they witness violations of Federal law, but they have stood by watching while persons were beaten by police or by mobs.[529]

"During my tenure a[illegible] Director," said J. Edgar Hoover,

> I have insisted that every civil rights complaint be given thorough, prompt and impartial attention. . . . In civil rights investigations, as in all other matters without our jurisdiction, the FBI functions solely as a fact-gathering and fact-reporting agency. Our Special Agents do not express opinions as to guilt or innocence. Nor do they make prosecutive recommendations or otherwise assume the role of accuser, prosecutor, jury, or judge.
>
> When complaints are received alleging police brutality, an investigation is immediately launched which includes interviews with the victim, the officers involved, and any available witnesses, as well as a review of appropriate records, such as arrest ledgers, hospital forms, and the like. Results of these investigations are sent to the Civil Rights Division of the Department of Justice.

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[528] Ibid., p. 1287.

[529] New York Times, February 19, 1964, p. 38.

> Occasionally, a complaint alleging police brutality is received which raises a question concerning the desirability of launching an immediate investigation. In all such instances, the facts are brought without delay to the attention of the Department of Justice. Any investigation requested by the Department is immediately instituted.[530]

2,085 alleged violations of civil rights were reported to the FBI during fiscal year 1962. The overwhelming majority of these complaints involved alleged violations of Title 18, Section 242, United States Code, which, as pointed out earlier in this study, prohibits persons "acting under color of law" from willfully depriving any inhabitant of rights, privileges or immunities secured by the Constitution. Most complaints against police officers are received under Section 242.[531]

In fiscal year 1961, the Department of Justice filed one police brutality case in each of these states: Alabama, Pennsylvania, Tennessee, and Nevada - a total of 4. In fiscal year 1962, one case each was filed in: Virginia, Missouri, Ohio, Mississippi, Louisiana, Indiana, Florida, Alabama, and Colorado, and two were filed in Georgia. Eleven cases were filed in 1963, too. The Department reported two convictions in fiscal year 1961, two in 1962, and four in fiscal year 1963.[532]

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[530]John Edgar Hoover, "The FBI's Role in the Field of Civil Rights," Reprint, Yale Political Magazine, August, 1963, pp. 5-6.

[531]"Full Safeguards for Civil Rights are Constant Goal," FBI Law Enforcement Bulletin, October, 1962.

[532]Letter to the writer from John L. Murphy, Chief, General Litigation Section, Civil Rights Division, Department of Justice, dated May 25, 1964.

Because of the seriousness of charges by civil rights organizations that the Department of Justice had failed to prosecute many police brutality cases, four cases of alleged police brutality were checked with the Civil Rights Division by this writer.

The first had been reported to the House Committee on the Judiciary by Mr. Aaron Henry of the Mississippi NAACP, who stated that on April 12, 1962, Corporal Roman Duckworth, Jr., a Negro, was shot and killed by Policeman Bill Kelly, when Duckworth "insisted on his right to sit where he chose on an interstate bus." Mr. Henry stated that the policeman claimed that Duckworth was drunk and started fighting, leading to his being shot and killed.[533]

The investigation by the Department of Justice showed that the Corporal had been intoxicated, became disorderly, the officer who was called on to remove him from the bus was assaulted by the soldier, resulting in Duckworth's being shot and killed. "After careful consideration of the evidence in this matter," said the Chief of the Civil Rights Division's General Litigation Section, "the Department concluded that the evidence was insufficient to support any prosecution under federal criminal statutes."[534]

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[533]U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee on the Judiciary," op. cit., p. 1335.

[534]John L. Murphy letter, op. cit.

The Counsel to the Washington Bureau of the National Association for the Advancement of Colored People, J. Francis Pohlhaus, had repeatedly charged the Civil Rights Division of the Department of Justice with failure to prosecute cases of alleged police brutality when sufficient evidence existed, so this writer invited Mr. Pohlhaus to cite specific examples and subsequently asked Mr. Burke Marshall, Assistant Attorney General in charge of the Civil Rights Division, to indicate what action he had taken in these cases.

Said Mr. Pohlhaus:

> 1. On April 29, 1963, pursuant to telephonic information relayed by the late Medgar Evars, this office contacted the Department concerning a police brutality case in Clinton, Mississippi. We were advised that Messrs. George Vaughn, Joseph Williams, and Daniel Walker, Jr., were arrested on April 19th at the scene of a motor vehicle accident. We were further advised that these young men were beaten without cause by arresting officers with fists, flashlights, and clubs.
>
> 2. On September 25, 1963, we advised the Department of a beating administered to Mr. Lafayette Surney, a field secretary of SNCC. Mr. Surney was arrested in Clarksdale, Mississippi, on August 9. According to affidavits submitted by him and several witnesses, he was beaten into unconsciousness by law officers in the County Jail building.
>
> 3. On March 8, 1962, we submitted to the Department of Justice a charge of brutality against Mr. Abraham Williams by members of the Darlington, S.C. police department. This was supported by affidavits and pictures. The information submitted indicated that Mr. Williams was brutally assaulted while a prisoner and while in handcuffs.

> The cases here cited are noted for you because in each case the allegations of the victims are supported by the testimony of witnesses. As you know, cases of police brutality often occur where there are not witnesses favorable to the victims.[535]

After examining the charges by Mr. Pohlhaus, Burke Marshall stated that the evidence developed by Justice Department investigations in the matters involving Mr. Abraham Williams at Darlington, South Carolina in 1961 and the three persons in Clinton, Mississippi in 1963, did not warrant prosecution. He said that the matter concerning Mr. Lafayette Surney in Clarksdale, Mississippi was still under consideration along with several other matters involving the same police officials.[536]

A review of the total problem of dealing with cases of alleged police brutality develops the following conclusions:

1. Although complaints, as received by the Civil Rights Division of the Department of Justice often allege facts which appear clearly to constitute a prosecutable violation, evidence developed during investigations does not always substantiate the allegations of the complaint. The Department, obviously, must consider all the evidence available and must not restrict itself to the complaint in

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[535] Letter to the writer from Mr. Pohlhaus, dated April 6, 1964.

[536] Letter to the writer from Mr. Burke Marshall, dated May 6, 1964.

deciding whether prosecutive action is warranted.

2. In evaluating these cases, the criteria the Department of Justice uses are those prescribed in the decided cases, principally Screws. Under these decisions, the government is under a heavy burden of proof to establish beyond a reasonable doubt that the purpose with which the officer acted was not to effectuate any legitimate police objective, but to inflict summary punishment, or to extort a confession, or to wilfully invade the privacy of a home, or in some other manner to act knowingly and wilfully in disregard and in deprivation of the constitutional rights of the victim. Some lawyers have contended, however, that the Department should broaden its criteria, seeking a revision of the Screws decision.

3. At the end of 1963, there were 48 attorneys on the staff of the Civil Rights Division, - not enough to handle the complex voter registration and police brutality cases, to mention only two problem areas, which are the concern of this Division. An increase in the size of the staff of attorneys would facilitate speedier action on police brutality charges.

4. The FBI finds itself in the very difficult position, in police brutality cases, of investigating the very police officers on whom the FBI often depends for important information in its investigations. Attention should be given the advisability of establishing a separate investigation unit, concerned exclusively with alleged violations of constitutional

rights, as distinguished from the FBI's responsibilities in the area of investigating espionage, kidnapping, and other defined Federal crimes which fall within its jurisdiction.

5. In volume 5 of its 1961 report, the U.S. Commission on Civil Rights produced two useful recommendations for action by the Congress in prescribing new Federal remedies for unlawful official violence. They read as follows:

> Recommendation 2. That Congress consider the advisability of enacting a companion provision to section 242 of the United States Criminal Code which would make the penalties of that statute applicable to those who maliciously perform, under color of law, certain described acts including the following:
>
> (1) subjecting any person to physical injury for an unlawful purpose;
>
> (2) subjecting any person to unnecessary force during the course of an arrest or while the person is being held in custody;
>
> (3) subjecting any person to violence or unlawful restraint in the course of eliciting a confession to a crime or any other information;
>
> (4) subjecting any person to violence or unlawful restraint for the purpose of obtaining anything of value;
>
> (5) refusing to provide protection to any person from unlawful violence at the hands of private persons, knowing that such violence was planned or was then taking place;
>
> (6) aiding or assisting private persons in any way to carry out acts of unlawful violence.
>
> Recommendation 3. That Congress consider the advisability of amending section 1983 of title 42 of the United

> States Code to make any county government, city government, or other local government entity that employs officers who deprive persons of rights protected by that section, jointly liable with the officers to victims of such officers' misconduct.[537]

6. The Federal government should explore the advisability of a program of grants-in-aid to assist state and local governments, upon their request, to increase the professional quality of their police forces. Training could include scientific crime detection, and training programs in constitutional rights and human relations. Such was recommended by the U.S. Commission on Civil Rights in 1963.[538]

7. Finally, the Civil Rights Division of the Department of Justice should undertake a more vigorous public information program, designed to help the general public and more particularly civil rights organizations, understand more clearly the procedures it must follow in dealing with its legally assigned responsibilities. While the Department's actions in dealing with problems of police brutality in Albany, Georgia and Selma, Alabama, for example indicate its having delayed too long while local jurisdictions acted; in most cases, the Department's performance has been commendable within the limits of its resources.

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[537] U.S. Commission on Civil Rights, 1961 Report, v. 5, op. cit., pp. 112-113.

[538] U.S. Commission on Civil Rights, 1963 Report, op. cit., pp. 124-125.

Equality of Employment Opportunity

There were more than 35 Negro millionaires in the United States as of November, 1963. The percentage of Negro families earning $10,000 a year or more had gone from one half of 1% in 1953 to 5% in 1963, and in 1963 more than 16% of non-whites in the United States held white collar jobs, as against less than 12% ten years earlier.[539] These were signs of progress.

By the end of the Kennedy administration, 141 firms had joined the Plans for Progress program supported by the President's Committee on Equal Employment Opportunity. Of 60,000 new employees these firms hired during the last three months of 1963, 25% were Negro, but under previous practices, the figure would have been 3%.

As of November, 1963, at least 50 large firms in the United States were actively recruiting Negroes. They included A. T. and T., IBM, Western Electric, General Electric, and RCA. Late in 1963, Connecticut's Pitney-Bowes, manufacturers of mailing machines, announced a policy of preferential hiring for Negroes. In the South, the R.J. Reynolds Tobacco Company built a new plant during 1963 in Winston-Salem, North Carolina, and used Negroes in supervisory positions - a new and significant forward step. Such firms as Pepsi-Cola, Schenley Industries, and McCann-Ericksen had Negro vice presidents.[540]

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[539] Time, January 3, 1963, p. 17.

[540] Ibid., p. 24.

These facts are accurate, they reflect foresight on the part of the organizations cited, but unfortunately, they are not indicative of the total picture.

Statistics show that in 1963, the final year of the Kennedy administration, among married men with family responsibilities, the unemployment rate was 3% for whites, and 8% for nonwhites. In the 14 to 19 year old group, the unemployment rate was 12% for whites, and 24% for nonwhites.[541] Moreover, over a period of years the disparity had grown worse instead of better. In 1947, the nonwhite unemployment rate was 64% higher than the white unemployment rate; in 1952 it was 92% higher; in 1957 it was 105% higher, and in 1962 it was 124% higher.[542]

In Detroit, some 60% of the unemployed were Negroes in 1963, yet Negroes constituted only 20% of the population. The income gap between whites and Negroes had continued to widen to the point that at the end of 1963, 71% of Negro families in the nation were living below the "poverty and deprivation" line of $5,000 annually.[543] These figures help to explain the increased number of demonstrations in 1963, the

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[541] U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee on the Judiciary," op. cit., p. 1461. (Testimony by Secretary of Labor Willard Wirtz).

[542] U.S. House of Representatives, Committee on Education and Labor, 88th Congress, 1st Session, Report on H.R. 405: "Equal Employment Opportunity Act of 1963," p. 2.

[543] Clarence L. Cave, "Black and White," Social Progress, December, 1963, reprint.

March on Washington for Jobs and Freedom, the forceful insistence of Negroes and their white supporters that Negroes be given equality of employment opportunity. In 1963, Negroes in the United States faced an unemployment crisis.

Not only was a disproportionate percentage of Negroes unemployed, but those Negroes who were employed were grouped largely in low skilled jobs. 20% of the Negro work force was engaged in clerical, professional, technical and managerial fields, compared to 60% of the white labor force. 75% of Negro male non-farm workers were found in unskilled and semiskilled positions, while only 33% of white male non-farm workers were in these occupations.[544]

The demand in 1963 was for skilled labor in the United States. Since 1947, employment of white-collar workers - executives, entrepreneurs, professional and scientific employees, clerks, and salesmen - had gone up 43%, compared to only a 14% gain in blue-collar and service-worker employment.[545]

A major element in the total problem was insufficient education. Many employers willing to hire Negroes had trouble finding Negroes to hire. Colleges and medical and professional schools eager to admit

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[544]U.S. House of Representatives, Committee on Education and Labor, op. cit., p. 53.

[545]Charles E. Silberman, "The City and the Negro," Fortune, March, 1962, reprint, p. 3.

Negroes (and to give scholarships) during the years of the Kennedy administration, could not find as many qualified Negroes as they were willing to admit. The National Scholarship and Service Fund for Negro Students reported that there were five times as many places available in northern colleges as there were Negroes to fill them. The same pattern proved true in the professions. The number of Negro physicians in the United States had been static for fifty years.[546] Matthew A. Kessler of the Division of Employment and Labor Force Analysis of the Bureau of Labor Statistics, completed a study in June, 1963 which showed that since the mid-1950's, the difference in educational attainment between whites and nonwhites had remained substantially unchanged, with both groups showing a rise of about one full year in the median number of school years completed. This departed, however, from previous long-term trends toward narrowing the disadvantage of Negroes.[547]

Other studies completed in 1963 showed that while 70% of the young white population in the United States had graduated from high school, only 40% of the nonwhites had. As of 1962, of the adult population 25 years and older, 6.2% of the whites and 22.1% of the non-whites had completed less than 5 years of school. Almost 12% of white adults (age 25-29) were found to have completed college at that time, compared

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[546] Ibid.

[547] New York Times, June 30, 1963, p. 42.

to only 5.4% in the non-white population.[548]

The Kennedy administration faced the fact that the high unemployment rate and low average income of Negro families not only represented a great human problem, for the individuals and families involved, but also affected the nation economy. A 1962 study by the President's Council of Economic Advisers showed that the gain to be realized from the full utilization of the then present education attainment of Negroes might well be as much as 2.5% (or about $13 billions annually in terms of the gross national product). This figure assumed increases in wages and salaries, and the creation of additional plants and equipment.[549] The Council went on to state that if Negroes were educated as fully as whites, the gross national product would be increased by about 3.2% above the present level, or by approximately $17 billions per year.[550]

The already serious problems of unemployment faced by Negroes during the early part of the Kennedy administration grew more serious as the pace of automation quickened. The average increase in output

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[548]U.S. Senate, Labor and Public Welfare Committee, "Equal Employment Opportunity Hearings before Subcommittee on Employment and Manpower," 88th Congress, 1st session, Testimony by Otis Finley, Associate National Director, National Urban League, p. 4.

[549]Southern Regional Council, Report L-37: "A Statement on the Economic Costs of Racial Discrimination in Employment presented to the Joint Economic Committee of Congress in September, 1962 by the Council of Economic Advisers," p. 3.

[550]Ibid., p. 4.

per man-hour was 2.8%, meaning that during the years of the Kennedy administration, about 1.8 millions jobs were lost annually through automation.[551] Since nearly two-thirds of the non-white members of the labor force were in low-paying and unskilled jobs classifications which automation steadily proceeded to wipe out, Negroes suffered serious set-backs because of automation.

The Manpower Development and Training Program

Because of this serious manpower situation, which was brought strongly to public consciousness by the recession of 1960-1961, the Congress in 1962 passed the Manpower Development and Training Act, which enabled the Federal government to provide training and re-training for workers whose skills or lack of skills no longer fitted the employment needs of the economy.

During the first two years of its operation, 100% of the operating costs of the M.D.T.A. training programs were provided by the Federal government. After June 30, 1964, the cost of all programs will be shared equally by the states and the Federal government.[552] Between July 1, 1962 and February 28, 1963, training programs for approximately

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[551] Charles Markham, ed., Jobs, Man and Machines: Problems of Automation (New York: Frederick A. Praeger, 1964), p. 2.

[552] U.S. House of Representatives, Committee on Education and Labor, Eighty-Eighth Congress, First Session, "The Federal Government and Education," p. 87.

25,000 persons were approved. To receive training, the applicant had to be able to show a reasonable opportunity for placement following completion of the training program.

Negro leaders were found to be most critical of M.D.T.A. M. T. Puryear and Adolph Holmes,[553] who head the National Urban League's equal employment opportunity program, charged that there had been discrimination against Negroes by state employment services in selecting those persons who would be trained. The Act states that there must be a reasonable expectation of a job for those who are trained, but since there were such limited job opportunities for trained Negroes in many communities, especially in the South, these Urban League officers stated that often Negroes were denied training opportunities.

There were other problems. Frequently, the education programs for those admitted to training were conducted in schools in the South which had been traditionally used only by whites. Many Negroes, stated Puryear and Holmes, having been rejected at those places for decades precisely because they were Negroes, hesitated to return again. Finally, the M.D.T.A. program was criticized on the ground that Negroes who completed this training tended to end up in the lowest-paying job categories.[554] Clarence Mitchell, Washington Representative of the National

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[553]Interviewed by this writer in New York City on February 19, 1964.

[554]Interview with Puryear and Holmes,

Association for the Advancement of Colored People, stated in his May 10, 1963 "Monthly Report" that ". . . colored persons are being trained as chambermaids, shirt pressers, service station attendants, waiters, and waitresses, . . . while training given white persons included electronics, sheet metal welding, and stenography."

Said Mrs. Cernoria D. Johnson, in testimony before the General Subcommittee on Labor of the House Education and Labor Committee,

> We are sold this bit of legislation - the Manpower Retraining Act - and stood in these halls and supported it with the understanding that it would provide training for people who needed it. Then to receive information from throughout the country that in most cities the Negro is being trained to be a service station operator, hospital orderly, etc., is more frustrating. . . .
>
> In the matter of obtaining skills through training - when the Negro has to utilize the Employment Service as a portal of entry - by and large this becomes one of his greatest blocks in America. We could name city after city where the old pattern is, "We send men out according to what we think the employer wants." "Did he ask you for a white man?" "Well, no, but we know they don't hire Negro bricklayers."[555]

Mrs. Mattie Jeltz, Minority Specialist for the Oklahoma State Employment Service said that while state employment service workers usually do not openly agree with prospective employers to discriminate on the basis of race in job placements, these workers usually know when

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[555]U.S. House of Representatives, Committee on Education and Labor, General Subcommittee on Labor, Eighty-Eighth Congress, 1st session, Hearings on H.R. 405: "Equal Employment Opportunity," pp. 57-58.

Negroes would not be welcome, and tend not to send them as applicants in those instances. However, in terms of the general operation of the Manpower Development and Training Act in Oklahoma, she said that the Oklahoma State Employment Service "leaned over backwards" in an effort to be fair to Negroes.[556]

Both the Department of Labor and the Department of Health, Education and Welfare are involved in the administration of the Manpower Development and Training Act. In letters to Senator Jacob Javits of New York dated July 25, 1963 and December 5, 1963, Under Secretary of Labor John F. Henning and Secretary of Health, Education and Welfare Anthony J. Celebreeze stated that state employment services which discriminated on the basis of race were being by-passed, and that racial discrimination in training under the Act had been eliminated.[557] Urban League and NAACP leaders agreed that some progress had been made, but that more imagination and initiative was required by the Federal government to provide training opportunities for those with little education and with limited opportunities in their own communities, many of whom are Negroes "Given present technical needs in employment," Harold Fleming said to this writer, "you have to run just to stand still,

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[556]Interview by the writer with Mrs. Mattie Jeltz in Oklahoma City on April 16, 1964.

[557]U.S. Congressional Record - Senate, December 5, 1963, pp. 22402 and 22407.

- and we are barely walking. The Negro employment problem is steadily becoming more serious."

The Manpower Development and Training Program had helped Negroes in many ways, yet it had serious defects. Negro and other civil rights leaders also looked to the Federal government to assist them in apprenticeship training opportunities for Negroes.

The Federal Government and Apprenticeship Training Opportunities

Said the 1963 NAACP National Convention in one of its resolutions: "We especially call upon the Secretary of Labor to invoke his full authority in the matter of the racial policies of the Federal Bureau of Apprenticeship and Training which operates as a bastion of white supremacy. . . ."[558]

The Bureau of Apprenticeship and Training of the Department of Labor was created by the Fitzgerald Act of 1937 and was charged with stimulating apprenticeship programs and technical assistance to apprenticeship groups. Prior to 1961, the Bureau took the position that it lacked the power to deal with the problem of the unavailability of the program to Negroes. In 1961 the Bureau opposed H.R. 8219, ". . . a bill to withdraw Federal support and approval from apprenticeship

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[558] National Association for the Advancement of Colored People, NAACP 54th Annual Convention Resolutions, op. cit., p. 13.

programs which deny individuals an equal opportunity to participate therein on account of their race, color, or creed." Testimony before a Congressional committee showed that in 1961, the Director of the District of Columbia Apprenticeship Council, a Bureau employee, followed the practice of marking the application forms of Negroes for apprenticeship openings with a "2 or N" as an indication of the applicant's race.[559]

In August, 1961, the Bureau of Apprenticeship and Training was instructed to include a nondiscrimination clause in new apprenticeship agreements with all firms engaged in work for the Federal government, and was also told that "selection . . . without regard to race . . . "should be included as one of the nine standards for registered apprenticeship programs.[560] On February 27, 1963, after having earlier named minority group training advisers to work on the staff of the Bureau in various parts of the nation, the Secretary of Labor named a National Committee on Equal Opportunity in Apprenticeship and Training to advise the Department of Labor with respect to the development, review, and promotion of more effective programs to maintain equal opportunities in apprenticeship.[561]

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[559] U.S. Commission on Civil Rights, Reports on Apprenticeship (Washington, D.C.: U.S. Commission on Civil Rights, 1964), p. 6.

[560] Ibid., pp. 7-8.

[561] Ibid., p. 10.

The Department of Labor followed this by issuing on October 19, 1963 - revised standards intended to eliminate racial discrimination in apprenticeship programs. The new standards required that apprenticeship training programs registered with the government (1) select apprentices on the basis of qualifications, alone, (2) remove discriminatory patterns of employment, and (3) effect nondiscrimination in all phases of apprenticeship and employment during apprenticeship and after selections are made.[562] (Loss of Federal registration means that an employer is deprived of his right to pay apprentices less than journeymen's wage rates on Federal construction projects.)

In a further effort to deal with this problem, on November 12, 1963, the Department of Labor announced that in order to provide information, guidance and counseling concerning apprenticeship opportunities, particularly for minority group persons, Apprenticeship Information Centers would be established in several cities.[563]

Despite these efforts, as 1963 drew to a close, racial discrimination in apprenticeship training was still a serious problem. Surveys taken by the United States Commission on Civil Rights in the District of Columbia, California, Connecticut, Florida, Maryland, New Jersey,

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[562] New York Times, October 20, 1963, pp. 1 and 48.

[563] U.S. Department of Labor, Office of Manpower Administrator, "Manpower Administration Order No. 12."

New York, Tennessee, and Wisconsin showed a ". . . persistent national pattern of excluding Negroes and other members of minority groups from apprenticeship programs for skilled jobs. . . ." In Connecticut, for example, there were only 11 Negroes among the 1531 apprentices enrolled in 1960, or seven-tenths of 1% of the total. In the District of Columbia, where Negroes constituted about 55% of the population, only 11.7% of the apprentices were Negroes, and in the building trades, only 5.5% of the apprentices were Negroes.[564] Under the law, of course, the Department of Labor can only set standards for apprenticeship programs that seek Federal registration. Toward the end of 1963, the number of such programs which did not seek to register was increasing, and they were free to discriminate as they wished. In short, despite some commendable efforts, the end of the Kennedy administration showed racial discrimination in apprenticeship training, so crucial in enabling workers to train for skilled positions, still a most serious problem.

The Federal Government and Racial Discrimination in State Employment Services

The section of Chapter II of this study dealing with "Employment" pointed out that 100% of the funds used by the 1800 state employment service offices in the nation are derived from the Federal government. The 1961 report of the Leadership Conference on Civil Rights showed

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[564] New York Times, January 20, 1964, pp. 1 and 14.

that at the beginning of the Kennedy administration, "segregation and discrimination are widely practiced in state employment offices."[565]

In August, 1961, the Department of Labor sent out new regulations instructing state employment services not to accept job orders with racial specifications. However, as the Southern Regional Council pointed out, these regulations were not accepted as mandatory in all states. In none of the southern states were they accepted as anything except advisory. In 1961 the U.S. Employment Service in many southern communities had segregated offices, and "services," as the U.S. Commission on Civil Rights pointed out, were "not only separate, but unequal."[566]

By the middle of 1963, however, practically all segregated state employment service offices had been closed. Physically separate offices existed then only in Jacksonville, Florida, Lakeland, Florida, Chatanooga, Tennessee, Montgomery, Alabama, Kingston, North Carolina, and Rocky Mount, North Carolina. Desegregation for all was scheduled by the end of the summer of 1963.[567] Significant progress had been made.

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[565] Leadership Conference on Civil Rights, Federally Supported Discrimination, op. cit., p. 41.

[566] Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 39.

[567] U.S. Congressional Record - Senate, December 5, 1963, Memo for Senator Jacob Javits from Under Secretary of Labor John F. Henning dated July 25, 1963, p. 22401.

The Enforcement of the Executive Order on Equal Employment Opportunity in Federal Employment

The Civil Service Act of 1883 had carried with it a strong injunction against discriminatory action in Federal employment. Presidents of the United States since Franklin D. Roosevelt had, in various ways, supported the concept of equality of employment opportunity in the Federal service. The 1960 National Conventions of both the Democratic and Republican parties had called for legislation ensuring equal employment opportunity.

Soon after taking office, President Kennedy requested a report from each department and major agency on the number of Negroes in grades from GS-12 to 18, (with pay ranging from $9,000 to $18,000 a year). While Negroes comprised about 13% of the total Federal service at that time, the reports showed very few in the higher grades, and in some agencies, none. The President expressed his deep concern about this at an early Cabinet meeting and asked each member to remedy the situation in his department.[568]

In order to deal effectively with the problem of achieving equality of employment opportunity at all levels of the Federal government, on March 6, 1961 the President issued Executive Order 10925,[569]

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[568] Harris Wofford, "Moving Ahead: Aims and Methods," op. cit., p. 4.

[569] F.R. Doc. 61-2093, March 7, 1961.

establishing the President's Committee on Equal Employment Opportunity. The Order combined the functions of two of President Eisenhower's committees - one concerned with government employment, and the other with government contract employment, and considerably strengthened procedures in both cases. Said the President, in issuing the new Executive Order:

> I have dedicated my Administration to the cause of equal opportunity in employment by the government or its contractors. The Vice President, the Secretary of Labor and the other members of this committee share my dedication. I have no doubt that the vigorous enforcement of this order will mean the end of such discrimination.[570]

The President emphasized the necessity of using affirmative action to achieve the objectives of this policy, and specifically indicated that such efforts should be made by all departments and independent agencies of government.

The Executive Order had been drafted by Vice President Johnson, Deputy Attorney General Nicholas Katzenbach, Bill Moyers, now an assistant to President Johnson, Abe Fortas, and a Mr. Fokey at the Bureau of the Budget.[571] The Vice President was selected to serve as Chairman of the Committee, and the Secretary of Labor as the Vice

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[570] U.S. Commission on Civil Rights, Freedom to the Free, op. cit., p. 130.

[571] Interview by the writer with Mr. Katzenbach.

Chairman. Other members from the government included the Chairman of the Atomic Energy Commission, the Secretary of Commerce, the Attorney General, Secretary of Defense, Secretary of the Army, Secretary of the Navy, Secretary of the Air Force, the Administrator of General Services, the Chairman of the Civil Service Commission, and the Administrator of the National Aeronautics and Space Administration. The Order called upon the Committee to scrutinize and study employment practices in the Federal government, and to recommend affirmative steps which should be taken by executive departments to ". . . realize more fully the national policy of nondiscrimination within the executive branch of the Government."[572]

The head of each department or agency was required to designate an Employment Policy Officer to carry out the Order, who was to be located outside the division handling personnel matters. Aggrieved employees or qualified applicants for Federal employment, the Order stated, should file a written, signed complaint within 90 days of the alleged discrimination with the Employment Policy Officer, who was required to institute a prompt investigation. If he found justification for the complaint, he first was to attempt to resolve the problem by informal means, and if that failed a hearing would be held before the Employment Policy Officer. The final decision was then made by the

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[572]Executive Order 10925.

head of the department or agency, but all cases were subject to review by the President's Committee, which could inquire into the status of a case at any time.

A check of departments and agencies in December, 1961 "showed steady improvement in the status of Negro employment in the government." The Civil Service Commission and several other agencies had launched recruitment programs aimed at bringing minority workers into government at skilled and professional grade levels commensurate with their abilities and training. The Committee, itself, had launched an educational and informational program designed to develop greater incentive on the part of minority group persons to train for fields of employment in which there were opportunities for them. Agencies had designated high-ranking officials, often assistant secretaries, to serve as employment policy officers, testifying to the significance they gave to the program.[573]

President Kennedy followed the program closely. Executive Vice Chairman Hobart Taylor told the writer that at White House conferences, the President often inquired about the program. Executive Director Feild stated that Mr. Kennedy telephoned him from time to time to check on statistics, often prior to a press conference. Said

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[573] U.S. President's Committee on Equal Employment Opportunity, The First Nine Months: Special Year-End Report, April 7, 1961 - January 15, 1962 (Washington, D.C.: U.S. Government Printing Office, 1962), pp. 2-3.

Vice President Lyndon Johnson in an address to Army Employment Policy Officers:

> There is no program of our Government in which the President has expressed a greater or more continuing interest. There is not a week that passes in which he fails to discuss it with me. It has occupied a considerable amount of time at Cabinet sessions. It has been the subject of orders and directives at a rapid rate.[574]

By March, 1962, the Order had been in effect for almost a year, and further signs of progress were evident. Although, at the time the Order was issued, only 0.59% of positions in the government in grades GS-12 through GS-18 were held by Negroes, by March, 1962, the Post Office Department had recruited 23 Negroes for key positions, ranging from a Deputy Assistant Postmaster General to Postmasters of two villages in Alabama and North Carolina; the Department of Justice had added 40 Negro lawyers to its staff, whereas before it had had only 10; Negroes in the Department of Labor in positions from GS-12 and up had increased from 24 to 41 in the year; and the General Services Administration had 12 Negroes above the GS-9 rating, compared to 4 a year earlier.[575]

The Post Office Department, with more than 500,000 employees, developed one of the most impressive records of compliance with the

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[574]U.S. Department of the Army, A Time for Action: Proceedings of the National Conference on Equal Employment Opportunity (Washington, D.C.: Department of the Army, 1962), p. 15.

[575]Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 27.

President's order. A report issued on June 30, 1963 summarized some of the steps it had taken. These included the following:

March 15, 1961: Instructions to all postal officials and employees by the Postmaster General made it clear that discrimination would not be tolerated at any level of the Post Office Department.

June, July, 1961: Initiated recruitment and selection of fifteen Special Assistants for Employee Relations, one for each regional office, to assure full-time attention to civil rights and employee-management relations.

October, 1961: Assistant Postmaster General, Personnel, addressed 2,751 postmasters, placing particular emphasis on necessity of observing Administration's and Department's policy on equal employment opportunity.

January 6, 1962: First Negro appointed to Postal Inspection Service.

April 2, 1962: A Negro postal official presided over a meeting of 80 postmasters from the Atlanta Region, meeting in Atlanta, establishing a precedent.

January, 1963: Conducted four two-day conferences at the University of Oklahoma for postmasters from 313 largest post offices, and other key officials, including representatives of regional offices and headquarters personnel. Supervisory promotion registers for each post office were analyzed to determine whether or not qualified minority group members were being given adequate consideration for promotion. Each postmaster was required to indicate direction and scope of a positive program in his office.

Initiated Postmasters' Program for Progress, designed to require postmasters to develop and maintain an affirmative equal employment opportunity program. 313 offices employing 60% of postal employees and 92%

of the minority group members in the Postal Service participated in this year-long program.[576]

A review completed in June, 1962 by the President's Committee showed further positive results from this program of affirmative action:

Changes in Federal Employment, June, 1961 - June, 1962

Grades	Actual Increase		Percentage Increase	
	Total	Negro	Total	Negro
GS 1 thru 4	8,524	1,859	2.4	2.9
GS 5 thru 11	29,830	4,699	5.9	19.2
GS 12 thru 18	14,619	369	9.5	35.6[577]

Although, proportionately, a lower percentage of Negroes than whites was recruited in the higher salary brackets, the number of Negroes hired in those categories significantly boosted the total number of Negroes found in the upper income levels of Federal employment. By the early part of 1963, the Vice President was able to report that whereas total Federal employment had increased only 1.3% since the beginning of the Kennedy administration, Negro employment had

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[576] U.S. Post Office Department, "Highlights of Actions Taken by the Post Office Department to Provide Equal Employment Opportunity for All Postal Employees, January, 1961 - June 30, 1963. Mimeographed memorandum.

[577] U.S. President's Committee on Equal Employment Opportunity, "Summary - All Agencies, Negro and Total Employment by Grade and Salary Groups, June, 1961 - June, 1962." Mimeographed.

increased by 3.6%.[578]

Said J. Francis Pohlhaus, Counsel to the Washington Bureau of the National Association for the Advancement of Colored People and often a critic of the Administration's civil rights efforts: "The President's Committee has effectively enforced the President's Order in Federal employment. The success of the committee is principally attributable to the leadership of the President, himself."[579]

The Enforcement of Executive Orders on Equal Employment Opportunity in Government Contract Employment

One of John F. Kennedy's early actions after he arrived in Palm Beach, Florida, following his 1960 election victory over Vice President Nixon, was to appoint Vice President-elect Lyndon B. Johnson to be the Chairman of the President's Committee on Equal Employment Opportunity. Both Johnson and Jerry Holleman, then President of the Texas AFL-CIO, who subsequently was named as the first Executive Vice Chairman of the President's Committee, decided that the emphasis should not be on paper work, but on obtaining voluntary agreements with employers against discrimination.

Executive Order 10925, in the sections applying to government

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[578]U.S. Department of Labor Press Release, Address by Arthur A. Chapin, Special Assistant to the Secretary of Labor for Equal Employment Opportunities, in St. Louis, Missouri, on April 8, 1963, p. 5.

[579]Interview by the writer with Mr. Pohlhaus.

contract employment, stated that (1) contractors should not discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and that furthermore, the contractor was expected to take affirmative action to ensure equality of employment opportunity; (2) all advertisements by contractors had to state this policy, (3) contracts held by contractors who did not comply with the Order could be cancelled in whole or in part, and contractors could be declared ineligible for further government contracts, (4) contractors were to include these provisions in all subcontracts and purchase orders, unless exempted by the President's Committee, and (5) contractors were required to file compliance reports regularly with the contracting agency (of the government), each of which would be reviewed by the President's Committee.[580]

Under the Executive Order, the President's Committee could (1) investigate the employment practices of any government contractor or subcontractor, (2) encourage educational programs to support the objectives of the Order, (3) publish the names of contractors or unions which had failed to comply with the Order, (4) recommend to the Department of Justice that appropriate proceedings be brought to enforce the Order where there had been non-compliance, (5) recommend to the Department of Justice that criminal proceedings be brought for furnishing false information to any contracting agency or to the Committee, and

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[580]Executive Order 10925.

finally (6) terminate any contract or portion thereof for failure of the contractor or subcontractor to comply with the nondiscrimination clause.[581]

Although the nondiscrimination clause had been a standard part of government contracts since 1941, Executive Order 10925 provided for the first time for the mandatory filing of periodic reports by government contractors, reflecting employment policies and practices as a condition of performance under a government contract. Another distinction lay in the fact that unlike the predecessor Eisenhower committee, which interpreted its authority as extending only to that portion of a contractor's facility actually engaged in the production of goods and services contracted for, the Kennedy committee applied the new Order to all operations of a contractor holding a government contract. Finally, the new committee was equipped with powerful sanctions to enforce compliance, and was authorized to make compliance surveys, both on a regular and on a special-situation basis. A major change lay in the contractor's being required to "take affirmative action to ensure that applicants are employed, and that employees are treated . . . without regard to their race, creed, color, or national origin."[582]

The power of the President's Committee was further supplemented when, on June 22, 1963, President Kennedy signed Executive

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[581] Ibid.

[582] Mendelson, op. cit., pp. 92-93.

Order 11114, which extended the authority of the President's Committee over construction programs resulting from Federal grants, loans, and other forms of assistance to state and local governments and to private organizations.[583]

Although the processing of individual complaints was an important aspect of the Committee's work, it centered more of its attention on pattern-centered activity or overall practices of the employer. Prime responsibility for carrying out the Executive Order lay with the contracting agency, but the President's Committee exercised review powers. Executive Vice Chairman Hobart Taylor, testifying before the House Judiciary Committee during the summer of 1963 pointed out, however, that the action of the President's Committee did not amount to adjudication. Said he:

> I would say that in the vast majority of cases, that the finding has been a common finding arrived at between the company and the Government and the companies are helping us to enforce and carry it out.
>
> We have been fortunate in having very few proceedings that you can call adversary in the true sense. . . . But there is still a difficulty because of what we are dealing with - attitudes and emotions and the beliefs that have been ingrained in people over a long period of time, and the conviction on the part of many people that their old customs are right.

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[583] Executive Order 1114, "Extending the Authority of the President's Committee on Equal Employment Opportunity," F. R. Doc. 63 6779; June 24, 1963.

> So you have a problem here of creating a basis for understanding and this is, I think, the way in which we try to approach it. It doesn't mean we don't carry out our mandatory responsibilities, because we certainly do.[584]

20 million employees were covered by the Executive Order, and as of the summer of 1963, the Committee's reporting requirements were reaching an estimated 17 1/2 million.[585]

By August, 1963, Executive Vice Chairman Taylor was able to report that although no contracts had been suspended, some contractors had been placed on a suspension list and ". . . didn't hesitate very long about complying when they saw that we meant business."[586] At that time, he reported, the current corrective action rate was 72%, meaning that three out of four persons who had filed complaints had found relief with the Committee. By contrast, he said, the Eisenhower Committee had been able to correct only 20% of its cases.[587]

A continuing problem faced by the Committee was that of racial discrimination by some labor union locals. Said Ernest Dunbar, writing in Look, in December, 1963:

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[584]U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee on the Judiciary," op. cit., pp. 1116-1117.

[585]Ibid., p. 1129.

[586]U.S. President's Committee on Equal Employment Opportunity press release, Remarks by Hobart Taylor, Jr., Executive Vice Chairman of the President's Committee on Equal Employment Opportunity, at Wayne State University, McGregor Memorial Conference Center, August 15, 1963, pp. 2-3.

[587]Ibid.

> Across the country, outside of the South, the story of union resistance to the employment, training and upgrading of Negroes is a dreary one, freighted with hypocrisy, arrogance, and indifference. Though unions like the United Automobile Workers, the United Packinghouse Workers and individual locals of many other internationals are helping the Negro to get a fair shake, they are bright spots in a generally grim picture. The hard fact is that organized labor, once seen as an agent of advancement for Negro workers, has now emerged as the unyielding bastion of white supremacy in employment. Moreover, labor bias is being abetted by government - state, city and Federal - and with public funds.[588]

While Dunbar's indictment is too generalized and sweeping, and does not indicate the effective efforts of top AFL-CIO officials to end discrimination based on race in labor unions, it is true that many locals did follow discriminatory patterns as of the end of the Kennedy administration. As of July 1, 1963, 24 of the 130 national affiliates of the AFL-CIO had some segregated locals.[589]

The President's Committee had very little authority to end racial discrimination by labor unions. The influence of the Committee with labor unions was by and large limited to its ability to persuade, encourage and negotiate. In November, 1962, 118 international and national unions and 338 local unions signed fair practice agreements with the President's Committee, under which these unions pledged themselves to eliminate

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[588]Ernest Dunbar, "Black Men, White Unions," Look, December 17, 1963, p. 43.

[589]New York Times, November 17, 1963, p. 1.

any discrimination within their own ranks, and to undertake to seek to end discriminatory practices by those employers with whom they had collective bargaining agreements.[590]

In 1961, several complaints about racial discrimination received from employees of the Marietta, Georgia plant of the Lockheed Corporation led to the suggestion by Robert B. Troutman, Jr. of Atlanta, a close friend of President Kennedy, and a member of the President's Committee, that a program of voluntary compliance with the Executive Order be instituted. Said Troutman:

> I'm a lawyer. I can show you how to get around the Executive Order. It's got to be voluntary.[591]

On May 25, 1961, in White House ceremonies, the Vice President and Courtland Gross, President of Lockheed, signed a "Plan for Progress" - or joint statement, setting out what the company and the Committee would do to insure equal employment opportunity in all company operations. In July, 8 more companies signed Plans for Progress, and in December, another 12.[592] By November, 1963, 141 firms had signed.

The Plan signed by Lockheed stated: "Lockheed will in its

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[590]Testimony of Hobard Taylor, Jr. before House Judiciary Subcommittee No. 5, Hearings, op. cit., p. 1121.

[591]Southern Regional Council, Plans for Progress: Atlanta Survey (Atlanta, Georgia: Southern Regional Council, 1963), p. 2.

[592]John G. Feild, "Equal Employment Opportunity," ADL Bulletin, March, 1962, p. 16.

employment recruitment aggressively seek out more qualified minority group candidates in order to increase the number of employees in many job categories. . . ." The Western Electric Plan said: "Qualified minority group members will be considered for all job categories for which we hire, including professional engineering positions, technical positions, and administrative and clerical positions, and shop work."[593]

To further strengthen the Plans for Progress program, on August 6, 1963, 19 industrial executives met in the Fish Room at the White House to form an Advisory Council to the President's Committee on Equal Employment Opportunity. The group was established to provide guidance in the recruitment of minority group employees, aid in the development of community attitudes that support the objectives of the President's Order, and to provide and encourage the development of improved educational opportunities by such means as the establishment of scholarships.[594] Five participating firms donated one executive each to staff the new Council and the Plans for Progress, assisted by a clerical staff provided by the President's Committee. The new staff was established in a building apart from the President's Committee.

In assessing the effectiveness of Plans for Progress, Hobart

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[593]Southern Regional Council, op. cit., p. 2.

[594]U.S. President's Committee on Equal Employment Opportunity, The Committee Reporter, November, 1963, p. 1.

Taylor stated in the summer of 1963 that a recent survey showed that participating firms whose normal non-white employment was 4.1% had added 49,994 employees since the new program was initiated, of whom 22.7% were non-whites. The survey showed that 40.5% of the new service jobs, 34% of the new operative's jobs, 15.5% of the new craftmen's jobs, and 9.9% of all new salaried jobs had gone to non-whites.[595]

The Southern Regional Council studied the impact of Plans for Progress on the 24 participating industries which had plants, offices, or headquarters in Atlanta, and found that "only seven of the firms interviewed produced evidence of affirmative compliance with their pledges." Said one regional manager: "We signed it because practically all of our major manufacturing is in the northern part of the country. . . . It doesn't mean that down here in Atlanta we have to hire them." Referring to the company which signed the first Plan, the Southern Regional Council stated: "Much of what has occured at Lockheed since the new administration took office can be credited not to the Plans, but to a series of complaints filed by the NAACP."[596]

A study on performance under the Plans for Progress completed by the President's Committee and covering the activities of 91 companies

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[595]U.S. House of Representatives, Committee on the Judiciary, op. cit., p. 1125.

[596]Southern Regional Council, op. cit., pp. 11-12.

from May, 1961 to January 17, 1963, showed an over-all increase in employment of 452,543 persons, of whom 27,180 or 6% were non-whites. In the category of salaried employees, while the 6150 non-whites added meant that there had been an increase of 23.5% in non-white salaried employees, an examination of employment gains for the period showed that non-whites represented only 2.56% of the total increment for that category.[597]

Reviewing the total effect of the operation of the President's Executive Orders in contract employment, and the Plans for Progress, David Mann, Director of the Survey Division of the President's Committee said that his statistical analyses had demonstrated "no forward trends of any significance." "The situation," he said, "is pretty static." The first reports to the President's Committee, covering the period through June, 1962, and including about 10,200 establishments, revealed very little improvement in white collar employment for Negroes. Data received more recently for the year ending in June, 1963 indicated no significant improvements, he said.[598]

An evaluation of the operation of the President's Executive Orders in contract employment would have to recognize, first of all, the practical problems of enforcement. John Feild, former Executive Director

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[597]Advisory Council on Plans for Progress, Information News Letter No. 6, December 17, 1963, p. 3.

[598]Interview by the writer with Mr. Mann in Washington on February 4, 1964.

of the President's Committee, estimated that during the Kennedy administration there were approximately 450,000 firms contracting with the government, including 50,000 to 75,000 major contractors. He said that all contract compliance staffs, working full time, could at best see each major contractor once every six years.[599]

Secondly, the effort at voluntary participation, including Plans for Progress, the program of affirmative action, and the Advisory Council to the President's Committee, represented important forward steps which could yield significant progress in the years ahead, especially in motivating non-whites to seek skilled positions or white collar employment, and in providing scholarships for training.

Finally, however, as of the end of the Kennedy administration, little significant progress had been made in furthering the employment of Negroes in upgraded positions in contract employment as a result of enforcing the President's Executive Orders on Equality of Employment Opportunity. This was attributable to the massive dimensions of the compliance task, to the fact that the effectiveness of the President's Committee was greatly weakened when some of the most competent and effective members of the staff resigned in 1962 and 1963, and to the

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[599]Interview by the writer with John Feild in Washington on February 10, 1964. As of the end of 1963, the Air Force had 30 contract compliance officers, the Army had 20, the Atomic Energy Commission had 6 part time compliance officers. Most other departments and agencies had fewer staff assigned to contract compliance.

fact, finally, that as of the end of 1963, some of the most fundamental and basic problems involved in achieving equality of employment opportunity - basic education, technical training and motivation, still had not been resolved. The administration could be credited with a valiant effort, but with relatively insignificant progress.

The Kennedy Administration Deals With Civil Disorder Resulting From Racial Tensions

On four separate occasions, the Kennedy administration was involved in a major way in attempting to avoid or decrease the seriousness of civil disorder resulting from racial tensions: in Alabama at the time of the 1961 "Freedom Rides," at Oxford, Mississippi in the fall of 1962, in Birmingham, Alabama in May, 1963, and at the University of Alabama in the summer of 1963. The Birmingham crisis was covered in Chapter IV of this study, and this section of Chapter VI will summarize the administration's efforts in the three other cases.

In each instance, there was a sharp departure from some of the major mistakes made prior to the disorder at Little Rock in 1957, when the Eisenhower Administration had failed to clearly delineate the alternatives available to the South well in advance of the problem, had initiated no preliminary efforts directed at conference and conciliation, had failed to keep open the channels of communication, and had used too much force, too late.

The Freedom Riders in Alabama

On May 4, 1961, 13 white and Negro men and women, all members of the Congress of Racial Equality, left Washington, D.C. by bus for the purpose of challenging segregation in the buses and in the waiting rooms, rest rooms and restaurants of bus stations between Washington and New Orleans. These were the Freedom Riders. By the time the book was closed on this case, it had involved the Governor of Alabama, the Attorney General and President of the United States and thousands of law enforcement officers.

As the Freedom Riders moved from Atlanta to Alabama, they divided into two groups - one on a Greyhound bus, one on a Trailways vehicle. Up to this moment, Attorney General Kennedy was not aware of the mission, but Burke Marshall and Edwin O. Guthman, Public Information Officer for the Justice Department, had read of the announced trip, and watched the Rider's progress.[600]

"Physical force," the Southern Regional Council was to point out in subsequent report,

> is a traditional part of the South's race relations. The ultimate control over Negroes has been violence, administered extra-legally. This is far less customary than formerly; it is still a prevalent threat and often a

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[600] Robert E. Thompson and Hortence Myers, Robert F. Kennedy: The Brother Within (New York: The Macmillan Company, 1962), pp. 148-149.

> reality. . . . Where at one time mobs seemed to spring into existence uncontrollably, there is now suggestive evidence that they do not appear unless local or state authorities hold open the door. . . . The latent mob is an ever present aspect of southern racial relations and Washington must know this and be prepared to control it.[601]

On the night of May 14th, the Greyhound bus was attacked in Anniston, Alabama by a crowd wielding clubs, chains and blackjacks. The vehicle was burned by a fire bomb six miles East of Anniston, and a number of the Riders were injured in the accident.[602] The Department of Justice, realizing that more violence could follow, alerted state and local law enforcement officers to possible problems.

Eventually, the Trailways bus reached Birmingham. A local reporter referred to those whites waiting for the bus to arrive as "Klansmen minus their robes," and they proceeded to beat the passengers as they left the bus. Despite advance warnings from the FBI to the Birmingham police that violence could be expected, as Howard K. Smith of CBS News reported:

> The police, though nearby, had disappeared from the streets. A minute or so after the hoodlums had dispersed, as if on agreed signal, the police suddenly appeared. But no marauders were around. . . .[603]

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[601] Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 16.

[602] Thompson and Myers, op. cit., p. 149.

[603] Mendelson, op. cit., p. 158.

The Attorney General immediately sent his Assistant, John Siegenthaler, to Birmingham, and received assurance from Alabama Governor Patterson that the Freedom Riders would be given protection to travel the ninety miles from Birmingham to Montgomery.[604]

Seemingly insurmountable problems developed in terms of getting a bus driver who would take that group, but in the meantime, a difficulty appeared when a group of college students, who also called themselves Freedom Riders, headed toward Birmingham.

Tension was now mounting throughout Alabama, and the unrest was spreading into neighboring states. At the same time came reports that Negro and white students would be flooding the state from all sections of the nation as part of the Freedom Rides. The Attorney General alerted 20 U.S. marshalls in Washington to be ready to move at any moment.[605]

Robert Kennedy tried for two days to reach Governor Patterson, but was told he was not available. At noon on Friday, May 19th, the President also made an effort to reach the Governor, but was given the same answer. That afternoon the President gathered the Attorney General and Burke Marshall in his office to review the Alabama situation. The President's view was that the Federal government should not act

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[604]Thompson and Myers, op. cit., p. 150.

[605]Ibid., p. 154.

until a maximum effort had been made to let local authorities handle the problem.[606]

At this point, Governor Patterson let it be known that he would talk with a representative of the President, who immediately designated John Siegenthaler. The Governor was furious:

> We have the manpower, the equipment, the will and the desire to protect all the people in Alabama - whether residents or visitors. We intend to give this protection on the highways and elsewhere. We will give equal protection to all passengers without giving special protection to any.[607]

Patterson went on to say that on the following morning, May 20th, he would give the Freedom Riders full protection on their bus trip from Birmingham to Montgomery. True to his promise, a state highway patrol officer flanked the bus all the way to Montgomery, and a state owned plane kept surveillance overhead. But at the city limits, protection ended. Although the FBI had notified the Montgomery police of the need for special protection for the students on board, not a single policeman was in sight when the bus drove into the terminal.[608]

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[606] Ibid.

[607] Ibid., p. 155.

[608] Fuller, op. cit., p. 136. Thompson and Myers, op. cit., point out that subsequent investigation showed that instead of following Governor Patterson's instructions to protect the Freedom Riders upon their arrival in Montgomery, the police deliberately put in an appearance ten to fifteen minutes late "in order to give the mob ten minutes alone with the mixed racial group - enough time to rough up and frighten the students without killing any." p. 162.

An armed mob swarmed over the students. When the President's representative, John Siegenthaler, saw a Negro girl being pursued down the street by attackers and tried to rescue her, he was beaten unconscious.

When the Attorney General learned what had happened, after consulting with the President, he sent 400 U.S. marshalls into Alabama. Said the President:

> The situation which has developed in Alabama is a source of the deepest concern to me, as it must be to a vast majority of the citizens of Alabama and other Americans. I have instructed the Justice Department to take all necessary steps based on their investigation and information.
>
> I call upon the State Governor and other responsible officials in Alabama as well as the Mayors of Birmingham and Montgomery to exercise their lawful authority to prevent any further outbreaks of violence. I would also hope that any persons, whether a citizen of Alabama or a visitor there, would refrain from any action which would in any way tend to provoke further outbreaks.
>
> I hope that State and local officials in Alabama will meet their responsibilities. The U.S. government intends to meet its.[609]

The President's decision to intervene in Alabama took place only six months after his election, in which the South's support had been most important to him; during a session of the Congress when he needed the votes of southern legislators; and only ten days before he was to meet with Soviet Premier Khruschev. He knew that Federal intervention could make American racial problems appear even worse from abroad.

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[609] Thompson and Myers, op. cit., p. 160.

On Sunday night, May 21st, it was announced that Dr. Martin Luther King, Jr. was on his way to Montgomery. Attorney General Kennedy had sought to dissuade King from going, but the Atlanta clergyman apparently felt that he had to assume the leadership role in Montgomery or risk losing command. Tension mounted as the Freedom Riders gathered with Dr. King at First Baptist Church, with a growing angry mob outside.[610]

During the evening, the Attorney General was in touch with Deputy Attorney General Byron White in Alabama, the President, and Dr. King. When he finally reached Governor Patterson, the Governor said that National Guardsmen could protect everyone but Martin Luther King. Said Robert Kennedy to the Governor, referring to Adjutant General Henry Graham, the commander of the troops:

> Have him call me. Have him call me. I want to hear him say it to me. I want to hear a General of the United States Army say that he can't protect Martin Luther King.[611]

The Governor then admitted that it was he, not the general, who had stated that Dr. King could not be protected.

Dr. King and the Freedom Riders did emerge unscathed from the church, and on May 24th, the Riders began their journey from Montgomery to Jackson, Mississippi. Earlier, the Attorney General

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[610] Ibid., p. 163.

[611] Sidey, op. cit., pp. 170-171.

had consulted with Mississippi Governor Ross Barnett and with Senator Eastland to be certain there would be no recurrence of the Alabama problems there. The Riders were arrested in Jackson, but unlike Montgomery and Birmingham, the police were in control at all times.

Said the Southern Regional Council in commenting on the role of the Kennedy administration: "The Attorney General, more than any other person or agency, defended public order and common sense during these travails."[612] In the end, 600 marshalls had been sent to Montgomery.

On May 29th, the Attorney General petitioned the Interstate Commerce Commission to issue regulations prohibiting segregation in interstate bus transportation. While waiting for the ICC ruling, during the summer of 1961, Burke Marshall held conferences with operators of rail and air lines serving the South, asking if they would voluntarily desegregate their terminals without waiting for court orders or regulatory agencies to tell them to do so. 18 railroads agreed to ban segregation in railroad stations in 12 southern states, and the air terminals at Columbus, Georgia, and Raleigh-Durham, North Carolina agreed to the same procedure.[613]

On September 22, 1961, the Interstate Commerce Commission prescribed new rules prohibiting discrimination in seating on interstate

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[612] Fuller, op. cit., p. 137.

[613] Ibid., pp. 138-139.

buses, requiring the posting of appropriate signs both in buses and in bus terminals, and prohibiting interstate buses from using segregated terminals. The new rules went into effect on November 1, 1961.[614]

Virtually all discrimination in interstate travel ended following the issuance of the ICC rulings. At the end of 1963, the Department of Justice reported that with the exception of isolated efforts to enforce transportation segregation, "we know of no segregation of interstate transportation facilities anywhere in the country."[615]

Desegregation of the University of Mississippi

In January, 1961, James Meredith, a twenty-seven year old veteran, and a Negro, applied for admission to the University of Mississippi, stating that he desired to take advantage of training opportunities there, not available elsewhere in Mississippi. A series of court actions resulted in an order being issued by the United States Court of Appeals for the Fifth Circuit on July 28, 1962, requiring officials of the University of Mississippi to register and admit Meredith as a student for the fall term, 1962.[616]

The State of Mississippi instituted a series of delays designed to

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[614] United States Commission on Civil Rights, Freedom to the Free, op. cit., pp. 137-138.

[615] U.S. Department of Justice, "A Review of the Activities of the Department of Justice in Civil Rights, 1963," op. cit., p. 9.

[616] New York Times, September 27, 1962, p. 28.

stay the court order, but on September 10th, Supreme Court Justice Hugo Black ordered the University to accept Meredith as a student. Three days later, Governor Ross R. Barnett invoked the historic doctrine of interposition in a further effort by the state to block the Negro student. Said the Governor:

> I hereby direct each state official to uphold and enforce the laws duly and legally enacted by the legislature of the State of Mississippi and to interpose the state sovereignty and themselves between the people of the state and any body politically seeking to usurp such power.[617]

The Governor went on to say that he was acting under a resolution adopted by the state legislature in 1956. He concluded: "No school will be integrated in Mississippi while I am your Governor."[618]

On September 20th, Meredith sought to register at the University of Mississippi, but was blocked personally by the Governor, who earlier had persuaded the Board of Trustees of Institutions of Higher Learning to appoint him a special registrar to deal with Mr. Meredith.

On September 24th, Governor Barnett's defiance increased when he issued a proclamation threatening to jail any United States official seeking to arrest or fine Mississippi officers for defying court desegregation decrees.[619]

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[617] New York Times, September 14, 1962, p. 1.

[618] Ibid., p. 15.

[619] New York Times, September 25, 1962, p. 1.

One day later, on September 25th, Mr. Meredith, again accompanied by officials of the Department of Justice, attempted to register, but Governor Barnett physically blocked him. The Governor read a statement, in which he declared that he did now ". . . and finally deny you admission to the University of Mississippi."[620]

Reflecting on this situation a little more than a year later, Professor James Wesley Silver, Professor of History at the University of Mississippi, in his closing address as President of the Southern Historical Association, said it was evident that Mississippi

> has been on the defensive against inevitable social change for more than a century, and that for some years before the Civil War it had developed a closed society with an orthodoxy accepted by nearly everybody in the state.
>
> No meaningful challenge to the caste system in any of its manifestations was possible in Mississippi in the first half of the 20th century. In public life no white man, demagogue or patrician, proposed to do anything constructive about the Negro. Preferring corrupt and inefficient government to participation by the black man, the whites got a one-party system without competition between recognizable groups, with no continuity of existence even of factions, and no means of checking the wild eyes.
>
> Today the totalitarian society of Mississippi imposes on all its people acceptance of and obedience to an official orthodoxy almost identical with the pro-slavery philosophy. . . . Every Mississippi politician not only denies the validity of the 14th Amendment but in his heart hungers for the negative days of the Articles of Confederation. Governor Barnett, whose personal Constitution stops

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[620] New York Times, September 26, 1962, p. 1.

with the 10th Amendment, is conveniently ignorant of the incompatibility of state rights and modern industrialization.[621]

Governor Barnett, who had already issued an interposition proclamation on September 10th, released another on September 25th, this time directed specifically to Mississippi law enforcement officers. On the same day, the United States Court of Appeals for the Fifth Circuit enjoined the Governor and other state officials from blocking the registration of James Meredith.

For the third time, Mississippi officials prevented Meredith from registering on September 26th. While he had been blocked by Governor Barnett the previous day, Lieutenant Governor Paul B. Johnson performed that function on the 26th. Meredith was accompanied by Chief United States Marshall James P. McShane and John Doar, First Assistant in the Justice Department's Civil Rights Division.

Attorney General Kennedy, interviewed in Washington, made it clear as he had previously, that Federal troops would be used if needed. The position of the Federal government was firm.

On September 27th the Federal government moved several hundred marshalls to Memphis, Tennessee. Governor Barnett countered by ringing the University of Mississippi with ". . . 500 club-carrying policemen."[622] A caravan carrying Mr. Meredith and his Federal

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[621] New York Times, November 8, 1963, p. 19.

[622] New York Times, September 28, 1962, p. 1.

escorts, en route from Memphis to Oxford, was suddenly ordered by the Justice Department to turn around and return when only 30 miles from Oxford, because of the explosive situation there.

Attorney General Kennedy issued a statement the same day, in which he said:

> It has been clear from the time of the court's decision ordering the University of Mississippi to accept Mr. Meredith that there would be but one resolution to these difficulties. The orders of the Federal courts can and will be enforced. It is important to our country, however, that if possible this be accomplished without force and without civil disorder.
>
> Every American has the duty to obey the laws and the right to expect that these laws will be enforced.
>
> It is fundamental in our system that there be respect for the law and compliance with all laws - not just those with which we happen to agree. The course which the Governor is following is, therefore, incompatible with the principles on which this union is based.[623]

The Attorney General went on to quote the Mississippi legislature, which 129 years ago declared that "the doctrine of nullification is contrary to the letter and spirit of the constitution."[624]

He concluded:

> I hope that this matter will be resolved peacefully and without violence or further action by the Federal government.

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[623] New York Times, September 28, 1962, p. 22.

[624] Ibid.

> However, if this is not to be, the Federal Government will see to it that the orders which are presently outstanding are maintained and enforced, whatever action that ultimately may require.[625]

Just as he had in his first major address after becoming Attorney General at the University of Virginia on Law Day, 1961, Robert Kennedy had clearly told the South that local jurisdictions would be given every opportunity to enforce the orders of the courts, and to maintain law and order, but if that failed, the Federal government would move. The alternatives had been stated in language all could understand.

On September 28th, the Federal Court of Appeals in New Orleans found Governor Barnett guilty of civil contempt of court orders against interfering with the desegregation of the University of Mississippi. He was ordered to purge himself of the contempt by 11:00 a.m. on October 2nd, or face arrest and a fine of $10,000 per day. This established an important deadline, both for the Governor and the Federal government. Clearly, the showdown would occur in that period.[626]

The New York Times reported that the Mississippi integration crisis dominated the front pages of European newspapers. Said the London Daily Express: "All the old hates of the Civil War 100 years ago are boiling again."[627]

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[625] Ibid.

[626] New York Times, September 29, 1962, p. 1.

[627] Ibid.

On Saturday, September 29th, Attorney General Kennedy and Governor Barnett conferred by telephone and agreed on a face-saving procedure for the Governor. Governor Barnett would wait for Meredith the following Monday morning at Oxford, while the Negro student would be "sneaked into" the Jackson campus and registered. Governor Barnett would complain loudly of Federal trickery. Then, on Tuesday, the Governor would move Mr. Meredith to the main campus at Oxford.

President Kennedy agreed to this plan at 7:00 p.m. that evening, but three hours later the Governor stated that he could not follow through on that procedure.[628] The Attorney General immediately reported this to the White House. On Sunday, September 30th, at 12:01 a.m., President Kennedy issued a proclamation, calling on those obstructing justice in Mississippi to disperse and retire peaceably.

At 11:00 a.m. the same morning, Governor Barnett called Attorney General Kennedy with a more grandiose version of his Thursday plan. In short, he would wait on Monday at the University gate, and would be backed by a phalanx of troopers, who would be backed by sheriffs, who would be backed by citizens and students. James Meredith

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[628]George B. Leonard, George T. Harris and Christopher W. Wren, "How a Secret Deal Prevented a Massacre at Ole Miss," Look, December 31, 1962, p. 22. In an interview with this writer, Deputy Attorney General Nicholas Katzenbach, who was the Federal government's highest ranking representative in Oxford during the crisis, labeled Governor Barnett "dumb," and said that the Governor's statements to the President depended on who was with him in the office at the time.

would arrive with a large army force, the Governor would "bar" Meredith from the University, whereupon Federal soldiers would draw their guns, Barnett would finally step aside, and Meredith would enter. The Attorney General would not agree to this plan.

Instead, a plan was agreed upon by President Kennedy, the Attorney General and Governor Barnett, under which Mr. Meredith would be brought into the campus before nightfall on the same day - Sunday, September 30th. The President also sent this telegram to the Governor:

> To preserve our constitutional system the Federal government has an overriding responsibility to enforce the orders of the Federal courts. These courts have ordered that James Meredith be admitted now as a student at the University of Mississippi. . . . Three efforts by Federal law-enforcement officials to give effect to that order have been unavailing because of your personal intervention and that of the Lieutenant Governor. . . . By view of this breakdown of law and order in Mississippi and in accordance with our two telephone conversations today, I would like to be advised at once of your response to the following questions.
>
> 1. Will you see that the court order is enforced?
>
> 2. If not, will you continue to interfere with the orders of the court?
>
> 3. Will state law enforcement officers cooperate in maintaining law and order? Will you at once take steps to prevent mobs from collecting at Oxford?[629]

Finally, the President issued an executive order, calling attention to the obstruction of court orders in Mississippi, authorizing the

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[629] New York Times, October 1, 1962, p. 22.

Secretary of Defense to call into active military service the National Guard of Mississippi, and to make use of those United States armed forces needed to enforce court orders in Mississippi.

According to plan, United States marshalls were moved to the campus at Oxford, and by 4:45 p.m., 500 of them were there. James Meredith was then brought in, and without serious incident. As news of his arrival spread, citizens and students began to gather by the hundreds on the campus. Until that time, Mississippi officials had cooperated with the Justice Department, in accordance with agreements worked out between Governor Barnett, Attorney General Kennedy, and the President.

At 6:30 p.m., noting the large number of "outsiders" streaming into the campus through the main gate, Deputy Attorney General Nicholas Katzenbach requested Colonel Birdsong of the Mississippi Highway Patrol to re-establish the roadblocks. This Colonel Birdsong declined to do. Informed of this, Attorney General Kennedy telephoned Governor Barnett to say that the President would report this invitation to violence to the nation unless he relented.[630]

At 7:58 p.m., when the first acid was thrown at United States marshalls, they were ordered to fire tear gas into the mob. The situation continued to deteriorate, with stones, bricks and Molotov cocktails

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[630] Leonard, Harris and Wren, Look, op. cit., p. 22.

being thrown at the unarmed marshalls until 9:00 p.m., when all state highway patrolmen left the campus. At this moment, the President's address to the nation on the Mississippi crisis was being carried on major television networks.[631]

The President received word of the withdrawal of the troopers as he sat in the Cabinet Room at the White House following his television address, flanked by the Attorney General, Kenneth O'Donnell, Lawrence O'Brien, Theodore Sorensen and Burke Marshall. Governor Barnett then telephoned the President. Said the Governor:

> They're saying I sold out down here. . . . Can't you get him /Meredith/ out of here? . . . Get Meredith off the campus. . . . I can't protect him.[632]

"Listen, Governor," shouted the President of the United States into the telephone, "We're not moving anybody anywhere until order is restored. . . . You're not discharging your responsibility, Governor."

The Governor said he was trying. "You're just not," said John Kennedy,

> because the state police can't be found on the campus. . . . There are lives in jeopardy. . . . You fulfill your function. . . . I'm not in a position to do anything, to make any deals, to discuss anything until law and order is restored and the lives of the people are protected. Goodbye.[633]

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[631] Ibid., p. 34.

[632] Sidey, op. cit., p. 317.

[633] Ibid., pp. 317-318.

The President walked back to his office and placed a call to the Secretary of the Army, ordering that Federal troops be sent in. Sixty-three men of the Oxford Unit of the Mississippi National Guard were the first National Guard troops to reach the campus. By the time they had arrived, 13 of them had been wounded, six vehicles had broken windshields, and one jeep had collected six bullet holes.[634] By this time (around 10:00 p.m.) gunfire directed at the marshalls had become a serious problem. Tear gas, their only weapon, was in short supply, but the White House had denied a request that the marshalls be permitted to return the fire.

The bulk of the army troops did not reach the campus for four hours due to a confusing order given by commanding officers. It was an "ascendency of force" order, which stated, in effect: to deal with a minimum problem - use billy clubs; if it gets worse - use guns with bayonets sheathed; and only if a maximum problem develops should soldiers use guns equipped with ammunition.

The order was intended to apply to each individual soldier; but instead, it was interpreted to apply to waves of troops. Thus, the first wave of soldiers to land came equipped only with billy clubs, the second group had guns and bayonets, but no ammunition, and only the third wave that was sent in had ammunition. Because the situation had deteriorated to the point that maximum force was required, there was

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[634] Leonard, Harris and Wren, op. cit., p. 34.

a long delay while soldiers waited in the dark at the airfield as guns and ammunition were brought in, as well as tear gas, since the marshalls earlier had exhausted the Army's Oxford supply.[635]

The Army units arrived on the campus at 2:04 a.m. on Monday morning, and by late morning, a semblance of order had been re-established, and it was possible to count some of the casualties: 112 persons, including former Major General Edwin Walker had been arrested, 166 Federal marshalls had been wounded, and two men had been killed.[636] Mr. Meredith registered at the University of Mississippi on Monday morning, October 1st, and graduated the following August.

An evaluation of the Kennedy administration's role in the Oxford crisis would indicate that the administration was vulnerable to criticism on at least two points.

First, the delayed arrival of the regular army troops, stemming from confusing orders, prolonged the civil disorder and the resulting damage to life and limb on the campus of the University of Mississippi. The administration learned a useful lesson then about the importance of having troops available for immediate movement to the point of tension, and did not repeat that mistake when it faced potential problems resulting

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[635]Based on an interview by the writer with Nicolas Katzenbach, on February 13, 1964.

[636]Leonard, Harris, and Wren, op. cit., p. 34.

from the desegregation of the University of Alabama in June, 1963.

Secondly, one of those arrested at Oxford, former Major General Edwin Walker, was committed by recommendation of the Justice Department and by court order to a Federal prison hospital for psychiatric treatment. This was one of the most widely publicized aftermaths of the Oxford crisis.

The judgement about Mr. Walker's neuresis was based not on a current examination of the former General at Oxford, but on a review of his army medical records by a psychiatrist located in Washington, D.C. - several hundred miles from Oxford. Subsequently, the American Psychiatric Association Journal stated that the action of the psychiatrist was "proper and professional."[637]

While the professional code of psychiatrists may not have been violated, the wide publicity given this charge prior to his trial, was a procedure whose wisdom is open to some question.

With these exceptions, the performance of the Kennedy administration was remarkable. Administration leaders from the President and the Attorney General down to lower figures made it clear at all times that the orders of the courts would be enforced, meaning that Mr. Meredith would become a student at the University of Mississippi beginning in the fall term, 1962.

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[637] Interview with Deputy Attorney General Nicholas Katzenbach.

Secondly, the plan followed by the President and the Attorney General revealed a brilliant grasp of the dual tactical problem the administration faced at Oxford, involving not only anticipated resistance to Federal enforcement of a court decision, but in addition, the outbursts which would certainly have followed the arrest of Governor Barnett by Federal law enforcement officers had he prevented Meredith from registering. The plan developed allowed Mr. Meredith on the campus, thus avoiding the necessity for the Governor's arrest.

Because the lines of communication were open, and policy and leadership were firm, the Kennedy administration was able to develop and carry out a plan which enforced the orders of the courts, and turned the situation, after some mistakes, from one of civil disorder to one of tense but workable relationships.

Desegregation of the University of Alabama

In his 1962 gubernatorial campaign, George Wallace had said that he would personally "stand in the school-house door" in order to prevent school desegregation in Alabama. In his inaugural address, Governor Wallace made his position clear once more. Said he: "I draw the line in the dust . . . and say segregation now, segregation tomorrow, segregation forever."[638]

Two Negro students, Miss Vivian Malone and Mr. James Hood

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[638] Newsweek, June 24, 1963, p. 30.

applied for admission to the University of Alabama, were turned down because of their race, but then the Federal courts ruled that the University should admit the students in June, 1963.

For months prior to that date, University of Alabama officials, led by President Frank Rose, rallied business and civic leaders around the state to support law and order. The Justice Department not only was aware of this effort, but provided additional names to the University President.[639]

Governor Wallace informed his staff and the people of Alabama that he wanted no civil disorder:

> I want to be sure we have not one overt act of violence. No one must desecrate this University. . . . We're going to keep the peace.[640]

The Governor publicly declared that he would be at the University on the morning of June 11th and that he would "stand in the schoolhouse door." No further information about his intentions was forthcoming. He refused to take telephone calls from Attorney General Robert Kennedy. Expecting possible trouble, the Attorney General sent Nicholas Katzenbach to Tuscaloosa.

On the morning of June 9th, the President, just back from a long trip, met at the White House with the Attorney General, Assistant Attorney General Burke Marshall, and other aides. The President

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[639] Ibid., p. 31.

[640] American Broadcasting Company Television Network, "Behind A Presidential Commitment," telecast on October 21, 1963.

decided that the situation called for a nation-wide TV speech, - the time of delivery to depend on developments at the University of Alabama.

Later that day, Robert Kennedy and Burke Marshall returned to the White House, and met with the President and Theodore Sorensen on the operational aspects of the University of Alabama problem. The Attorney General reviewed the plan for the next day: Katzenbach, Vivian Malone and James Hood would drive up to the auditorium, where the registration was to occur, the students would stay in the car, while Katzenbach approached Governor Wallace. The Attorney General pointed out that the auditorium had three doors, and if the Governor refused to allow Katzenbach to pass, the Deputy Attorney General would try to move into the auditorium by way of one of the other doors.[641]

What if the Governor had locked all the doors, the President asked? In that case, said the Attorney General, Katzenbach would pull back and take the students to their dormitories. Thus, the students would be on campus, and the Federal government would not be in the position of having backed down.

The group agreed that if that occured, the Federal government would then have to return to the campus with greater force by nationalizing the Alabama National Guard. Violence could develop in the twenty four hours it would take to bring regular army troops there. The President said he would be willing to nationalize the Alabama National Guard

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[641] Ibid.

at that point, except that if he did, the Governor might well counter by saying he would no longer be responsible for law and order. Therefore, said John Kennedy, the Alabama National Guard would not be nationalized until the Governor had shown the United States and the world that Federal force was necessary. It was estimated that the Alabama Guard could be federalized in two hours.[642]

On the morning of June 11th, Governor Wallace arrived at the University Auditorium shortly after 10:00 a.m. At 10:48, Deputy Attorney General Katzenbach drove up, accompanied by aides, and informed Wallace that he had a proclamation from the President directing Governor Wallace to end his defiant stand. As Katzenbach asked the Governor to give way, Wallace interrupted, and began reading a lengthy statement, in which he referred to "the unwelcomed, unwarranted, and force-induced intrusion . . . of the might of the Central Government."[643]

Said Katzenbach to the Governor:

> Governor, I am not interested in a show. I don't know what the purpose of this show is. I am interested in the orders of these courts being enforced. . . . These students will remain on this campus. They will register today. They will go to school tomorrow.[644]

The Governor remained in the doorway. Katzenbach and his

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[642] Ibid.

[643] New York Times, June 12, 1963, p. 20.

[644] Ibid.

party then returned to their car, where he reported by radio to the Attorney General that the Governor had defied the orders of the courts. The President was informed, and immediately issued an order nationalizing the Alabama National Guard.

At 3:16 p.m. that afternoon, nationalized units of the Alabama National Guard arrived on the University of Alabama campus. General Graham, in command of that unit, informed Governor Wallace that the Guard had been federalized. The Governor promptly left the Tuscaloosa campus and returned to Montgomery "to continue this constitutional fight." Later that afternoon, Miss Malone and Mr. Hood registered.[645]

That evening, the President addressed the nation: "This afternoon," he said,

> following a series of threats and defiant statements, the presence of Alabama National Guardsmen was required at the University of Alabama to carry out the final and unequivocal order of the United States District Court of the Northern District of Alabama. That order called for the admission of two clearly qualified young Alabama residents, who happened to have been born Negro.[646]

He then turned to the broader problem of achieving equality of opportunity for all Americans, stating that for human and moral reasons, action had to be taken now. If not, said the President, the nation could face a crisis:

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[645] Ibid.

[646] Golden, op. cit., p. 283.

The fires of frustration and discord are burning in every city, North and South, where legal remedies are not at hand. Redress is sought in the streets, in demonstrations, parades, and protests which create tensions and threaten violence and threaten lives.

. . . . . .

Next week I shall ask the Congress of the United States to act, to make a commitment it has not fully made in this century to the proposition that race has no place in American life or law. The federal judiciary has upheld that proposition in a series of forthright cases. The Executive Branch has adopted that proposition in the conduct of its affairs, including the employment of federal personnel, the use of federal facilities, and the sale of federally financed housing.

. . . . . .

My fellow Americans, this is a problem which faces us all - in every city of the North as well as the South. Today there are Negroes unemployed two or three times as many compared to whites, inadequate in education, moving into the large cities, unable to find work, denied equal rights, denied the opportunity to eat at a restaurant or lunch counter or go to a movie theater, denied the right to a decent education, denied almost today the right to attend a state university even though qualified. It seems to me these are matters which concern us all, not merely Presidents or Congressmen or Governors, but every citizen of the United States.

. . . . . .

Therefore, I am asking for your help in making it easier for us to move ahead and to provide the kind of equality of treatment which we want for ourselves; to give a chance for every child to be educated to the limit of his talents.

. . . . . .

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.

> This is what we are talking about and this is a matter which concerns this country and what it stands for, and in meeting it, I ask the support of all of our citizens.
>
> Thank you very much.[647]

The President's address to the nation brought to a close the most crucial hours in the administration's efforts to enforce the court orders calling for the desegregation of the University of Alabama through the admission of Miss Malone and Mr. Hood.

Past experience had been studied, old mistakes had been corrected, and the result was a practically faultless operation. University of Alabama officials and the Department of Justice had worked together to develop an influential support pattern for acceptance by Alabama citizens of the decision of the courts; the administration avoided the necessity of arresting Governor Wallace for defying the orders of the courts - and thus possibly inviting serious trouble, by not confronting him with the two Negro students; Governor Wallace's actions, which were carried live on television to a nation-wide audience, made it clear to the nation and to the world that the hand of the national government had been forced; and finally, after action had been taken, and without any disorder, the P-esident commended those Alabama citizens who had permitted this forward move, and then used the example of the day to call on the Congress and on all citizens to take concrete steps immediately to achieve equality of opportunity for all Americans.

Among the components in the effective use of presidential power

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[647] Ibid., pp. 286-289.

is the ability to assess and manage the political, economic and social pressures which are brought to bear on the President. President Kennedy and his administration had done well; they had turned a potential crisis into an effective forward thrust.

Education

The 1961 Report of the United States Commission on Civil Rights summarized Supreme Court pronouncements concerning equal protection of the laws in public schools and the rules governing their implementation:

> 1. State-imposed segregation in public educational facilities creates inequality and therefore constitutes a denial of equal protection of the laws under the Constitution. All schools in which a state participates through any arrangement, management, funds, or property are subject to this rule. All provisions of Federal, state or local law requiring or permitting racial segregation in public schools are void.
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> 2. All school authorities operating segregated school systems have a duty to make a prompt and reasonable effort in good faith to comply with the Constitution. The primary responsibility for elucidating, assessing and solving the problems of desegregation rests with the local school authorities.
>
> 3. In many locations this duty would require immediate general admission of Negro children. In others, jurisdiction for not requiring immediate general admission of all qualified Negro children may exist. Hostility to racial desegregation is, however, not a ground for delay.
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> 4. If immediate general admission of all qualified Negro children is not required, the desegregation program must (a) point toward complete compliance at the earliest possible date; and (b) be in effect before additional time

may be granted. "The burden rests upon the defendants to establish that such time is necessary. . . ."[648]

5. In fixing the limits of the transitional period for the complete effectiveness of a desegregation plan the courts may consider problems related to administration arising from (a) the physical condition of the school plant; (b) the school transportation system; (c) the school personnel; (d) the need to revise school districts and attendance areas; and (e) the need to revise local laws and regulations.

6. A pupil placement law listing factors which are to govern the assignment of pupils without regard to race or color is not necessarily invalid and may furnish the legal machinery for orderly administration of public schools in a constitutional manner. The constitutionality of the administration of a pupil placement law is, however, a legal question distinct from the constitutionality of the law itself.[649]

Southern School News reported in its June, 1960 issue that as of that date, 749 school districts had been desegregated among 2850 southern and border districts reporting biracial student bodies. One year later the same periodical reported the number at 783.

In the fall of 1961, public schools were desegregated for the first time and without disorder in a number of southern cities including Atlanta, Georgia, Dallas, Texas, and Memphis, Tennessee. Pointing to the peaceful transition which had taken place in those communities, President Kennedy said: "The way in which our citizens are meeting

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[648]Goss v. Board of Education of the City of Knoxville, 186 F. Supp. 559 (E. D. Tenn. 1960).

[649]U.S. Commission on Civil Rights, 1961 Report, op. cit., v. 2, pp. 9-10.

their responsibility under the law in Memphis, New Orleans, and elsewhere reflects credit on the United States throughout the world."[650] By May of 1962, among southern and border states and the District of Columbia, 915 of 3047 school districts with biracial enrollments, or almost one-third, had desegregated their schools. However, only 7.6% of the 3,240,439 Negro students in these school districts were attending desegregated schools.[651]

There had been progress in higher education. By the end of 1962, state universities in all states except South Carolina had admitted qualified Negro applicants as students, either voluntarily, or by order of a Federal court.[652]

An evaluation in 1963, nine years after Brown, of over-all progress toward implementing that and other Supreme Court school desegregation decisions, revealed many discouraging facts, however. Attorney General Robert F. Kennedy reported to the Senate Judiciary Committee on July 8, 1963 that:

- There were still more than 2,000 school districts which required white and Negro pupils to attend segregated schools.

- In 11 states, with a Negro population of 2.8 million, only

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[650] New York Times, October 7, 1961, p. 21.

[651] Southern School News, May, 1962, p. 1.

[652] U.S. Commission on Civil Rights, Freedom to the Free, op. cit., p. 158.

12,800 Negroes, or less than 1/2 of 1% were attending desegregated schools.

- As of July, 1963, 70% of young white people had graduated from high school, while only 40% of the young Negroes had done so.

- In the adult population, 25 years of age and over, 22.1% of non-white citizens had received less than 5 years of schooling, compared with 6.2% of the whites.[653]

The effects of this agonizingly slow movement toward meeting the goal of equality of opportunity in education was beginning to be evident in popular protests. Prior to 1961, in the northern and western parts of the United States, Negro protests had taken the form of petitions and personal appearances before school boards. But beginning in the summer of 1961, the New York City metropolitan area witnessed demonstrations, picketing, sit-ins and school boycotts. Englewood, New Jersey experienced sit-ins in the School Superintendent's office, the Governor's office in Trenton was picketed, and Negro children participated in sit-ins at a nearby white school. In St. Louis, Missouri, parents showed their displeasure at the state of school desegregation by blocking the departure from a West End school of 12 buses containing about 500 children who were being transferred to under-utilized schools located

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[653] U.S. Department of Justice, press release, Statement of Attorney General Robert F. Kennedy before the Senate Judiciary Committee regarding S. 1731, the proposed Civil Rights Act of 1963, and S. 1750, July 8, 1963.

miles away, where they would attend all-Negro classes.[654]

The Kennedy administration was faced with the necessity of deciding the role it would play through the Justice Department in school desegregation court cases, and the policy it would develop in disbursing Federal funds to segregated school systems. Earlier parts of this study have outlined the procedures the administration followed in dealing with threatened civil disorder in Mississippi and Alabama.

Under the Supreme Court's 1954 and 1955 school desegregation decisions, the full burden of defending the constitutional right of children to have a non-segregated education had fallen on Negro parents and their children, and on the limited capabilities of private organizations. This had proved to be a major hardship, for arrayed against these individuals and organizations had been the state legislatures of the South, ceaselessly improvising new statutory barriers and evasions, as well as state treasuries equipped to underwrite the costs of delaying litigation and investigative harassment. Partly because of these circumstances, school desegregation had made little progress prior to the inauguration of President Kennedy in January, 1961.

Two steps taken by the Department of Justice in 1961 offered new hope. In March, 1961, the United States entered 4 cases in Louisiana as a friend of the court. This represented the first time the Federal

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[654]U.S. Commission on Civil Rights, 1963 Report, op. cit., p. 53.

government had participated in this way prior to a crisis, and for the purpose of asking for desegregation, rather than for the purpose of defending the integrity of the courts.[655] The plaintiffs were thus joined by the powerful presence of the United States in requesting their rights.

In April, 1961, the Department sought permission to intervene as a plaintiff in the Prince Edward County, Virginia case, basing its claim on the interest of the United States in securing obedience to the decrees of the courts, but the Court would not permit this intervention.[656] By the end of the 1961-1962 school year, the Department had participated as a friend of the court in about a dozen school desegregation cases.[657]

In addition, Robert Kennedy and Burke Marshall and their staffs held a series of conversations with southern congressional, state and local leaders, in which they made known the interest of the administration in orderly compliance with court orders, and sought to persuade these leaders to place their weight on the side of developing support for compliance.

Although rebuffed in its initial effort to bring about the desegregation of Prince Edward County, Virginia schools, the Department of Justice did not give up. Prince Edward County had abolished public

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[655] Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 6.

[656] Ibid., pp. 6-7.

[657] Burke Marshall, "The Enforcement of Civil Rights," op. cit., p. 12.

education in 1959, rather than obey a Federal court order to admit Negroes to white schools, thus becoming the only jurisdiction in the United States without some system of free public education. Because there were well-prepared plans to establish a segregated private academy for white students, the effect was to deny more than 1700 school-age Negroes of formal schooling. In 1959, Negro leaders there had rejected the offer of a group of white citizens to form a similar segregated academy for Negroes.[658]

In March, 1963, President Kennedy asked the Department of Justice to explore appropriate steps which might be taken to provide desegregated education to Negro students in Prince Edward County who had been denied an education for four years. Robert Kennedy invited William J. vanden Heuvel, a lawyer in private practice, to come on his staff as his Special Assistant, specifically to work on that problem. That vanden Heuval agreed to do.

After weeks of exploratory conversations, involving the U.S. Commissioner of Education, Justice Department leaders, the Governor of Virginia, and civil rights organizations, on August 14, 1963 the formation of the Prince Edward County Free School Association was announced in Washington. $1 million was set as the budget for the first year. The privately endowed system would be desegregated, and the

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658 New York Times, October 20, 1963, p. 85.

faculty would be racially mixed, the announcement said. The Board of Trustees selected was headed by Colgate W. Darden, former United States Representative, former Governor, and former President of the University of Virginia. Governor Albertis S. Harrison of Virginia announced that the new bi-racial effort had his support.[659] The announcement came only two days after a Federal Court of Appeals largely sustained Prince Edward County's legal position in litigation aimed at forcing the re-opening of its public schools.

The Department of Justice, therefore, both through litigation and through conferences with local officials, was responsible for some of the progress, slow though it was, that the nation experienced in desegregating its schools.

Another department of the government was looked to by civil rights leaders, however, in the hope that it would also play a positive role in achieving school desegregation progress: The Department of Health, Education and Welfare, and more particularly, the United States Office of Education, a constituent part of HEW.

In its 1959 report, the U.S. Commission on Civil Rights observed: "Many school districts in attempting to evolve a desegregation plan have had no established and qualified source to which to turn for information

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[659] New York Times, August 15, 1963, p. 18.

and advice." The Commission proposed that it be given the legislative authority to serve as a clearing house to collect and make available to states and to local communities information concerning programs and procedures used by school districts to comply with the Supreme Court mandate. This recommendation was reiterated in its 1961 report,[660] and again in its 1963 report.[661] The Southern Regional Council in its report - The Federal Executive and Civil Rights, made a similar recommendation, proposing the U.S. Office of Education as the appropriate implementing agency.

The Potomac Institute then commissioned Professor J. Kenneth Morland of Randolph-Macon Women's College, Lynchburg, Virginia, to survey southern school administrators on the assistance they would wish to have in desegregating their own systems. 88% said they would find information on desegregation useful, the majority said the validity of the information was more important than the agency which gathered the information, 56% declared they would find consultants of value to them, and 59% recommended conferences on desegregation.[662]

The author recommended that the U.S. Office of Education could

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[660]J. Kenneth Morland, School Desegregation - Help Needed?: A Survey of Southern Educators (Washington, D.C.: The Potomac Institute, Inc., 1962), p. 2.

[661]U.S. Commission on Civil Rights, 1963 Report, op. cit., p. 69.

[662]Morland, op. cit., pp. 2-3.

best meet that need. On April 23, 1962, Robert M. Rosenzweig, Assistant to the U.S. Commissioner of Education, disclosed that the Office of Education was establishing a clearing house to help public school officials plan for desegregation. He said the new operation would be under way by the fall term, 1962.[663]

No action was taken by the Office of Education, however, despite Mr. Rosenzweig's statement. On January 24, 1963, Whitney Young and Otis Finley, Executive Director and Associate Director, respectively, of the National Urban League, recommended to Commissioner of Education Keppel that the U.S. Office of Education (1) establish a Department of Intergroup Relations in Education to assist and advise public school systems which seek professional help in desegregating, (2) develop a model for the conduct of community workshops for school board members on equal education opportunity, and (3) step up its interpretation of problems and needs in American public education so that the public "can make more intelligent decisions in their local communities on what needs to be done."[664]

In interviews with this writer in Washington, Philip H. Des Marais, Deputy Assistant Secretary of the Department of Health, Education and Welfare, and David S. Seeley, Special Assistant to the U.S.

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[663]Washington Post, April 23, 1962, p. A 4.

[664]Whitney M. Young, Jr., and Otis E. Finley, Jr., "Equal Opportunities in Education - New Perspectives and Recommendations." Statement on behalf of the National Urban League to Francis Keppel, Commissioner, U.S. Office of Education, on January 24, 1963.

Commissioner of Education, said that as of that time (February, 1964), the U.S. Office of Education was not providing technical assistance or guidance to school systems on desegregation, but did plan to establish a small staff to deal with that question at least by the summer of 1964.

How could the failure of the U.S. Office of Education to assist states and local communities in dealing with desegregation be explained? From 1954 through 1963, few educational problems exceeded in importance that of school desegregation.

The legal authority for the Office of Education to act appeared clear. The organic statute which established the U.S, Office of Education specifically required that it was to ". . . collect statistics and facts showing the condition and progress of education in the several states, . . . to diffuse such information respecting the organization and management of schools . . . as shall . . promote the cause of education throughout the country."[665]

Furthermore, the U.S. Commissioner of Education who served under President Kennedy, Francis Keppel, was found to enjoy the high regard of many civil rights leaders, including, for example, Dr. John A. Morsell, Assistant to the Executive Secretary of the NAACP, and Otis Finley, Jr., Associate Director (for Education) of the National Urban League.

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[665]Alexander M. Bickel, "Civil Rights: The Kennedy Record," New Republic, December 15, 1962, p. 14.

Civil rights and Federal government leaders interviewed by this writer pointed out that the U.S. Office of Education at all times was faced by a general concern in the Congress and in many states about the danger of Federal control over education, which allegedly might stem from the dissemination of such technical advice. The result, then, had been a policy of great caution in the area of civil rights.

Nondiscrimination in Federal Aid to Education

The record of the Federal government during the Kennedy administration in providing financial assistance to segregated institutions was uneven, at best. Much was at stake, financially. From 1954-1961, the Federal government granted $38 million for school maintenance and operation to school systems in southern and border states, 80% of which went to segregated systems.[666] Between 1950 and 1961, $52.5 million in Federal grants went to southern and border states for school construction in federally-impacted areas, 76.8% of which went to segregated schools.[667] In addition, to cite fiscal year 1962 as an example, Federal aid to vocational education totaled $52,225,000 annually, a portion of which went to segregated school systems.[668]

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[666] U.S. House of Representatives, Committee on Education and Labor, Committee Print, Subcommittee on Integration in Federally Assisted Public Education Programs, "Integration in Public Eduation Programs," 87th Congress, 2d. session, May, 1962, p. 74.

[667] Ibid., p. 80.

[668] U.S. House of Representatives, Committee on Education and Labor, 88th Congress, First Session, June, 1963, "The Federal Government and Education," p. 84.

In February, 1962, the U.S. Commissioner of Education announced that language and counseling institutes held under the National Defense Education Act would not again be located in colleges and universities which did not accept Negro teachers as enrollees. The National Science Foundation stated that it would follow the same non-discriminatory policy at similar institutes during the 1963 school year.[669] These steps provided a precedent for further executive action to assure that Federal assistance to education would not be used to perpetuate discrimination.

The Federal government also began to re-examine its support of segregated elementary and secondary schools. Secretary of Health, Education and Welfare Abraham A. Ribicoff announced that as of September, 1963, the Federal government would regard segregated schools as "unsuitable" for children whose parents lived and worked on Federal installations, meaning that those schools would be denied Federal aid available to schools in federally impacted areas.[670] To further implement that ruling, the Attorney General initiated litigation to end racial segregation in the schools of Prince George County, Virginia, which were attended by children of Federal personnel. This marked the first time that the Federal government had initiated a desegregation case, -

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[669] U.S. Commission on Civil Rights, Freedom to the Free, op. cit., pp. 158-159.

[670] Ibid., p. 159.

its authority stemming from the fact that Prince George County used Federal school funds to provide education for children of personnel stationed or working at the Fort Lee military base.[671] In 1963 this was decided in favor of the government, and the schools there were desegregated before the end of that year.[672]

The Federal government continued during the Kennedy administration to provide Federal financial aid to segregated vocational education programs. Some of the reasons for this position were explained in an exchange of correspondence between Mrs. Vivian V. Gordon, of the Committee on Education and Labor of the House of Representatives, and Mr. W.M. Arnold, Assistant Commissioner for Vocational and Technical Education, of the United States Office of Education.

In a letter to Mrs. Gordon dated April 11, 1962, Commissioner Arnold stated that the Commissioner of Education is required by law to approve a state plan for vocational education unless he finds that it is contrary to the Federal vocational education acts and policies. He went on to point out that in 1948, however, the following statement was included in a document describing policies for vocational education: "In the expenditure of Federal funds and in the administration of federally

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[671] United States v. School Board of Prince George County, Civ. No. 3536, E.D., Va., September 17, 1962.

[672] U.S. Department of Justice, "A Review of the Activities of the Department of Justice in Civil Rights, 1963," op. cit., p. 8.

aided programs of vocational education, there shall be no discrimination because of race, creed, or color."[673]

In view of this, the Commissioner was asked, would it not be proper for his office to withhold funds for vocational education from those school areas currently maintaining segregated programs of vocational education? No, said the Commissioner, replying as follows:

> The provisions in section 16 of the Smith-Hughes Act for withholding funds has from the first been interpreted as applying to withholding a State's total allotment only when Federal funds were lost by the State, through negligence or theft. It has also been interpreted to provide for the withholding of a portion of a State's allotment equal to any amount spent for purposes other than those in the act. The matter of desegregation would not enter into either of these categories. It has been our position that the Commissioner does not have the power under these acts to withhold funds because schools are segregated and that the regulation cited cannot confer on him, in this regard, any power not granted by the statutes."[674]

When asked by Mrs. Gordon why the Office of Education had not requested information from school systems about nondiscrimination in their vocational education programs in view of the Office's statement, issued 14 years earlier, that "In the expenditure of Federal funds and in the administration of federally-aided programs of vocational education, there shall be no discrimination because of race, creed, or

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[673] U.S. House of Representatives, Committee on Education and Labor, Committee Print, Subcommittee on Integration in Federally Assisted Public Education Programs, "Integration in Public Education Programs," op. cit., p. 93.

[674] Ibid., p. 94.

color," Commissioner Arnold replied:

> In view of the fact that the Federal vocational education acts do not provide for the withholding of funds because of segregation of classes and do provide that when a State has qualified by having an approved plan, the funds are automatically forwarded to a State at a certain time in each fiscal year.[675]

The position of the Office of Education with reference to collection of information had changed two months earlier. In testimony before a Congressional subcommittee on February 27, 1962, the Commissioner of Education stated that as a part of its annual review of state vocational education programs supported with federal funds, the Office of Education in that year was inquiring for the first time into the availability of courses of training in predominantly Negro and predominantly white schools."[676]

This writer encountered sharp differences with the legal opinion stated by Assistant Commissioner Arnold that the Commissioner of Education did not possess the legal authority to withhold Federal financial aid from vocational education programs which were segregated. In a parallel case, when the Department of Labor was asked by Senator Jacob Javits whether it had the authority to withhold Federal funds from segregated state employment services, Under Secretary of Labor John F. Henning replied:

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[675] Ibid., p. 95.

[676] Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 9.

> It is the position of the Department of Labor that we have sufficient legal authority to condition grants of Federal funds upon assurance that the funds will be administered in a nondiscriminatory manner. It is on this legal ground that the Department has initiated administrative actions to end segregated facilities and services in state employment security offices. . . ."[677]

Vincent A. Doyle of the Library of Congress concluded after a careful analysis of several statutes that "in almost any statute the Administrator can find implied authority to withhold funds from recipients who refuse to eliminate racial discrimination in their use of the funds."[678] Deputy Attorney General Nicholas Katzenbach probably came closest to the real factors involved when he pointed out that "You can make an argument for the position that we do now have that authority, but if it were used now, it would probably weaken support for the Civil Rights Bill."[679]

In summary, in the field of education, the civil rights programs of the Kennedy administration revealed some commendable efforts, particularly those of the Department of Justice to achieve voluntary compliance with court decisions through a process of conferences with local officials, the handling of civil disorder related to school desegregation, and the court actions initiated by that Department. The U.S.

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[677] Congressional Record - Senate, December 5, 1963, p. 22400.

[678] Southern Regional Council, Executive Support of Civil Rights, op. cit., p. 8.

[679] Interview by the writer with Mr, Katzenbach.

Office of Education, although headed by an extraordinarily competent Commissioner, who fully understood the necessity of education's facing up to the great challenge of desegregation and then integration, made hesitant progress, principally because of restraining political pressures. The Office did make some progress during the Kennedy administration, however, and in addition, the groundwork was laid during those years for further efforts in 1964.

Housing

In 1959 and again in 1961, the U.S. Commission on Civil Rights found that "housing . . . seems to be the one commodity on the American market that is not freely available on equal terms to everyone who can afford to pay."[680] Although during the Kennedy years Negroes comprised 11% of the population of the nation, they were restricted to 4% of the residential areas.[681] The 1963 report of the U.S. Commission on Civil Rights stated that in Phoenix, Arizona, for example, 97% of the Negroes lived within a radius of one mile of either the railway tracks or the river bed. In Newark, New Jersey, the Commission found that 83% of the Negroes were concentrated in 6 of Newark's 12 neighborhoods, three of which were the most deteriorated neighborhoods in the city.[682] Speaking

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[680] U.S. Commission on Civil Rights, 1961 Report, op. cit., IV, p. 1.

[681] Lomax, op. cit., p. 68.

[682] U.S. Commission on Civil Rights, 1963 Report, op. cit., p. 163.

in Omaha, Nebraska on October 17, 1963, Whitney Young, Jr., Executive Director of the National Urban League, pointed out that one out of six Negro families in the nation lived in housing which the government described as dilapidated, compared to a ratio of one out of 32 white families who lived under such conditions.[683]

At the beginning of his administration, President Kennedy was to learn that discrimination against Negroes in housing was not limited to private housing. In 1961, more than 80% of all public housing projects were racially segregated in one fashion or another.[684] The Veterans Administration was not then enforcing an antidiscrimination policy in its housing loans, and the Civil Rights Commission reported that the V.A. was "neutral" on the issue of open occupancy.[685]

During the 1960 presidential campaign, John Kennedy had twitted President Eisenhower about not signing an executive order prohibiting racial discrimination in federally aided housing; but throughout 1961, President Kennedy, like his criticized predecessor, did not act in that

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[683] The Benson Sun, October 17, 1963, p. 24.

[684] Leadership Conference on Civil Rights, Federally Supported Discrimination, op. cit., p. 46.

[685] Ibid., p. 47.

direction.

There were three reasons for his hesitancy. First, the housing sub-committees in both the House and Senate were headed by Alabamans - Representative Albert Rains and Senator John J. Sparkman. Both were vehemently opposed to a housing executive order, pointing out to the President that such an action would destroy public housing in the South, and would seriously set back urban renewal. Their staffs told the press that both men, whose support the President urgently needed in order to secure passage of his trade bill, would surrender their chairmenships in the event the White House issued a housing order.

Secondly, such an order was delayed because the President had reason to believe that it would imperil the housing bill which was before the Congress in 1961. When that bill did pass, the administration hesitated again - this time because of the reluctance of Congress to elevate the Housing and Home Finance Agency to cabinet level. A housing order, it was felt, would surely prevent the approval of that presidential recommendation.[686]

Nonetheless, Robert Kennedy, Burke Marshall and Harris Wofford urged the President to issue the order.[687]

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[686] Congressional Quarterly Almanac, 1961, p. 393.

[687] Helen Fuller, op. cit., p. 142.

At his January 15, 1962 press conference, the President said that he would issue the order

> when I consider it to be in the public interest, when I consider it to make important contributions to advancing the rights of our citizens. . . . We are proceeding ahead in a way which will maintain a consensus, and which will advance the cause. . . . I am fully conscious of the wording of the /campaign/ statement to which you refer, and plan to meet my responsibilities in regard to this matter.[688]

Finally, on November 20, 1962, President Kennedy issued Executive Order 11063,[689] prohibiting discrimination in federally assisted housing. The Order directed Federal agencies to "take every proper and legal action to prevent discrimination" in (1) the sale or lease of housing owned or operated by the government; (2) housing constructed or sold through loans or grants made, insured, or guaranteed by the government, and (3) housing made available through Federal urban renewal or slum clearance programs.

The Order took effect immediately, and all subsequent applications for Federal assistance under these programs had to be processed in accordance with the Order and its implementing regulations.

The Order made it clear that while informal means of correcting violations were encouraged, each department and agency was authorized

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[688] Southern Regional Council, Executive Support for Civil Rights, op. cit., p. 43.

[689] Fed. Reg. 11527 (1962).

to move against offenders by cancelling Federal aid contracts, withholding further aid until compliance was secured, or by declaring any FHA or VA approved lending institution as ineligible to participate in the loan guarantee programs.[690]

Federal agencies were to be assisted in their enforcement of the Order by the President's Committee on Equal Opportunity in Housing. The Committee members were to include the Secretaries of Defense, Treasury, Agriculture, the Attorney General, the Administrator of the Housing and Home Finance Agency, the Veterans' Affairs Administrator, and the Chairman of the Federal Home Loan Bank Board, public members to be added at a later date by the President, and a member of his President's Executive Staff, who would serve as Chairman and as Executive Director of the President's Committee.[691]

The Committee was called upon to recommend procedures and policies for the implementation of the Order, coordinate the activities of the various agencies affected, and encourage educational programs by private groups to "eliminate the basic causes of discrimination" in housing assisted by the Federal government.[692]

The Housing Order did not compare in effectiveness with the Executive Order on Equal Employment Opportunity, for it did not cover

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[690]Executive Order 11063, sec. 302.

[691]Executive Order 11063, sec. 401.

[692]Executive Order 11063, sec. 502.

existing housing, nor housing financed through conventional means. Any Federal agency operating in the housing field was empowered to grant exemptions to the Order without clearing with the President's Committee, the Committee was given no control over regulations developed by the departments and agencies, and complaints were not subject to review by the Committee.

David Lawrence, former Mayor of Pittsburgh, and the immediate past Governor of Pennsylvania, was named by President Kennedy as the Chairman and Executive Director of the Committee, which was housed in four rooms in the Executive Office Building, connected to the White House. Governor Lawrence named his long time aide, Walter Giesey, as staff director. In addition to Lawrence and Giesey, the staff included two other men and three secretaries.

Interviewed by this writer, the Governor said that he rarely saw the President on Committee business. The President, he pointed out, was very busy with many important matters, and he did not wish to take too much of his time.

Shortly after the Housing Order was issued, several departments and agencies issued implementing instructions. The Federal Housing Agency prohibited persons and firms receiving its benefits from discriminating, but pointed out that its action did not include one or two family owner-occupied housing. The Public Housing Administration required local public agencies contracting for loans or annual contributions after

November 20, 1962, to agree contractually to operate low-rent housing projects and related facilities on a desegregated basis. The Urban Renewal Administration stated that local public agencies would be required to agree in loan and grant contracts entered into after November 20, 1962 not to discriminate. The Department of Defense required nondiscrimination clauses in leases for military housing. Similar requirements were made by the Farmers Home Administration of the Department of Agriculture, and the Area Redevelopment Administration, Department of Commerce.[693]

In a press release issued on December 13, 1963, Dr. Robert Weaver, Administrator of the Housing and Home Finance Agency, reported that during the year the Federal Housing Administration had received 12 complaints covering alleged violations of the Order during its applicable period, and 15 complaints pre-dating the issuance of the Order, on which direct sanctions did not apply.[694]

Through the end of the Kennedy administration, Federal aid to only one business organization was suspended, and subsequently it was reinstated. The Veterans Administration, followed by the Housing and Home Finance Agency suspended House and Home Limited of Orlando, Florida, but when it complied with the President's Executive Order, the

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[693]U.S. Commission on Civil Rights, 1963 Report, op. cit., pp. 99-100.

[694]U.S. Housing and Home Finance Agency, Press Release HHFA - OA - no. 63-318, dated December 13, 1963.

suspension was lifted.[695]

Asked how he could account for the relatively low number of complaints, Governor Lawrence stated that there was no extraordinary demand on the part of Negroes who wished to move into white areas. The most important reason was economic - they did not have enough money to buy better housing.[696] E. Peter Libassi of the United States Commission on Civil Rights agreed, pointing out that there had been no fair housing demonstrations, no significant public pressure for further action.[697]

Governor Lawrence said that he recognized that the Kennedy administration had been criticized for not having included federally aided housing contracts concluded prior to the issuance of the Executive Order, but made it clear that they would be covered in the future. "The question is one of timing," he said.

Interviews with civil rights leaders in Washington, D.C. and in New York revealed almost universal criticism directed both against the Executive Order and the manner in which it had been implemented. Said

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[695]Interview by this writer with Mr. Robert Sauer, Assistant General Counsel, and Special Assistant to the Deputy Administrator, Housing and Home Finance Agency, in Washington, D.C. on February 3, 1964.

[696]Interview by the writer with Governor David Lawrence in Washington, D.C. on February 12, 1964.

[697]Interview by the writer with E. Peter Libassi, Civil Rights Commission.

Dr. John A. Morsell, Assistant to Roy Wilkins of the NAACP: "We regard the Housing Order as ineffective. It is the major disappointment of the Kennedy years, especially so because he made such an issue of it during the campaign."[698] Both Dr. Morsell and Mr. Padget Alves of the National Urban League pointed out that the President's Committee had not been adequately staffed, and that aggressive leadership had been lacking.[699]

With reference to the limited nature of the Order, Deputy Attorney General Nicholas deB. Katzenbach pointed out that the Order was limited because Executive power is clear in the areas covered. "However," he continued, "I am not saying we don't have the authority to expand it to include . . . banks insured by the Federal Deposit Insurance Corporation or federally insured savings and loan companies." As of December 31, 1962, 97% of all incorporated domestic banks of deposit and over 90% of all savings and loan associations had their deposits or accounts federally insured.[700]

Some progress was made. The governmental agency which was principally concerned with housing was the Housing and Home Finance

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[698]Interview by the writer with Dr. John A. Morsell.

[699]Interview by the writer with Mr. Padget Alves, Assistant Director, National Urban League, in New York City on February 19, 1964.

[700]U.S. Commission on Civil Rights, 1963 Report, op. cit., pp. 102-103.

Agency, and it was headed by Dr. Robert Weaver, a man of great competence with a dedicated background in the civil rights - human relations field. Dr. Weaver announced on December 13, 1963, that the Order then covered 282,500 FHA mortgage insured units, 100,000 Veterans Administration units, 84,000 Public Housing Agency units, 78,944 Community Facilities Administration units, and 800 of the Federal Urban Renewal Administration's 1400 renewal projects.[701]

An evaluation of the Kennedy administration's civil rights efforts in the housing field would indicate some good progress, as indicated above, had been made. Nonetheless, the Executive Order was weak and limited, the Committee was not given sufficient power to effectively coordinate implementing efforts among government agencies, nor was it provided with sufficient staff to undertake the educational programs which the Executive Order required.

Clearly, the Kennedy administration had given the matter of enforcing equality of opportunity in housing a low priority status. Governor Lawrence's excessive deference about bothering the President with reference to the work of the Committee, was to be contrasted with the time and attention the President, Vice President and other high officials of the Kennedy administration devoted to implementation of the Executive Order on Equal Employment Opportunity. Said Staff Director Walter

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[701] U.S. Housing and Home Finance Agency, Press Release, op. cit.

Giesey to this writer: "If anything, we have not advertised the fact that we are here."

Given the appalling extent of housing discrimination found in the United States through the end of the Kennedy administration, much of it federally assisted, and bearing in mind that contrary to earlier predictions, Senator Sparkman, Representative Rains and other southern Congressional leaders had not raised a storm about the Housing Order,[702] the weak stand taken by the administration would not appear to have been justified, either on human or on political grounds.

The Armed Services

American Negroes have fought for their country in every war, including the American Revolution. Traditionally, the Armed Forces resisted Negro recruitment, segregating those Negroes who were accepted, generally grouping them together in service units. Although opportunities for Negroes to defend their country greatly expanded in World War II, and although some desegregation experiments were conducted in the European Theater of Operations toward the end of the war, the Armed Forces emerged from World War II in a segregated state.

On July 26, 1948, President Truman issued Executive Order 9981, calling for equality of treatment for all persons in the Armed Forces. Its effect was to nullify "separate but equal" recruitment, training and

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[702] U.S. Commission on Civil Rights, Freedom To The Free, op. cit., p. 125.

service. At the same time, he created in the military establishment an advisory committee known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services.[703] In a report issued in 1950 under the title Freedom To Serve, this committee cited progress in all branches of the services.

The Korean War accelerated the progress of integration in the Armed Services. A special report issued by the Department of Defense in 1959 declared that integration of Negroes had resulted in an overall gain in efficiency for the Army.[704] In 1961, the Department of Defense considered integration in the Armed Forces to be an accomplished fact, and took the position that further reports on progress in eliminating discrimination would be of no purpose.[705]

The Civil Rights Commission, however, noted that its studies revealed:

> . . . the persistence of complaints and reports of continuing discrimination in off-base housing for military personnel, in the segregation of schools to which military personnel were forced to send their children, and in the unavailability of places of public accommodation near military bases. The picture that was revealed by these reports was one of serious deprivation of opportunity for non-white personnel once they left the protective wing of the military base to seek the essentials

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[703] Ibid.

[704] Ibid., p. 126.

[705] South Dakota Advisory Committee to the United States Commission on Civil Rights, Report on Rapid City (Washington, D.C.: United States Commission on Civil Rights, 1963), p. 2.

of life available only in the surrounding civilian community.[706]

On June 24, 1962, President Kennedy expressed his concern about evidence of continuing discrimination against various military personnel by appointing a President's Committee on Equal Opportunity in the Armed Forces. In his letter to the Chairman, the President asked the newly-formed Committee:

> . . . to make a thorough review of the current situation both within the services and in the communities where military installations are located to determine what further measures may be required to assure equality of treatment for all persons serving in the Armed Forces.
>
> There is considerable evidence that in some civilian communities in which military installations are located, discrimination on the basis of race, color, creed, or national origin is a serious source of hardship and embarrassment for Armed Forces personnel and their dependents.[707]

The Committee's initial report was presented to the President on June 13, 1963, and covered assignment patterns, transportation, housing, public accommodations in communities adjacent to military bases, and educational opportunities.[708]

The Committee found that while complaints existed about discrimination in assignments, statistics showed that on a service-wide

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[706] Ibid.

[707] Ibid., p. 3.

[708] U.S. President's Committee on Equal Opportunity in the Armed Forces, Initial Report: Equality of Treatment and Opportunity for Negro Military Personnel Stationed Within the United States (Washington, D.C.: U.S. Government Printing Office, 1963).

basis, Negroes had been assigned to all occupational areas. However, there were some signs of disproportionate groupings. For example, one out of every five Negroes in the Navy was found in the food service field. Negro participation in technical career fields appeared to be limited, although relative participation was increasing.[709]

Off-base transportation proved a problem in some cases. Many military bases used local transportation facilities, and in some cases, local operators required segregated seating after their buses left the military base.[710]

With reference to housing, the report went on to say that Department of Defense statistics showed that approximately 405,000 military families resided in off-base housing. The Committee found that many of those communities practiced various forms of segregation and discrimination. For example, 24% of the public schools, 34% of the restaurants and bars, and 11% of the churches in communities adjacent to army bases were found to practice segregation. The figures for the Navy were even higher.[711] "The Committee's inquiries, including interviews with many base commanders, made it clear that the accomplishment of the military mission of a base confronted with such conditions

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[709] Ibid., pp. 16-18.

[710] Ibid., pp. 39-40.

[711] Ibid., p. 45.

is measurably impaired."[712]

Undesirable housing conditions represented the most serious morale problem facing members of the Armed Forces - of all races. In 1962, Department of Defense figures showed that of the 487,408 military families[713] not living on military installations, 181,635 lived in quarters below service standards. But, said the report, "bad as the situation is for all personnel, it is much worse for Negroes, who face discrimination in housing throughout the United States. Unfortunately, the Department of Defense is not at present acting with vigor or sensitivity in this area."[714]

Later in 1963, a staff report issued by the U.S. Commission on Civil Rights brought further criticisms of the Defense Department in dealing with off-base housing discrimination. In surveying the availability of community housing, the report stated, the Department of Defense had refused to determine whether or not it was available to Negroes, stating that they were determined to be "color blind." This ostrich-like point of view meant that the Department therefore reduced the number of housing units to be constructed on bases (assuming the availability of community housing) on the mistaken assumption that the housing

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[712] Ibid., p. 51.

[713] The inconsistency with the earlier figure of 405,000 families is not explained in the Committee's report.

[714] Ibid., p. 75.

needs of both white and Negro personnel were being met by the local community.[715]

A March 8, 1963 memorandum from the Secretary of Defense said that listings maintained of available private housing ". . . shall include only those units which are available without regard to race, color, creed or national origin." But, says the report, Negro servicemen did not use these listings because often they included "white only" facilities. Thus, the net effect of the directive was not to increase the usefulness of housing lists for Negro servicemen, but rather, to purge the lists of housing reserved for white personnel. In other words, it treated the symptom, and not the cause of the problem.[716]

As indicated earlier, the initial report from the President's Committee on Equal Opportunity in the Armed Forces was presented to President Kennedy on June 13, 1963. Eight days later the President addressed a letter to Secretary of Defense Robert McNamara, commending the Armed Forces for the progress that they had made in achieving desegregation, pointing to the serious discrimination and segregation facing Negro families in many communities neighboring military bases, and asking for a review and report on the Committee's recommendations within 30 days.[717]

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[715]U.S. Commission on Civil Rights, 1963 Staff Report: Family Housing and the Negro Serviceman (Washington, D.C.: United States Civil Rights Commission, 1963), p. 19.

[716]Ibid., pp. 21-22.

[717]Letter from President John F. Kennedy to Secretary of Defense Robert McNamara, dated June 21, 1963.

Secretary McNamara replied to the President on July 24, 1963, acknowledged the need for more guidance to base commanders, said that the Committee's suggestion that bases might be closed was not feasible, and while expressing the hope that it need never be used, agreed that the off-limits sanction, to be directed at facilities which discriminated, must be available as a last resort, but only if approved by the Secretary of the Military Department concerned.[718] On July 26th, the Defense Department issued a directive in which the policy of fostering equal opportunity for servicemen was explicitly reaffirmed, Military Departments were instructed to issue the necessary manuals and regulations on leadership responsibility for dealing with discrimination problems, a follow-up system for measuring progress was ordered, and a new Defense Office of Civil Rights was authorized.[719]

Subsequently, a Deputy Assistant Secretary of Defense for Civil Rights was appointed, and located in the Office of the Assistant Secretary for Manpower. The Services then prepared outlines for implementing the July 26th directive.[720]

Meanwhile, Secretary McNamara's July 26th directive ran into a storm of criticism in the Congress. Representative Carl Vinson of

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[718]United States Department of Defense, Department of Defense Fact Sheet on Equal Opportunity in the Armed Forces, dated October 1, 1963.

[719]Ibid.

[720]Ibid.

Georgia, Chairman of the House Armed Services Committee, demanded that Congress make it a court-martial offense for officers of the Armed Forces to carry out the off-base sanctions proposed by McNamara. Subsequently, therefore, the Department of Defense reported "unexpected difficulties" in preparing the regulations and manuals implementing the original directive.[721]

The Kennedy administration became history before these documents were issued. One further political reason was found in this April 29, 1964 communication from the Department of Defense:

> The manuals and regulations required by that Directive have not yet been issued. All such material requires extensive and careful preparation and coordination in the Defense Department; but an additional delaying factor in this case has been the obvious impact of whatever version of Civil Rights legislation Congress enacts this session. The manuals and regulations will be held up until the content of the legislation is known, so that the material can reflect the additional remedies available to military personnel.[722]

In its initial report to the President, the President's Committee on Equal Opportunity in the Armed Forces did not deal with discrimination and segregation in the National Guard, reserving that matter for a later report. It will be recalled that in the section of Chapter II of this study dealing with the Armed Services, it was reported that in 1961

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[721]New York Times, January 28, 1961, p. 21.

[722]Letter to the writer from Robert E. Jordan III, Staff Assistant to the Deputy Assistant Secretary of Defense (Civil Rights) dated April 29, 1964.

the American Veterans Committee had found instances of unequal treatment and opportunity in the National Guards in the eleven southern states, and in Idaho, Missouri, Oklahoma, West Virginia, and Wyoming.[723]

In a conversation with this writer on February 14, 1964, James C. Evans, Counsellor to the Deputy Assistant Secretary of Defense for Civil Rights, stated that the Defense Department had little to say about whether Federal funds continued to go to those National Guard units which practiced discriminatory policies. Mr. Evans continued:

> But this matter is way down on our agenda. We have many other things of greater importance to deal with. These National Guards, after all, belong to the governors of the states.[724]

The statement about the relative position of the National Guard question on the Defense Department's agenda, and the comment that the Guards ". . . belong to the Governors of the states" appears interesting in view of the fact that 95% of the funds for the National Guard are derived from the Department of Defense, and that the President has the authority to nationalize any part of the National Guard he wishes, when the need arises.

Thanks to the efforts of Major General Winston P. Wilson, Chief of the National Guard Bureau, progress was made, however. According to the Defense Department,

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[723]American Veterans Committee, op. cit., p. 3.

[724]Interview by the author with Mr. James C. Evans in Washington, D.C. on February 14, 1964.

> A year ago /April, 1963/ ten states with substantial Negro populations had no Negro Guard members. Today only five - Mississippi, Louisiana, Alabama, South Carolina and Arkansas - remain in this category. I do not know whether Idaho and Wyoming now have Negro Guard members, but the very small Negro population of those states makes Negro membership in the Guard there a matter of statistical happenstance.[725]

In summarizing the role of the Kennedy administration in dealing with problems of racial discrimination in the Armed Services, the words of the President are appropriate. Said he, in writing Secretary McNamara, following receipt of the initial report of the President's Committee on Equality of Opportunity in the Armed Forces:

> We have come a long way in the 15 years since President Truman ordered the desegregation of the Armed Forces. The military services lead almost every other segment of our society in establishing equality of opportunity for all Americans. Yet, a great deal remains to be done.[726]

Presidential Leadership

Writing on Presidential leadership and influence in 1940, Edward Pendleton Herring said:

> We have created a position of great power but have made the full realization of that power dependent upon influence rather than legal authority. Hence if our president is to be effective, he must be a politician as well as a statesman. He must consider the political expedience

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[725] Letter from Mr. Jordan to the writer.

[726] Letter from President John F. Kennedy to Secretary of Defense Robert S. McNamara, dated June 21, 1963.

of contemplated actions as well as their consistency with his concept of the public interest.[727]

Twenty years later, Richard E. Neustadt, former Assistant to President Truman, whose book on Presidential Power President Kennedy read prior to his inauguration, said that it is the President's persuasive task to convince men who possess influence and authority that what the White House wants of them is what they ought to do for their own sake and on their authority.[728]

In April and May of 1963, it became evident to John F. Kennedy, as he viewed the wreckage brought by the Birmingham riots, that unless forceful leadership were exerted, the nation could face a major racial crisis. He first concluded that major civil rights legislation should be proposed to the Congress, and this effort will be reviewed in the next chapter. The President addressed the nation by television, as pointed out earlier in this chapter, met with civil rights leaders, and expressed his views through press conferences on positive action which should be taken.

One of the most impressive actions taken by the President was a series of meetings with civic leaders from all parts of the nation. Twenty one of these meetings were called by the President at the White

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[727]Edward Pendelton Herring, Presidential Leadership: The Political Relations of Congress and The Chief Executive (New York: Farrar and Rinehart, Inc., 1940), pp. 2-3.

[728]Neustadt, Presidential Power, op. cit., p. 34.

House over a 40 day period, involving a total of 1700 persons. Those present included the following:

Leadership Group	Date	Number Attending
Governors	May 29, 1963	9
Hotel, restaurant and theater owners	June 4, 1963	130
Labor leaders	June 13, 1963	215
Religious leaders	June 17, 1963	250
Governors	June 18, 1963	8
Educators	June 19, 1963	250
Lawyers	June 21, 1963	250
Women's Organization Leaders	July 9, 1963	350
Business Council	July 11, 1963	70
Governors	July 12, 1963	6

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Both the President and the Attorney General and usually the Vice President spoke at each of these meetings. The President said that nothing could be done in Washington as effectively as those steps which could be taken in communities throughout the country. He warned that the schedule of civil rights would not be set by the Congress, by the President, nor by the public, but by the Negro community. It was the

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729 Golden, op. cit., p. 164.

task of the clergy, and business, professional and labor leaders, he said, to insure that the transition from second class citizenship to full-privileged citizenship should be as orderly as possible.[730]

Although many who came to those meetings expected that the President's principal purpose would be to urge them to pressure their Congressmen for action on the civil rights bill, instead, he urged them to take action at the local level. Following the meeting with lawyers, for example, the Attorney General summarized the suggestions the President had made to them:

> 1. Initiate, help to organize, and participate in local bi-racial committee.
>
> 2. Volunteer professional service to other civic organizations facing up to the problem at the local level.
>
> 3. Eliminate any form of racial discrimination in your state and local bar association membership and activities.
>
> 4. Make sure that legal aid is available to all who need it on a nondiscriminatory basis.
>
> 5. Work with local government officials to eliminate unconstitutional laws and municipal and police practices, and to develop any needed affirmative legislation or programs.
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> 6. Speak out publicly to urge respect for the judiciary and the legal process.
>
> 7. Speak out publicly to refute irresponsible and erroneous legal commentary by newspaper columnists and others having the ear of the public.

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[730] Ibid., p. 165.

8. Concern yourself publicly with the adequacy of local educational and recreational facilities, and particularly engage yourself this summer in efforts to combat school dropouts next autumn.[731]

At the suggestion of the President, a Lawyer's Committee on Civil Rights Under Law was established following the June 21st meeting, headed by Bernard G. Segal and Harrison Tweed. Among those who volunteered to serve on the Committee were five past presidents of the American Bar Association, the presidents of the bar associations of twelve states, four members of the Board of Governors of the American Bar Association, and the deans of twelve law schools.[732]

Within three weeks, the lawyers were able to report encouraging results from their efforts:

- In North Carolina, the constitution of the charter of the Winston-Salem and Forsyth County Bar Association was amended to admit every attorney to business and social membership, regardless of race or color.

- In Birmingham, Alabama, members of the Committee asked the President of the Birmingham Bar Association to take steps to enable Negroes to become members of that Association.

- In North Carolina, California, and Ohio, resolutions were

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[731] Letter from Attorney General Robert F. Kennedy to Ted Davis of Oklahoma City, dated June 28, 1963.

[732] U.S. Department of Justice, Press release describing progress of the Lawyer's Committee on Civil Rights Under Law, dated July 10, 1963.

adopted by state and county bar associations establishing bi-racial committees to work in the civil rights area.[733]

Before the end of 1963, businessmen in 566 cities in eleven southern states had reported on the effectiveness of their meetings with the President. By June 21st, a month after the first meetings, desegregation of at least some public facilities such as hotels and restaurants had taken place in 161 cities, and bi-racial committees had been established in another 18. By November 13th, the date of the final 1963 reports to the Department of Justice, actions of this type had taken place in 356 cities.[734]

The number of cities in which at least some theatres desegregated increased from 109 on May 22nd to 131 on June 5th to 253 on November 13th. The number of cities in which at least some restaurants desegregated moved from 141 to 144 to 270 in November, 1963.[735]

To be sure, in many instances, progress demonstrated may have been attributable exclusively to local factors, completely unrelated to the White House meetings. But the fact was, nonetheless, that at a moment of critical need, the President had exercised vigorous and effective leadership.

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[733] Ibid.

[734] United States Department of Justice, "A Review of The Activities of the Department of Justice in Civil Rights, 1963," op. cit., p. 2.

[735] Ibid.

CHAPTER VII

CIVIL RIGHTS LEGISLATIVE EFFORTS DURING THE KENNEDY ADMINISTRATION

At a September 1, 1960 press conference, presidential candidate John F. Kennedy announced that he had asked Senator Joseph S. Clark of Pennsylvania and Representative Emanuel Celler of New York to draw up civil rights bills "embodying our platform commitments for introduction at the beginning of the next session." Said the candidate: "We will seek the enactment of this bill early in that Congress."[736]

The Democratic party's civil rights legislative planks included proposals to: eliminate literacy tests and poll taxes where they still existed as voting requirements, require school districts still segregated to submit plans for at least first-step desegregation by 1963, provide technical and financial assistance to school systems which were desegregating, authorize the Attorney General to file suits seeking court injunctions against deprivation of any civil right, establish a Federal Fair Employment Practices Commission, and to strengthen and make

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[736] Congressional Quarterly Almanac - 1961 - 1st Session, p. 392.

permanent the Civil Rights Commission.[737]

The Clark-Celler bills were prepared by March 1, 1961, but were not introduced until May 8th. Representative Celler's bills included H. R. 6877, which would have given the Attorney General the power to initiate civil injunction suits in Federal courts to prevent denial of any civil right; H. R. 6496 and H. R. 5876 - making the Commission on Civil Rights a permanent agency; H. R. 6875 - which would have prohibited discrimination in employment; House Judiciary Resolution 403 - which called for the abolition of literacy test qualifications for Federal electors; House Judiciary Resolution 404 - abolishing tax and property qualifications for Federal electors; and H. R. 6890 - calling for the desegregation of public schools.[738]

Although Senator Clark had expected at least "benevolent neutrality"from the White House, an erroneous report carried on the wire services to the effect that what was proposed was an administration bill, caused the White House to issue a statement to the effect that the President did not think civil rights legislation should be introduced in 1961. In effect, that marked the end of the Clark-Celler civil rights legislative effort.

In the same session of the Congress, other bills were introduced calling for the creation of a fair employment practices commission,

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[737] Ibid.

[738] Congressional Record, 87th Congress, 1st Session, p. 7571.

banning of the poll tax, outlawing segregation in interstate travel, making lynching a Federal crime, extending the life of the Civil Rights Commission indefinitely, strengthening existing civil rights statutes, and a bill intended to protect uniformed servicemen against violence. The only civil rights bill which passed was one which extended the life of the Civil Rights Commission.[739]

In his 1962 State of the Union message the President surprised his critics by asking for civil rights legislation.[740] But the request was a weak one. Civil rights leaders demanded vigorous action by the administration. The Leadership Conference on Civil Rights issued a call for a march on Washington. Said Roy Wilkins; "We plan to have a demonstration of representative leaders from cities throughout the nation to show that we don't agree with the Kennedy administration's civil rights position."[741]

In a meeting of liberal Senators early in that session, Senator Jacob Javits of New York said he would offer an amendment "to make the right to vote available to all citizens who have a sixth grade education." On January 17, 1962 he announced that eleven new Senators

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[739] Ibid.

[740] Lomax, op. cit., p. 244.

[741] Ibid., p. 245.

were joining him to support the amendment.[742]

On January 25, 1962, Majority Leader Mike Mansfield offered S. 2750 as an administration measure. This also would have made it possible for persons who had finished the sixth grade to be adjudged literate for purposes of voting. However, its introduction at that time killed the practical chance of gaining approval of the Javits amendment without first giving a committee an opportunity to consider the Mansfield bill.

The Mansfield proposal was sent to the Judiciary Committee at the direction of Vice President Johnson, and was then brought to the floor. Cloture efforts failed on May 9 and May 14, 1962, after which the literacy bill was tabled on the motion of Senator Mansfield.[743]

In the same session, the Senate by a vote of 77 to 16, and the House by a vote of 294 to 86 approved a constitutional amendment outlawing the poll tax in Federal elections.[744] It was a brave appearing move which had limited practical meaning since by 1962 few states used the poll tax.

In 1963, President Kennedy requested civil rights legislation by the Congress on two occasions - first in February, and again in June.

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[742]National Association for the Advancement of Colored People, Report for 1962: The March To Freedom (New York: The National Association for the Advancement of Colored People, 1962), p. 34.

[743]Ibid., pp. 34-36.

[744]Ibid., p. 34,

In his February 28, 1963 message to the Congress, the President described the many barriers to equal opportunity which Negroes faced in this country, and asked for Federal remedies in the areas of voting, education, and in the extension of the Civil Rights Commission.

In the area of voting, the President explained two defects in the 1957 and 1960 civil rights bills. One was the unusually long and difficult delay which occured between the filing of a lawsuit and its ultimate conclusion. In one recent case, he said, 19 months elapsed between the filing of a suit and the judgement of the court. In another, an action brought in July, 1961, had still not come to trial. He also pointed out that often those who attempted to register were intimidated, registration workers were sometimes arrested, and in some instances churches in which registration meetings had been held had been burned.[745]

Secondly, the President said, the 1957 and 1960 statutes failed to deal specifically with the most common forms of abuse of discretion on the part of local election officials who did not treat applicants uniformly.

In view of these deficiencies, he recommended the introduction of legislation which would deal with these problems in four ways: provision should be made for the appointment of temporary voting referees to serve from the inception to the conclusion of a Federal voting suit;

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[745]U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee of the Judiciary," op. cit., p. 927.

voting suits brought under Federal civil rights statutes should be given expedited treatment in the Federal courts; the law should specifically prohibit the application of different tests, standards, practices or procedures for different applicants seeking to register and to vote in Federal elections; and finally, completion of the sixth grade should, with respect to Federal elections, constitute a presumption that the applicant is literate.[746]

With reference to education, the President said that the Federal government should help facilitate the transition to desegregation in those areas which were conforming or wished their practices to conform to the law. He expressed the belief that there was a need for technical assistance to those school systems by the Office of Education, including the supplying of information on means which have been employed to desegregate schools. He therefore recommended "a program of Federal technical and financial assistance to aid school districts in the process of desegregation in compliance with the Constitution."[747]

Finally, he asked that the life of the Civil Rights Commission be extended four years, and that it be given the authority to serve as a national civil rights clearing house, providing information, advice, and technical assistance to private and public agencies.[748]

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[746] Ibid., pp. 927-928.

[747] Ibid., pp. 929-930.

[748] Ibid., p. 930.

That message to the Congress was transmitted on February 28, 1963. But in little more than a month, the racial picture changed radically, triggered by the murder of "freedom walker" William L. Moore on an Alabama road, the use by Birmingham and Alabama State Police of fire hoses and dogs directed against demonstrating men, women and children in Birmingham, the race riots in Cambridge, Maryland, and the assassination of NAACP Mississippi Field Secretary Medgar Evars. Racial tensions mounted daily throughout the nation as sit-ins, lie-ins, stand-ins, and picketing by Negroes and their white supporters spread with increasing momentum throughout the South and into the North and Mid-West — in Birmingham, Jackson, Tallahasee, Philadelphia, New York, High Point, North Carolina, St. Louis, Oklahoma City, and Los Angeles - to name only a few. Nerves stretched taut.

The massive civil rights effort which had become more articulate after World War II, gained confidence because of the important Supreme Court decisions of the 1940's and 1950's, and had observed its political effectiveness in both the 1948 and 1960 presidential elections, - now was about to clash with the wall of massive resistance to desegregation, whose bastion of greatest strength lay in the old South. Civil rights leadership, which in the 1940's and early 1950's lay principally with the Urban League and NAACP, now had to be shared with younger, more dynamic leaders in the Student Non-Violent Coordinating Committee, CORE, and the Southern Christian Leadership Conference — and all of them found

themselves driven to even more radical positions by the increasing strength and effectiveness of the Black Muslims.

The Spring of 1963 found these two dynamic forces — civil rights organizations and their followers, on the one hand, and a combination of ultra-conservative, states-rights, white supremacist leaders and their followers on the other, - on a collision course; and with the ultimate encounter apparently only a very short time away. Because the Eisenhower administration conceived its role as largely that of a spectator at this encounter, and because the Kennedy administration until the Spring of 1963 had dealt only with specific aspects of the problem, and had not grappled with the total issue, - national leadership by the Federal government had been lacking. The President recognized in May, 1963 that failure to exert strong, effective, affirmative leadership in the civil rights area could be disastrous - leading possibly to more serious civil disorder, extensive damage to the international position of the United States, and further loss of lives.

During the first week of June, Robert Kennedy met with eight Democratic senators, ranging in point of view from Hubert Humphrey to Richard Russell. Said the Attorney General: the nation is in the middle of a civil rights crisis. People are looking to the Federal government for protection of their rights. We need new legislation now. No, said Senator Russell, civil rights legislation is the responsibility of the states.[749]

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[749] Newsweek, June 10, 1963, p. 27.

The President, beginning in the middle of May, entered into a period of intensive consultations on civil rights problems with his advisers. On June 5th, Senators Hickenlooper and Dirksen, and Representatives Halleck and Arends met with the President at the White House for a general discussion of civil rights legislation.[750] Meanwhile, Assistant Attorney General Burke Marshall and Deputy Attorney General Nicholas deB. Katzenbach prepared a draft of a civil rights bill.

Once again on June 11th, the President called another White House conference of Democratic and Republican leaders from both the House and the Senate for a further general discussion on civil rights legislation. On the same day, the Federal government effectively dealt with a potential crisis at the University of Alabama, and that evening the President addressed the nation by television, stating that effective civil rights legislation must be passed by the Congress.[751]

Three days later, on June 14th, Burke Marshall brought Senator Dirksen the first draft of the proposed civil rights bill. On June 17th, leaders from both houses of the Congress and from both parties again met with the President at the White House to discuss the draft submitted by Burke Marshall. Senator Dirksen told the President that he could accept most of the provisions of the measure, except Title II, dealing

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[750] U.S. Senate, Committee on the Judiciary, "Civil Rights - The President's Program, 1963," op. cit., p. 23.

[751] Golden, op. cit., p. 287.

with public accomodations.[752]

On the following day, at the suggestion of Senator Mansfield, a meeting was held in the office of Senator Dirksen, and attended by Senators Mansfield, Humphrey, Kuchel, Hayden and Dirksen, Theodore Sorensen and Mike Manatos of the White House staff, and Mr, Schiel of the Department of Justice. At that meeting it was agreed that Senator Mansfield would introduce the administration program, Senators Mansfield and Magnuson would introduce Title II as a separate measure, and have it referred to the Senate Committee on Commerce, and it was further agreed, that the "administration package" minus Title II would be introduced by Senators Mansfield and Dirksen and others,[753] since Senator Dirksen then was not in favor of the public accomodations section of the bill.

On June 19, 1963, President Kennedy sent his civil rights message to the Congress. Pointing out that Congress had not yet had an opportunity to act on his February 28th civil rights message in which he called for legislation in the areas of voting, the extension of the life of the Civil Rights Commission, and school desegregation, he said:

> The Negro's drive for justice, however, has not stood still, nor will it, it is now clear, until full equality is achieved. The growing and understandable dissatisfaction of Negro citizens with the present pace of desegregation,

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[752]U.S. Senate, Committee on the Judiciary, "Civil Rights - The President's Program - 1963," op. cit., pp. 23-25.

[753]Ibid.

> and their increased determination to secure for themselves the equality of opportunity and treatment to which they are rightfully entitled, have underscored what should already have been clear; the necessity of the Congress enacting this year - not only the measures already proposed - but also additional legislation providing legal remedies for the denial of certain individual rights.
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> . . . . . .
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> In the continued absence of congressional action, too many State and local officials as well as businessmen will remain unwilling to accord these rights to all citizens. . . . Negroes, consequently, can be expected to continue increasingly to seek the vindication of these rights through organized direct action, with all its potential explosive consequences, such as we have seen in Birmingham, in Philadelphia, in Jackson, in Boston, in Cambridge, Maryland, and in many other parts of the country.[754]

Over and above the legislation the President had suggested in February in the areas of voting rights, the Civil Rights Commission, and education, in his June 19th message he asked Congress to enact a civil rights bill and other legislation including those items, as well as sections dealing with public accomodations, full and fair employment, a community relations service, and nondiscrimination in Federal assistance programs.

In the area of school desegregation, the President asked that authority be given the Attorney General to initiate legal proceedings in Federal district courts against school systems which were not proceeding with desegregation, and secondly, that technical and financial assistance

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[754]U.S. House of Representatives, Committee on the Judiciary, "Civil Rights Hearings Before Subcommittee No. 5 of the Committee on the Judiciary," op. cit., p. 1448.

be given those school districts engaged in meeting educational problems growing out of desegregation.[755]

The achievement of "full and fair employment" was one of the major thrusts of the President's message. Delinquency, vandalism, gang warfare, disease, slums, and the high cost of public welfare and crime are all directly related to unemployment among whites and Negroes, alike, he said. He saw a need for more education and training to raise the level of skills. Therefore, he requested that additional funds be provided to broaden the manpower development and training program, that additional funds be provided to finance the pending youth employment bill, that the pending vocational education amendment be strengthened by the appropriation of additional funds, that the ceiling be raised on the adult basic education provisions in the pending education program, and that the public welfare relief and training program be amended so that employable but unemployed welfare recipients could be given work on local projects which did not displace other workers.

In the area of equal employment opportunity, he requested that the President's Committee on Equal Employment Opportunity be given a statutory basis, and he renewed his support of pending Federal fair employment practices legislation, applicable to both employers and employees.[756]

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[755] Ibid., p. 1450.

[756] Ibid., pp. 1451-1453.

The President said that an agency was needed at the Federal level to work with local communities with racial problems, providing them with advice and assistance, in the interest of easing tensions and improving inter-racial relations. It was therefore his intention, Mr. Kennedy said, to establish by executive order a Community Relations Service until such time as it could be created by statute.[757]

Finally, the President declared that he favored the passage of a provision making it clear that the Federal government would not be required under any statute to furnish any kind of financial assistance to any program or activity in which racial discrimination prevailed.[758]

The House Judiciary Committee assigned hearings on the proposed civil rights bill to its Subcommittee No. 5, headed by House Judiciary Committee Chairman Emanuel Celler of New York. Because the House of Representatives does not permit co-sponsorship of bills, a total of 168 civil rights bills were submitted to the House, approximately half of them by Republicans. The Judiciary Subcommittee held hearings from May 8th through August 2, 1963, involving hearing 101 witnesses, and receiving 75 statements and 22 communications for the record, which filled 2649 pages or three volumes of hearing reports. The Senate Commerce Committee hearings ran from July 23rd through August 2nd. These Senators heard 47 witnesses, including four United

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[757] Ibid., p. 1453.

[758] Ibid., p. 1454.

States Senators and 28 Governors, and their final two volume report covered 1524 pages.[759] Attorney General Robert Kennedy appeared before the House Judiciary Subcommittee, the Senate Commerce Committee, and on eight different occasions he was heard by the Senate Judiciary Committee. On each of those occasions Senator Ervin of North Carolina did all of the questioning.[760] It may well have been the intention of Senate Judiciary Committee Chairman Eastland to put into the record some of the objections of the South, as articulated by Senator Ervin.

On August 28th, more than 200,000 persons participated in the March on Washington for Jobs and Freedom. At its conclusion, the civil rights leaders who led the March met with the President at the White House. He spelled out for each man the steps he should take to use his influence with labor unions, state political leaders, and even local precinct officials in order to help secure passage of the civil rights bill. He gave each of them an assignment, warning them that this was but a beginning. Commented Harry Golden: "Even such knowledgeable men as A. Philip Randolph and Roy Wilkins came to realize how much they had underestimated John F. Kennedy. . . . Negro leaders left the White House subdued in their realization that they were dealing not only with

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[759]Hearings by House Judiciary Subcommittee No. 5 and the Senate Commerce Committee.

[760]National Broadcasting Company, "The American Revolution of '63," op. cit., p. 94.

a President who was on their side, but with a President who was determined that their side win."[761]

On Sunday, September 15th, a Negro church in Birmingham, Alabama was bombed in the midst of Sunday School classes, and four children were killed. The effect on the House Judiciary Subcommittee was described later by a member, Wisconsin Democrat Robert W. Kastenmeir:

> I perceived a change in attitude among at least a critical number of members of the Subcommittee toward a more fuller commitment in terms of what the bill ought to be like, and while this wasn't satisfactory to all in the Subcommittee, gradually the bill shaped into something even stronger - in fact much stronger - than the Administration bill.[762]

One of the important changes made was in the employment section. The House Education and Labor Committee had been holding hearings on a Fair Employment Practices bill, had submitted reports on it, but then the bill lodged in the House Rules Committee. By agreement with the House Rules Committee, the House Judiciary Committee picked up the Republican version of the FEPC bill, revised it, and included it in the Subcommittee bill.[763]

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[761]Golden, op. cit., pp. 162-163.

[762]Columbia Broadcasting System Television Network, Transcript, CBS REPORTS: "Filibuster - Birth Struggle of a Law," broadcast over the CBS Television Network on March 18, 1964, p. 9.

[763]Interview by the writer with William Foley, Chief Counsel, House Judiciary Committee, in Washington on February 13, 1964.

The Subcommittee bill was reported to the full Judiciary Committee on October 2nd. Some members strongly favored the strengthened version, but others, such as Representative William McColloch of Ohio, ranking minority member, whose assistance with the legislation drew praise from the President, the Attorney General, and Chairman Emanuel Celler, opposed the Subcommittee bill on the ground that it was too drastic and would never pass the House.[764]

Attorney General Kennedy then appeared before the full 35 member House Judiciary Committee. He objected particularly to a new feature introduced by the Subcommittee, which would have allowed the Justice Department to sue in behalf of any claimed constitutional right. It was his position that this would give the Federal government and himself too much power and would cover such non-racial matters as censorship and church-state relations.[765] Although he contended that that section had been too loosely drawn, he did not propose a substitute. In effect, he sided with Representative McColloch, who contended that such a strong bill would not pass the House.

No sooner had he spoken than a storm of criticism broke over the Attorney General. He was accused of a "sellout" by NAACP's Washington Bureau Representative, Clarence Mitchell. CORE's James Farmer said that Robert Kennedy was guilty of an "outrage." Farmer intimated

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[764]Columbia Broadcasting System, op. cit., p. 9,

[765]New York Times, October 17, 1963, p. 27.

that Robert Kennedy had been put up to this by the President, who still entertained the illusion he could carry the South against Senator Barry Goldwater in 1964. Farmer added that the Kennedys would suffer "grave political consequences" unless they forgot politics and thought of principle.[766]

Following his testimony to the full Judiciary Committee, Attorney General Kennedy evaluated the attack on the administration by civil right leaders:

> The President, Burke Marshall and I know the risks and we are willing to shoulder them. These good people who criticize us have been accustomed to riding a burning issue; all they want is an issue, even at the expense of passing legislation that will improve matters.[767]

But the criticism leveled against the administration was not limited to civil rights leaders. A lawyer interviewed by the New York Times said the aim of the title which the Attorney General had criticized was to protect Negroes and other demonstrators against police brutality and unjust jailing. A draft narrowly aimed at this problem could be worked out readily enough, he said, if the administration were willing.[768]

Senator Clifford Case of New Jersey said that the Justice Department had told him repeatedly that it had no power to intervene in

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[766]Bjorn J. Esterday, "The Great Game of Civil Rights," America, November 2, 1963, p. 505.

[767]Golden, op. cit., pp. 135-136.

[768]New York Times, October 17, 1963, p. 27.

matters "crying out for intercession." He continued:

> Have we learned nothing from the demonstrations? Do the police dogs, the electric cattle prods, the fire hoses make no lasting impression? People of conscience throughout the nation have been hoping that Congress would once and for all face the issue and do a job which has needed doing for the past century.[769]

The only remedy for such cases, he said, was to arm the Justice Department with the power given in proposed Title III, to which the Attorney General had objected.

Had the main thrust of the Attorney General's objections been substantive, there is every reason to believe that he would have submitted a substitute section for the one he criticized. This was not done. The administration knew, as Attorney General Kennedy indicated to Harry Golden, that the Subcommittee bill would not pass the House, and certainly not the Senate. Republican support was therefore crucial, and thus Robert Kennedy recommended a revised version which he knew Representative McColloch could and would support.

On Wednesday evening, October 24th, Speaker McCormack, Majority Leader Carl Albert, and Congressmen Charles Halleck, Emanuel Celler and William McColloch met with the President at the White House to discuss the proposed civil rights bill. By this time it was known that southern Democrats would vote for the strongest measure possible, knowing that it probably would be defeated. The President told the group that it was his opinion that the Subcommittee version

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[769] Ibid.

would be doomed to defeat, and should, therefore, be revised.[770]

On October 27th, the President met with substantially the same group, and on October 28th he met with Democratic members of the House Judiciary Committee, excluding those from southern states. Burke Marshall, who was present, remembers that those Congressmen who attended included Emanuel Celler, Frank Chelf, Peter W. Rodino, Jr., Byron G. Rogers, Harold D. Donohue, Jack Brooks, Roland V. Lobonati, Herman Toll, Robert W. Kastenmeir, Jacob H. Gilbert, James C. Corman, William L. St. Onge, George F. Senner, Jr., and Don Edwards.[771]

On the morning of October 29th the President met with Congressman Halleck on the bill, which, in the meantime, had been re-drafted in accordance with the suggestions of the President, Congressman McColloch, Attorney General Kennedy, and Congressmen who had attended these White House meetings. Later that day, the new bill was presented to the full Judiciary Committee. Said the ranking southerner on the Committee, Louisiana Democrat Edwin E. Willis:

> The Chairman of the Committee presented for the first time a 59 page document which he said would be offered as in the nature of a substitute or amendment, and he very frankly said, "It'll be read hurriedly," and it was. I don't think anyone knew exactly what he was voting for, but it

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[770] New York Times, October 27, 1963, p. 1-E.

[771] Letter to the writer from Assistant Attorney General Burke Marshall, dated May 20, 1964.

was prepared and they were determined to get it out and get it out they did.[772]

The first Subcommittee draft, which the administration opposed, was taken up and defeated, 19 to 15. Seven southerners voted for that draft, as expected. A new motion to substitute the bi-partisan draft carried by a vote of 20 to 14. The Committee then voted 23 to 11 to approve the entire measure as amended.[773]

Less than a month later, President Kennedy was assassinated in Dallas, Texas. Any doubt about President Johnson's support of the civil rights bill were removed by this statement in his November 27th message to the Congress:

> No memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long. We have talked long enough in this country about civil rights. We have talked for one hundred years or more. It is time now to write the next chapter - and to write it in the books of law. John Kennedy's death commands what his life conveyed - that America must move forward.[774]

Hearings before the House Rules Committee began on January 9, 1964, and three weeks later, debate started on the House floor. On February 10, 1964, the House passed H.R. 7152 by 290 to 130.

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[772]Columbia Broadcasting System, op. cit., pp. 10-11.

[773]New York Times, October 30, 1964, p. 22.

[774]Harry Golden, Mr. Kennedy and the Negroes (Cleveland, Ohio: World Publishing Company, 1964), p. 188.

The most sweeping civil rights legislation ever to pass the House of Representatives was delivered to the United States Senate on February 17, 1964, and debate began on March 9th. During the first 38 days of debate, no progress was discernible, but on April 23rd, two promising developments occured. First of all, civil rights forces from both parties and from both houses of the Congress began an aggressive counterattack against what they believed were false charges directed against the bill, and distributed in newspaper ads, pamphlets, and flysheets throughout the country. Secondly, by April 23rd, Senate leaders from both parties found themselves moving toward a consensus on the more controversial provisions in the House version, particularly an amendment to permit limited jury trials in cases of criminal contempt arising from willful violation of the various antidiscrimination provisions. Other proposed amendments were designed to give more authority to local jurisdictions to settle civil rights disputes before they were referred to Federal agencies.[775]

Pressure for a vote on closure increased during the month of May, and on June 10, 1964, the 75th day of debate, the Senate invoked closure by a vote of 71 to 29, - four more votes than were necessary. With cloture imposed, the Senate immediately began debate on amendments, with each Senator allowed a maximum of one hour to speak on

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[775] New York Times, April 24, 1964, pp. 1 and 23.

each amendment.[776]

The vote on cloture was the first successful attempt to impose closure on a civil rights debate, it had followed the longest filibuster in the history of the Senate, and the vote on closure was only the sixth to succeed since the closure rule was first adopted in 1917.[777]

The victory could be traced to an agreement reached on October 29, 1963 between President Kennedy and House Republican leader Charles Halleck, in which it was agreed that Democrats and Republicans alike would support the compromise bill developed by Attorney General Robert F. Kennedy and Representative William M. McColloch of Ohio, abjuring all temptations at partisanship.[778]

Another critical element was added by Senator Everett McKinley Dirksen of Illinois, who worked out with the Justice Department amendments which did not affect the substance of the legislation, but were sufficiently deferential to states' rights and gradualism to produce all but six Republican votes on June 10th. Finally, President Johnson's consistent public support for the bill was an important factor in the successful vote on closure.

On June 19, 1964, the Senate passed the civil rights bill by a vote of 73 to 27, on the 83rd day of debate, nine days after closure had been

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[776]New York Times, June 11, 1964, p. 1.

[777]New York Times, June 11, 1964, pp. 1 and 21.

[778]New York Times, June 11, 1964, p. 21.

invoked. Voting for the bill were 46 Democrats and 27 Republicans, and voting against it were 21 Democrats and 6 Republicans.[779]

Title I, which concerned voting, prohibits registrars from applying different standards to white and Negro voting applicants and from disqualifying applicants because of inconsequential errors on their forms; requires that literacy tests be in writing; makes a sixth grade education a rebuttable presumption of literacy; and allows the Attorney General or defendant state officials in any voting suit to request trial by a three-judge Federal Court.

Title II, concerned with public accomodations, prohibits discrimination or refusal of service on account of race in hotels, motels, restaurants, gasoline stations, and places of amusement if their operations affect interstate commerce or if their discrimination "is supported by state action," and permits the Attorney General to enforce the title by suit in the Federal Courts if he believes that any person or group is engaging in a "pattern or practice of resistance" to the rights declared by the title. The latter language was added by the Senate, which also authorized three-judge courts for suits under this title. The Attorney General is directed to allow local jurisdictions 30 days to resolve such problems before Federal action is taken.

Title III, which focuses on public facilities, requires that Negroes

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[779] New York Times, June 20, 1964, p. 1.

have equal access to, and treatment in, publicly owned or operated facilities such as parks, stadiums and swimming pools, and authorizes the Attorney General to sue for enforcement of these rights if private citizens are unable to sue effectively.

Public schools is the concern of Title IV, which empowers the Attorney General to bring school desegregation suits under the same conditions as in Title III, and authorizes the U.S. Commissioner of Education to provide technical and financial aid to school districts to assist in desegregation. The Senate altered a provision in the House bill, saying that the title does not cover busing of pupils or other steps to end "racial imbalance."

Title V extends the life of the Civil Rights Commission until January 31, 1968.

Title VI is devoted to Federal aid, and provides that no person shall be subjected to racial discrimination in any program receiving Federal aid, directs Federal agencies to take steps against discrimination, including - as a last resort, and after hearings - withholding of Federal funds from state or local agencies that discriminate.

Title VII - "Employment" - bans discrimination by employers or unions with 100 or more employees or members the first year the act is effective, reducing over four years to 25 or more, establishes a commission to investigate alleged discrimination and to use persuasion to end it, authorizes the Attorney General to sue if he believes any person

or group is engaged in a "pattern or practice" of resistance to the title, and to ask for a trial by a three-judge court, gives local agencies 90 days to deal with violations before the complainant files charges with the Federal commission, or 180 days after the effective date of the creation of a state or local agency. The phrase was designed to encourage the establishment of state agencies to deal with these problems. The Senate added the "pattern or practice" condition and shifted the power to sue from the commission to the Attorney General.

Title VIII directs the Census Bureau to compile statistics of registration and voting by race in areas of the country designated by the Civil Rights Commission. This might be used to enforce the provision of the Fourteenth Amendment that states that discriminate in voting shall lose seats in the House of Representatives.

Title IX is concerned with the courts, and permits appellate review of decisions by Federal District judges to send back to the state courts criminal defendants who have attempted to remove their cases on the ground that their civil rights would be denied in state trials, and permits the Attorney General to intervene in suits filed by private persons complaining that they have been denied the equal protection of the laws.

Title X establishes a Community Relations Service in the Commerce Department to help conciliate racial disputes.

Title XI guarantees jury trials for criminal contempt under any part of the act but Title I - a provision added by the Senate. It also

provides that the statute shall not invalidate state laws with consistent purposes, and that it shall not impair any existing powers of Federal officials.[780]

The House of Representatives voted final congressional approval of the Senate version of the bill on July 2, 1964, by a vote of 289 to 126,[781] and later that day, in the East Room of the White House, the bill was signed by President Johnson.[782] Said the President:

> We have come now to a kind of testing.
>
> We must not fail.
>
> Let us close the springs of racial poison. Let us pray for wise and understanding hearts. Let us lay aside irrelevant differences and make our nation whole.
>
> Let us hasten that day when our unmeasured strength and our unbounded spirit will be free to do the great works ordained for this nation by the just and wise God who is Father of all.[783]

Not only had the bill been passed essentially intact, but in some ways it was a broader and stronger bill than the draft sent to Congress by President Kennedy a year earlier. The original administration bill, for example, made no provision for a Fair Employment Opportunities Commission, for President Kennedy and Robert Kennedy feared that

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[780] New York Times, June 20, 1964, p. 10.

[781] Oklahoma City Times, July 2, 1964, p. 1.

[782] The Daily Oklahoman, July 3, 1964, p. 1.

[783] Ibid.

even if such a provision were approved by the House, it would fail in the Senate. In the House Judiciary Committee, as indicated earlier in this chapter, a fair-employment title was added to the bill, and the administration felt constrained to go along for political reasons.

Although the administration draft included a section authorizing a cutoff of funds from federally aided programs administered in a discriminatory manner, it was known that President Kennedy had reservations about this section because he believed that a cutoff could hurt innocent recipients of the aid.[784] Many House Republicans, however, developed strong feelings about the Federal funds cutoff, believing that racial discrimination in Federally financed programs could not be justified.

Senator Dirksen was responsible for three major amendments to the bill. The first amendment made it mandatory that states with fair employment and public accomodations laws should have the first chance to handle a complaint. It also extended the time allowed for local action and for persuasion by the Federal Equal Employment Opportunities Commission and the Community Relations Service.

The second major change was in enforcement powers. The Dirksen substitute allowed the Attorney General to intervene in suits filed by individuals seeking relief from discrimination in jobs or public accomodations. But, unlike the House bill, it did not permit him to initiate such suits.

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[784]New York Times, June 20, 1964, p. 10.

A third important Dirksen amendment specified that any cutoff of Federal funds must be limited to the locality and the program where the discrimination occured.

The legislative effort launched by President Kennedy's message to the Congress on June 19, 1963, aided by the leadership of President Johnson, Attorney General Kennedy, Representatives Emanuel Celler, William McCulloch, John V. Lindsay, and Charles M. Mathias, and Senators Humphrey, Mansfield, Dirksen, and Kuchel - had resulted in the strongest civil rights law in nearly a century. It was a dramatic conclusion to the civil rights program initiated by President Kennedy in January, 1961.

CHAPTER VIII

PRESIDENT KENNEDY AND CIVIL RIGHTS

The purpose of this study is to describe the civil rights problems which faced the Kennedy administration, analyze both the factors which influenced President Kennedy's decisions and the nature of the civil rights programs he undertook, and finally, to evaluate the total Kennedy civil rights effort. Earlier in this study, the constitutional, legal, sociological, and political development of eight major civil rights problems facing President Kennedy were reviewed; the precedents for presidential action in the civil rights area as seen in the actions of Presidents Franklin D. Roosevelt, Harry S. Truman, and Dwight D. Eisenhower were examined; political factors bearing on President Kennedy's civil rights actions were listed; the philosophical, strategic and organizational aspects of the Kennedy civil rights program were summarized; and finally, the study analyzed the President's civil rights programs in the areas of executive action and legislation.

Obviously, no "final" evaluation of programs which were designed between 1961 and 1963 to alter or reverse social, legal, economic and political patterns which had grown brittle with the ages, can be made at

this time. However, some observations can be made, relying on what is known about the substantive problems arising out of unequal treatment based on race in the United States, the strategic aspects of launching effective remedial measures, and the nature of the programs President Kennedy continued, strengthened, and initiated.

Five comments can be made about the general problem President Kennedy faced in developing an effective civil rights program, or, set of programs.

For the American Negro, the fires of frustration, stoked by decades and centuries of deprivation and unequal treatment in education, housing, employment, transportation, public accomodations, police treatment, and in the Armed Services, broke out after World War II, and were observable in the increasingly effective civil rights efforts of such organizations as the National Association for the Advancement of Colored People, and the National Urban League. This determination to secure equality of opportunity was bolstered by Supreme Court decisions of the late 1940's and 1950's, particularly Brown; gained strength and confidence of a political nature after the election victory of President Truman in 1948; and showed economic muscle in demonstrations and boycotts, beginning with the Montgomery bus boycott of 1955-1956. Each successive "victory," although only a benchmark on the road to equal treatment in all important respects, - gave the civil rights movement new drive and momentum.

Secondly, this invigorated civil rights effort encountered walls of increasing resistance. These ranged in intensity from such relatively minimum efforts as pupil placement laws - designed to perpetuate school segregation; to state sovereignty commissions, charged with the task of combatting the concept of equality of treatment, not only in the state of origin, but nation-wide; - to successful efforts to deny welfare food and clothing to the poor, and to dismiss old and faithful Negro employees - as a penalty for their having registered to vote; - to the use of fire hoses and police dogs directed against men, women and children speaking out or standing up for an opportunity to be served at a lunch counter, get a job, and go to school with other children, regardless of race; - to the bombing of the homes and offices and the churches of those who led the movement for equality; - to the assassination of a postman who walked for freedom and a Negro leader who led others to stand or sit for freedom.

John F. Kennedy recognized that these formidable economic, political, and legal barriers to civil rights progress not only slowed down the movement toward equality of opportunity; but much more serious - they gutted these states and communities and these people of some of the basic goals to which Western civilization and this nation were committed: the dignity of man, justice, and political equality. Herein lay the greater tragedy for the United States.

Thirdly, in the period after World War II, it became increasingly

evident that civil rights leaders, having failed to achieve adequate remedies through voluntary negotiation, now were turning to the government for relief, and, in particular, to the Federal government. Until 1945, by and large, in the civil rights field the presidency and the Congress had been silent; only the courts had spoken. But beginning in 1945, a change occured, President Harry S. Truman appointed a Civil Rights Committee, asked the Congress and then the Democratic National Convention to support its strong recommendations, and when his legislative effort failed, he issued an executive order of impressive significance - desegregating the Armed Forces.

By the time Dwight D. Eisenhower became President, the danger of a clash between civil rights and "massive resistance" forces was greater than ever. Needed was forceful presidential leadership of the type Harry S. Truman had initiated. Instead, President Eisenhower refused for five years and five months to confer with Negro civil rights leaders at the White House, declined to indicate approval of the Brown decision, and contended until shortly before the encounter at Little Rock that troops would not be used to enforce court school desegregation orders. Because of this leadership vacuum, the enforcement of the Constitution was left to individual private lawsuits, initiated by Negro organizations and their white supporters. There was no national policy, much less a national plan and a national program, for carrying forward legally, gradually, effectively, what was in fact a revolutionary change in the

social structure of a large part of the United States. The net result was that the President did not participate as a leader in guiding the movement for equality of status, but functioned, instead, as a spectator.

In short, the presidency, as an institution, which had demonstrated vigorous civil rights leadership from 1945-1952, vacated that position of responsibility during years of critical need, 1952-1960.

Fourth, the already serious problems facing Negroes were exacerbated by a series of far-reaching developments which mushroomed in the 1950's and 1960's. Urbanization not only increased the density of Negroes, but multiplied their social problems; automation wiped out hundreds of thousands of the limited number of jobs they held; and such movements as the Black Muslims made it necessary for more responsible Negro leaders to assume increasingly radical positions.

Finally, in 1961 and 1962 the power of President Kennedy to deal with this massive set of problems was limited. This may appear to be a strange comment, for in many respects, the President of the United States is a man equipped with enormous powers: he controls the administrative personnel and the operations of the Federal government, he can act, even without statutory authority, to meet acute emergencies facing the nation; he can write, approve, or veto laws; the President can propose the budget for the national government, conduct diplomacy, deploy troops, sign treaties, and commit the nation to international agreements.

Furthermore, President Kennedy possessed certain important powers enabling him to function in the civil rights area. Thus the authority given him to issue executive orders where statutory authority was clear enabled him to issue his executive orders dealing with equal employment opportunity; his power to enforce statutes permitted him to carry out the mandates of the Civil Rights Acts of 1957 and 1960; and his role as Commander-in-Chief gave him the authority to use military forces to quell civil disorder.

These were important powers, and yet they were not sufficient to deal with the civil rights problems he faced as President from 1961 through most of 1963. For President Kennedy was confronted with a highly organized and powerful effort to reverse social, economic, political and legal patterns which had prevailed in the United States for decades; and arrayed against this effort were articulate and powerful forces, determined that civil rights groups should not prevail. To deal effectively with this almost unprecedented situation, the President needed extraordinary political and legal power to exert leadership in this moment of crisis.

In 1961 and through most of 1962 he did not have the power to deal with these issues as he did in 1963. First of all, he had been elected President by a razor-thin margin in 1960, and this limited his leverage. Secondly, precedents for action by his predecessors had been few in number, and the example of President Eisenhower had been that of one

who had practically left vacant the chair of presidential leadership in the civil rights field.

In view of these facts, two questions may be asked. First, in the period from 1961 through 1963, what progress did the nation make in furthering civil rights? Secondly, what was the role of the Kennedy administration in these successes or failures?

The removal of discriminatory barriers to voter registration was of great concern to the nation during those years. The problems included disinterest or fear in registering on the part of many Negroes in the South, outright intimidation of Negroes who intended to vote by whites who were concerned about the increased political power Negroes would possess if more of them registered, the application of discriminatory procedures by registration officials, and interminable delays by the courts in reaching decisions on voting cases. Some progress was made during the Kennedy years in making it possible for more qualified Negroes to register, but this progress fell far short of the objectives set by civil rights leaders in 1961.

This study included comments by the U.S. Commission on Civil Rights on the seriousness of the problem of police brutality, and several specific examples of these acts. Clearly, these denials of civil rights by officers of the law constituted a grave form of injustice. Despite actions by the Justice Department to bring suit when prosecutable violations were brought to its attention, the problem remained a most

serious one through November, 1963.

Through the end of the Kennedy administration, the achievement of equality of opportunity in employment represented a monumental problem, not only for the individuals concerned, but for the national economy, as well. This study pointed out that in 1963, for example, among married men with family responsibilities, while 3% of whites were unemployed, the figure was 8% for Negro men. Not only was a disproportionate percentage of Negroes unemployed, but Negroes who were employed were grouped largely in low skilled, low-paying jobs.

In the period from 1961 through 1963, further strides were made in improving equality of employment opportunity in Federal government employment, but for a number of reasons, little significant progress was made in increasing the placement of Negroes in upgraded positions outside Federal employment. On the whole, only very limited advances were made in securing equality of emplcyment opportunity.

Education had been the focal concern in Brown v. Board of Education in 1954, and progress made in removing racial barriers to public education became a significant barometer in measuring racial progress in the years that followed. However, as this study indicated, Attorney General Robert F. Kennedy reported to the Senate Judiciary Committee on July 8, 1963, that as of that time there were still more than 2,000 school districts which required white and Negro pupils to attend segregated schools, and in 11 states, with a Negro population of 2.8 million,

only 12,800 Negroes or less than 1/2 of 1% of Negro students in those states, were attending desegregated schools. Again, while some progress was made, it was slow and limited, particularly in the South.

During the 1960 presidential campaign, President Kennedy had referred from time to time to President Eisenhower's failure to sign an executive order preventing racial discrimination in federally assisted housing. Statistics reported in this study show that when John F. Kennedy became President, while Negroes represented 11% of the population of the nation, they were restricted to only 4% of the residential areas. In 1961, not only was there discrimination in private housing, but in public housing, as well. 80% of all public housing projects were segregated as of the beginning of the Kennedy administration. "Housing," said the U.S. Commission on Civil Rights, ". . . seems to be the one commodity on the American market that is not freely available on equal terms to everyone who can afford to pay."[785] Although President Kennedy did sign an executive order prohibiting racial discrimination in federally assisted housing, the absence of a program of affirmative action, and the limitations of the order, itself, meant that while discriminatory barriers were legally impossible in federally assisted housing contracted for prior to November, 1962, no other housing was affected. The problem remained a most serious one as of November 22, 1963.

A survey of progress made in eliminating racial barriers affecting

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[785] U.S. Commission on Civil Rights, 1961 Report, op. cit., IV, p. 1.

members of the Armed Forces indicates that while racial discrimination had been ended, by and large, in each of the services, reports summarized in this study indicated continuing patterns of racial discrimination in communities serving military bases. As of the end of the Kennedy administration, no significant actions had been taken to correct these problems.

Therefore, with reference to the first question posed, the record would seem to indicate that despite some modest and faltering advances, in the areas of voter registration, police brutality, employment, education, housing and in the Armed Services, the nation witnessed little significant civil rights progress between January, 1961 and November 22, 1963.

What, then, may be said of the civil rights efforts of the Kennedy administration?

Taking these issues in the same order, this study showed that in the area of voter registration, President Kennedy possessed inadequate statutory authority to deal with the application of different standards to whites and Negroes, and with the painfully slow action of the courts in handling voting cases. Far from being critical, civil rights leaders repeatedly expressed the view that given the legal tools available to them, Burke Marshall and his assistants had done all that possibly could be done.

The failure of the nation to deal more effectively with police brutality from 1961-1963 is attributable principally to the weakness of the applicable statutes, but also, partly, to the unwillingness of the administration to proceed to the U.S. Supreme Court with a test case designed to bring a decision which would have altered the position of the high court as seen in Screws. By and large, therefore, in this vastly complicated area, while the administration's efforts were valiant and sometimes effective, it demonstrated excessive caution in not challenging Screws, thereby limiting the scope of its actions.

With reference to employment, a combination of factors - the continuation of discriminatory barriers imposed by employers, labor unions and employment agencies, the educational and training handicaps of many Negroes, together with progress in automation - more than offset the administration's fairly well enforced employment executive orders. The administration, in short, probably did as much as was possible, given the legal authority available to it.

The failure of the United States to show more improvement in the field of school desegregation in these years can be explained partly by effective political resistance which opposed a stronger role by the Federal government in education, and partly by the failure of the administration, especially in administering educational grants, to apply the same standards in declining financial assistance that the Labor Department did, for example, in dealing with state employment services.

As with education, effective political pressures in the Congress made it impossible for the administration to develop an effective effort to deal with racial discrimination in communities serving the Armed Forces.

Finally, in the area of housing, the record of little progress in furthering equality of opportunity in housing between 1961 and 1963 can be explained only by the unnecessary and excessive political caution of the Kennedy administration. It would have been politically possible to have forged a more effective housing order, and to have developed a program of affirmative action to enforce it. Anticipated southern hostility to the housing order never developed, and thus there was no effective political reason for the hesitation and inaction which characterized the work of the administration in this important field.

With the exception of housing, and to a more limited extent - in education and police brutality, therefore, given the political facts of life, the Kennedy administration contributed as much as was politically possible to the limited progress the nation witnessed in achieving greater equality of opportunity between 1961-1963.

But the nation faced a greater challenge in the area of civil rights, and in the end, the record of the Kennedy administration must be measured by its effectiveness in dealing with this larger issue. As indicated at the beginning of this chapter, the period following World War II saw

the rapid build-up of a major civil rights crisis in the United States. It began with the accumulation of grievances over the years stemming from racial discrimination and segregation in almost every facet of life, the rapid development of increasingly articulate and powerful civil rights organizations bent on correcting these inequities, and the concurrent rise of massive resistance to racial progress. The clashes between these forces grew more frequent in the period after 1954, given the fact that those who resisted desegregation sensed a major threat in the Brown decision. As a result, not only did progress in the direction of racial equality almost come to a complete halt, but much more serious, to an alarming extent, civility, law and order, and the basic principles of justice and equality were prostituted in the feverish efforts which were made by many to halt efforts intended to bring about equality of opportunity. Taken together, this crisis posed a major threat in terms of the probability of increased civil disorder, damage to the international position of the United States, and, it constituted a major blow at some of the basic principles for which the nation stood. If this were not serious enough, in the period from 1954-1960, when the nation needed firm and effective leadership in dealing with what soon became one of the most serious domestic problems facing the United States, President Eisenhower stood aloof and apart from the crisis, chosing to view it not as a leader, but as a spectator.

President Kennedy faced this crisis beginning in 1961, having

been elected by the slimmest of popular vote margins, equipped with limited statutory authority, preceded by a President who had failed to act in this field, and facing complex international problems. Needed was the formation of a great coalition to cope with this crisis, headed by a great leader.

In his Foreward to the 1961 edition of John Kennedy: A Political Profile, James MacGregor Burns says that a great leader must be able to

> . . . sound a note of national purpose to galvanize lesser men into action and sacrifice for ends they do not wholly perceive. "History is a preceptor of prudence," wrote Edmund Burke, one of Kennedy's favorite oracles. But history also teaches that at great turning points and in supreme crises, prudence is dangerous, and the leader must boldly throw his whole weight into the balance. And he must do so sometimes when the fog of battle is heavy, when experience offers little help, when the usual guide lines are lacking and ordinary men are terrified of the unknown. "In case of doubt," Henry Stimon used to say, "march toward the guns."[786]

The office of President is one which has grown in power and influence over the years, and it is one in which leadership has become a quality of increasing significance. The President, alone, is accountable to a national constituency, and the prestige and power of his office make anything that he says and does a matter of instant interest to the country at large and often to peoples abroad. He is, or should be,

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[786] Burns, op. cit., pp. xi-xii.

constantly mindful of the fact that he is the representative and leader of all the people. Said Woodrow Wilson in 1918:

> /The President is the/ spokesman of the real sentiment and purpose of the country, by giving direction to opinion, by giving the country at once the information and the statements of policy which will enable it to form its own judgements alike of parties and of men.
>
> His is the only national voice in affairs. Let him once win the admiration and confidence of the country, and no other single force can withstand him, no combination of forces will easily overpower him. His position takes the imagination of the country. He is representative of no constituency, but of the whole people.[787]

Many presidents have characteristically viewed their office as primarily one of leadership. Franklin D. Roosevelt saw the presidency as "pre-eminently a place of moral leadership." McKinley and Theodore Roosevelt, like Polk two generations earlier, described themselves as representatives of the whole people. Mr. Truman viewed himself as "lobbyist for the people" in a government that, as he saw it, was excessively preyed upon by special interests. "The people have no lobby in Washington looking out for their interests except the President of the United States," Mr. Truman asserted, "and it's too bad if the President does not work for their own good."[788]

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[787] Longaker, op. cit., p. 220.

[788] Edward Samuel Corwin and Louis W. Koenig, The Presidency Today (New York: New York University Press, 1956), pp. 63-64.

Speaking to the National Press Club one year before his inauguration, John Kennedy spoke of the role of the President as moral leader of all the people.

> But the White House is not only the center of political leadership. It must be the center of moral leadership - a "bully pulpit" as Theodore Roosevelt described it. For only the President represents the national interest. And upon him alone converge all the needs and aspirations of all parts of the country, all departments of the Government, all nations of the world.[789]

"The President," he said, "must serve as a catalyst, an energizer, the defender of the public good and the public interest against all the narrow private interests which operate in our society."[790] Possibly reflecting on the posture of Mr. Eisenhower with reference to desegregation, Mr. Kennedy said:

> In the decade that lies ahead - in the challenging, revolutionary sixties - the American Presidency will demand more than ringing manifestos issued from the rear of the battle. It will demand that the President place himself in the very thick of the fight, that he care passionately about the fate of the people he leads, that he be willing to serve them at the risk of incurring their momentary displeasure.[791]

He was speaking of courage, the focus of his Pulitzer prize-winning book, Profiles In Courage.[792] To be courageous, he had said then,

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[789]John F. Kennedy, Address to National Press Club, Washington, D.C., New York Times, January 15, 1960, p. 14.

[790]James MacGregor Burns, The Deadlock of Democracy: Four Party Politics in America (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1963), p. 317.

[791]John F. Kennedy, National Press Club Speech, op. cit., p. 14.

[792]John Fitzgerald Kennedy, Profiles In Courage (New York: Harper, 1956).

> . . . requires no exceptional qualifications, no magic formula, no special combination of time, place and circumstance. It is an opportunity that sooner or later is presented to us all. . . . In whatever arena of life one may meet the challenge of courage, whatever may be the sacrifices he faces if he follows his conscience - the loss of his friends, his fortune, his contentment, even the esteem of his fellow men - each man must decide for himself the course he will follow.[793]

Eight years later President John F. Kennedy was apparently willing to bear witness to that statement. In a conversation with A. Philip Randolph, and referring to the fact that he had been bitterly denounced in some parts of the country for his sponsorship of civil rights legislation, he said, "I know this thing could cost me the election, but I have no intention of turning back now or ever."[794]

During 1961 and 1962, John F. Kennedy took what he deemed to be prudent actions in the area of civil rights - always demonstrating good faith to civil rights groups, yet at no time endangering his political position. In a broadcast on December 17, 1962, referring to the 1962 steel crisis, President Kennedy cogently summarized one aspect of his philosophy on the use of presidential power:

> There's no sense in raising hell and then not being successful. There's no sense in putting the office of the presidency on the line, on an issue, and then being defeated.[795]

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[793] Ibid., p. 246.

[794] Golden, op. cit., pp. 134-135.

[795] Columbia Broadcasting System, Transcript: "A Conversation with President Kennedy," broadcast over the CBS Television Network on Monday, December 17, 1962.

The crisis which had been growing continually more serious since 1954, came to a head in the Spring of 1963. President Kennedy not only dealt with consummate skill with the threatened civil disorder posed by this crisis, but much more important, he used the crisis as an object lesson for the Congress and the nation.

In May of 1963, the President entered into a new period of intense activity in dealing with civil rights problems, - ranging from telephone calls to southern governors to conferences with hundreds of leading citizens at the White House, press conferences, television addresses to the nation, and endless meetings with legislators, both Republicans and Democrats. In all of this - the meaning of the crisis was made clear, and the urgency of immediate action by the Congress.

The great need was for a great coalition, and exactly that was forged in the meetings which included the President, the Attorney General, Burke Marshall, Representatives Halleck and McColloch and Senator Dirksen. Before his death a great committment had been made by President Kennedy and Representative Halleck: that both political parties would support the civil rights bill which emerged from those meetings, meaning that they would seek to refrain from partisanship directed at their positions on this legislation - on the eve of a presidential election. Largely because of his sensitive conscience and political skill, the foundation was laid not only for passage of, but also for significant subsequent support of the Civil Rights Act of 1964 - the

strongest civil rights legislation ever to pass the Congress, which placed the national government in a position to deal effectively with most of the civil rights problems outlined in this study.

In some respects, the civil rights record of the Kennedy administration was unsatisfactory. The President was criticized on many occasions for not having taken more forceful actions.

In the Forward he wrote to Theodore Sorensen's Decision-Making in the White House, President Kennedy said:

> "Lincoln," Franklin Roosevelt once remarked, "was a sad man because he couldn't get it all at once. And nobody can." Every President must endure between what he would like and what is possible.[796]

But the major tests came in the Spring, Summer and Fall months of 1963, and the record shows that the President and his administration met those tests with remarkable effectiveness.

John F. Kennedy brought to the presidency a conscience that was uneasy in the presence of injustice, a mind capable of penetrating complex issues, an understanding of presidential power, and pleasure in the use of it. He used that power with unusual skill in advancing the cause of equality of opportunity, laying the groundwork for increased national government and presidential responsibility in the area of civil rights.

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[797] Forward by John F. Kennedy to Theodore C. Sorensen's Decision-Making in the White House: The Olive Branch or the Arrows (New York: Columbia University Press, 1963), p. xii.

BIBLIOGRAPHY

Public Documents

Congress

Congressional Record

U.S. Congressional Record. Vols. LXI, LXV, VIC, C, CIV, and CVI.

House of Representatives, Hearings

U.S. House of Representatives, Committee on Appropriations, Subcommittee on the Departments of State and Justice, The Judiciary and Related Agency Appropriations Hearings. 86th Cong., 1st Sess., 1961.

_____. Hearings: Department of Justice. 88th Cong., 1st. Sess., 1963.

U.S. House of Representatives, Committee on Education and Labor, General Subcommittee on Education. Hearings on Title V-A of H.R. 3000 and H.R. 4955: Vocational Education Act of 1963. 88th Cong., 1st Sess., 1963.

U.S. House of Representatives, Committee on Education and Labor, General Subcommittee on Labor. Hearings on H.R. 405: Equal Employment Opportunity. 88th Cong., 1st Sess., 1963.

U.S. House of Representatives, Committee on the Judiciary. Civil Rights Hearings Before Subcommittee No. 5 of the Committee on the Judiciary: Miscellaneous Proposals Regarding the Civil Rights Of Persons within the Jurisdiction of the United States. Parts I, II and III. 88th Cong., 1st Sess., 1963.

House of Representatives, Committee Prints

U.S. House of Representatives, Committee on Education and Labor. Committee Print: The Federal Government and Education. 88th Cong., 1st Sess., 1963.

U.S. House of Representatives, Committee on Education and Labor, Subcommittee on Integration in Federally Assisted Programs. Committee Print: Integration in Public Education Programs. 87th Cong., 2d. Sess., 1962.

House of Representatives, Committee Reports

U.S. House of Representatives, Committee on Education and Labor. Report on H. R. 405: Equal Employment Opportunity Act of 1963. 88th Cong., 1st Sess., 1963.

U.S. House of Representatives, Committee on the Judiciary. Report Number 914: Report to Accompany H. R. 7152: Civil Rights Act of 1963. 88th Cong., 1st Sess., 1963.

_____. Report Number 914, Part 2: Report to Accompany H. R. 7152: Civil Rights Act of 1963. 88th Cong., 1st Sess., 1963.

Senate, Committee Hearings

U.S. Senate, Committee on Commerce. Hearings Before The Committee on Commerce on S. 1732: Civil Rights - Public Accomodations. Parts I and II. 88th Cong., 1st Sess., 1963.

U.S. Senate, Committee on the Judiciary. Hearings Before the Committee on the Judiciary on S. 1731 and S. 1750: Civil Rights - The President's Program, 1963 88th Cong., 1st Sess., 1963.

U.S. Senate, Committee on Labor and Public Welfare, Subcommittee on Employment and Manpower. Hearings on S. 773, S. 1210, S. 1211, and S. 1937: Equal Employment Opportunity. 88th Cong., 1st Sess., 1963.

_____. Hearings on S. 1: Youth Employment Act. 88th Cong., 1st Sess., 1963.

Public Laws of the United States

Act of August 6, 1861: Confiscation Act of 1961, 12 Stat. 319.

Act of April 16, 1862: District of Columbia Emancipation Act. 12 Stat. 376.

Act of April 9, 1866: Civil Rights. 14 Stat. 27.

Act of March 1, 1875: Public Accomodations Act. 18 Stat. 335.

Civil Rights Act of 1957. 70 Stat. 634.

Civil Rights Act of 1960. 74 Stat. 86.

Civil Rights Act of 1964 (introduced as H. R. 7152, 88th Congress, 2d Session).

Amendments to Public Law 88 - 214: Manpower Development and Training Act, 88th Cong. 1st Sess., 1963.

Revised Statutes of the United States

Sections 5297, 5299, and 5300 of the Revised Statutes of the United States.

United States Code

Section 42, paragraphs 1981, 1982, 1983, 1985, and 1986.

Sections 104, 108, and 110, 70 A Stat. 600 (August 10, 1956).

Sections 332, 333, 334, Chapter 15, Title 10.

Sections 241 and 242, Title 18.

Court Briefs and Decisions

Bailey v. Patterson, 369 U.S. 31 (1962).

Barron v. Baltimore, 7 Peters, 243, 250 (1833).

Barrows v. Jackson, 346 U.S. 249 (1953).

Bob-Lo Excursion Co. v. Michigan, 333 U.S. 28 (1948).

Brewer v. Hoxie School District No. 46, Brief amicus curiae, No. 46, 238 F. 2nd 91 (8th Cir. 1956).

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).

Buchanan v. Warley, 245 U.S. 60 (1917).

Civil Rights Cases: Robinson v. Memphis and C.R. Co., 109 U.S. 3 (1883).

Cooper v. Aaron, 358 U.W. 1, 17 (1958).

District of Columbia v. John R. Thompson Co., 346 U.S. 100 (1953).

Dred Scot v. Sanford, 19 Howard 393 (1857).

Gayle v. Browder, 352 U.S. 903 (1956), affirming Browder v. Gayle, 142 F, Supp. 707 (M.D. Ala., 1956).

Goss v. Board of Education of The City of Knoxville, 186 F. Supp. 559 (E.D. Tenn. 1960).

Grovey v. Townsend, 295 U.S. 45 (1935).

Guinn v. United States, 238 U.S. 347 (1915).

Hall v. DeCuir, 95 U.S. 485 (1878).

Harrison v. Day, 106 S.E. 2nd 636 (Va. 1959).

Hurd v. Hodge, 334 U.S. 24 (1948).

Kasper v. Brittain, 235 F. 2nd 92 (6th Cir. 1957).

McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950).

Marbury v. Madison, 1 Crunch 137 (1803).

Minor v. Happersett, 21 Wall. 162 (1875).

Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938).

Mitchell v. United States, 313 U.S. 80 (1941).

Morgan v. Virginia, 328 U.W. 373 (1946).

Newberry v. United States, 256 U.S. 232 (1921).

Nixon v. Condon, 286 U.S. 73 (1932).

Nixon v. Herndon, 273 U.S. 536 (1927).

Palko v. Connecticut, 302 U.S. 319 (1937).

Pearson v. Murray, 182 Atl. 590 (Md. 1936).

Plessy v. Ferguson, 163 U.S. 537 (1896).

Powell v. Alabama, 287 U.S. 45, 58, 70 (1932).

Rice v. Elmore, 333 U.S. 875 (1948).

Screws v. United States, 325 U.S. 91 (1945).

Shelley v. Kraemer, 334 U.S. 1 (1948).

Sipuel v. Board of Regents of the University of Oklahoma, 332 U.S. 631 (1948).

Slaughter House Cases (Butcher's Benevolent Association v. Crescent City Live-Stock Landing and Slaughter House Co.), 16 Wall. 36 (1873).

Smith v. Allwright, 321 U.S. 649 (1944).

Sterling v. Constantin, 287 U.S. 378, 402 (1932).

Sweatt v. Painter, 339 U.S. 629 (1950).

United States v. Classic, 313 U.S. 299 (1941).

United States v. Faubus, Civ. No. 3113, E.D. Ark., Sept. 20, 1957.

United States v. School Board of Prince George County, Civ. No. 3536, E.D., Va., Sept. 17, 1962.

United States v. Williams, 341 U.S. 70 (1951).

Williams v. Mississippi, 170 U.S. 213 (1898).

Williams v. United States, 341 U.S. 97 (1951).

ex parte Yarbrough, 110 U.S. 651 (1884).

Executive Orders

Executive Order No. 9346, 8 Fed. Reg. 7138 (1943).

Executive Order No. 9808, 11 Fed. Reg. 14153 (1946).

Executive Order No. 9980, 13 Fed. Reg. 4311 (1948).

Executive Order No. 9981, 13 Fed. Reg. 4313 (1948).

Executive Order No. 10308, 16 Fed. Reg. 12303 (1951).

Executive Order No. 10479, as amended by Executive Order No. 10482, 18 Fed. Reg. 4944 (1953).

Executive Order No. 10590, 20 Fed. Reg. 409 (1955).

Executive Order No. 10925, Fed. Reg. Doc. 61-2093 (1961).

Executive Order No. 11114, Fed. Reg. Doc. 63-6779 (1963).

Executive Order No. 11063, 27 Fed. Reg. 11527 (1962).

South Dakota Advisory Committee to the United States Commission on Civil Rights

South Dakota Advisory Committee to the United States Commission on Civil Rights. Report on Rapid City. Washington, D.C.: United States Commission on Civil Rights, 1963.

U.S. Civil Service Commission

U.S. Civil Service Commission, Office of Career Development. Equal Employment Opportunity. Washington, D.C.: U.S. Government Printing Office, 1961.

U.S. Commission on Civil Rights

U.S. Commission on Civil Rights 1963 Staff Report: Family Housing And The Negro Serviceman. Washington, D.C.: U.S. Civil Rights Commission, 1963.

_____. Freedom To The Free. Washington, D.C.: U.S. Government Printing Office, 1963.

_____. 1959 Report. Washington, D.C.: U.S. Government Printing Office, 1959.

_____. 1961 Report, 5 vols. Washington, D.C.: U.S. Government Printing Office, 1961.

_____. 1963 Report. Washington, D.C.: U.S. Government Printing Office, 1963.

_____. Reports on Apprenticeship. Washington, D.C.: U.S. Commission on Civil Rights, 1964.

U.S. Department of the Army

U.S. Department of the Army. A Time For Action: Proceedings of National Conference on Equal Employment Opportunity. Washington, D.C.: Department of the Army, 1962.

U.S. Department of Health, Education and Welfare

U.S. Department of Health, Education and Welfare. Programs of the U.S. Department of Health, Education and Welfare, Part IV: Office of Education. Washington, D.C.: U.S. Government Printing Office, 1963.

U.S. Department of Justice

U.S. Department of Justice. 1939 Attorney General's Report. (Washington, D.C.: Department of Justice, 1939.

_____. Annual Report of Attorney General, Fiscal Year 1962. Washington, D.C.: Department of Justice, 1962.

U.S. Department of Labor

U.S. Department of Labor. The Economic Situation of Negroes in the United States. Washington, D.C.: U.S. Government Printing Office, 1962.

U.S. Department of Labor, Office of Manpower Administrator. Manpower Administration Order No. 12. Washington, D.C.: U.S. Government Printing Office, 1963.

U.S. Federal Housing Administration

U.S. Federal Housing Administration, FHA Manual, 1962. Washington, D.C.: Federal Housing Administration, 1962.

_____. Underwriting Manual, 1938. Washington, D.C.: Federal Housing Administration, 1938.

U.S. Housing and Home Finance Agency

U.S. Housing and Home Finance Agency. Our Changing Population And Its Housing: The Changes Between 1950 and 1960. Washington, D.C.: U.S. Government Printing Office, 1963.

_____. Potential Housing Demand of Non-White Population in Selected Metropolitan Areas. Washington, D.C.: U.S. Housing and Home Finance Agency, 1963.

U.S. President's Committee on Civil Rights

U.S. President's Committee on Civil Rights. To Secure These Rights. Washington, D.C.: U.S. Government Printing Office, 1947.

U.S. President's Committee on Equal Employment Opportunity

U.S. President's Committee on Equal Employment Opportunity. The American Dream: Equal Opportunity. Washington, D.C.: U.S. Government Printing Office, 1962.

_____. Equal Employment Opportunity. Washington, D.C., n.d.

_____. Federal Government Employment: Rules and Regulations of the President's Committee on Equal Employment Opportunity. Washington, D.C.: U.S. Government Printing Office, 1962.

_____. The First Nine Months: Special Year-End Report, April 7, 1961-January 15, 1962. Washington, D.C.: U.S. Government Printing Office, 1962.

_____. Government Contract Employment Rules and Regulations of The President's Committee on Equal Employment Opportunity. Washington, D.C.: U.S. Government Printing Office, 1961.

U.S. President's Committee on Equal Opportunity in The Armed Forces

U.S. President's Committee on Equal Opportunity In The Armed Forces. Initial Report: Equality of Treatment and Opportunity For Negro Military Personnel Stationed Within the United States. Washington, D.C.: U.S. Government Printing Office, 1963.

U.S. President's Committee on Equal Opportunity In Housing

U.S. President's Committee on Equal Opportunity In Housing. Rules and Procedures. Washington, D.C.: U.S. Government Printing Office, 1964.

Federal Government Reports, Transcripts, Statements, Memoranda, Regulations and Rulings

Advisory Council on Plans for Progress. "Information News Letter No. 6, dated December 17, 1963." Washington, D.C.: U.S. President's Committee on Equal Employment Opportunity, 1963.

U.S. Department of the Army. "Civilian Personnel Regulations: Equal Employment Opportunity." Washington, D.C.: Department of the Army, 1963.

U.S. Department of Justice, Civil Rights Division. "Reports on 1963 Actions on Voter Registration by Civil Rights Division." Washington, D.C.: U.S. Department of Justice, 1964.

U.S. Department of Justice. "A Review of The Activities Of The Department of Justice in Civil Rights, 1963." (Preliminary draft). Washington, D.C.: U.S. Department of Justice, 1964.

U.S. Department of Defense. "Department of Defense Fact Sheet on Equal Opportunity in the Armed Forces," Washington, D.C.: U.S. Department of Defense, 1963.

U.S. Department of Justice. "Summary of Federal Action in Civil Rights, 1961-1963." Washington, D.C.: U.S. Department of Justice, 1963.

U.S. Department of Labor, Bureau of Employment Security. "Apprenticeship Information Centers." Washington, D.C.: U.S. Department of Labor, 1963.

U.S. Federal Housing Administration. "Message From FHA Commissioner to be read By Insuring Office Directors at NAHB Local Meetings Relating to Providing Homes Available to Minorities, No. 118130." Washington, D.C.: U.S. Federal Housing Administration, 1954.

U.S. General Services Administration. "Facilities Nondiscrimination." Washington, D.C.: U.S. General Services Administration, 1963.

U.S. Information Agency. Transcript; "Press Conference, U.S.A. Guest: Hon. Robert F. Kennedy, Attorney General of the United States." Washington, D.C.: U.S. Information Agency, 1963.

U.S. Interstate Commerce Commission. 49 C.R.R. 180a 1, 2, 3, 4, 5. Washington, D.C.: U.S. Interstate Commerce Commission, 1961.

_____. NAACP v. St. Louis - S.F. Ry. Co., 297 I.C.C. 335 (1955).

U.S. National Aeronautical and Space Administration. "Summary Report: Equal Employment Opportunity Conference." Washington, D.C.: U.S. National Aeronautical and Space Administration, 1963.

U.S. Post Office Department. "Highlights of Actions Taken By The Post Office Department To Provide Equal Employment Opportunity For All Postal Employees, January, 1961-June 30, 1963." Washington, D.C.: U.S. Post Office Department, 1963.

U.S. President's Committee on Equal Employment Opportunity. "Joint Statement on Equal Employment Opportunity Plan for Progress Signed with North American Aviation, Inc." Washington, D.C.: U.S. President's Committee on Equal Employment Opportunity, n.d.

U.S President's Committee on Equal Employment Opportunity. "Summary - All Agencies, Negro and Total Employment By Grade and Salary Groups, June, 1961 and June, 1962." Washington, D.C.: U.S, President's Committee on Equal Employment Opportunity, 1962.

U.S. President's Committee on Equal Opportunity in Housing. "Draft Memorandum from Jack T. Conway, Chairman, Robert C. Weaver, and Ferdinand Kraemer, Members, Subcommittee on Education, to Honorable David L. Lawrence, Chairman, President's Committee on Equal Opportunity in Housing, dated October 24, 1963." Washington, D.C.: U.S. President's Committee on Equal Opportunity in Housing, 1963.

U.S. Voluntary Home Mortgage Credit Program. Operating Policy Statement No. 1. Washington, D.C.: U.S. Voluntary Home Mortgage Credit Program, 1954.

C.E. Wilson, Secretary of Defense. "Memorandum to the Secretaries of the Army, Navy, and Air Force, January 12, 1954." Washington, D.C.; U.S. Department of Defense, 1954.

Press Releases from Federal Government Departments and Agencies

U.S, Civil Service Commission. "Chairman Macy's Remarks on Community Approach to the Equal Employment Opportunity Program, to the Directors of Personnel, on July 11, 1963."

U.S. Department of Justice. "Address by Robert F. Kennedy, Attorney General of the United States, Prepared for Delivery at the Law Day Exercises, University of Georgia Law School, Athens, Georgia, Saturday, May 6, 1961."

_____. May 29, 1961.

_____. Address of Attorney General Robert F. Kennedy before the National Insurance Association, Los Angeles, California, July 26, 1962."

_____. "Civil Rights and The Cold War" - an address by Honorable Robert F. Kennedy, Attorney General of the United States, 10th Anniversary Convocation, Center for Study of Democratic Institutions, New York, January 22, 1963.

_____. "Address by Robert F. Kennedy, Attorney General of the United States, to The North Carolina Cold War Seminar, Asheville, North Carolina, May 17, 1963."

_____. "Statement of Attorney General Robert F. Kennedy before the Senate Judiciary Committee regarding S. 1731, the proposed Civil Rights Act of 1963, and S. 1750, July 8, 1963."

_____. "Progress of Lawyer's Committee on Civil Rights Under Law, July 10, 1963."

_____. "Statement of Attorney General Robert F. Kennedy on H.R. 7152 before the House Judiciary Committee on October 15, 1963 (Executive Session)."

U.S. Department of Labor. "Address by Arthur A. Chapin, Special Assistant to the Secretary of Labor for Equal Employment Opportunities, in St. Louis, Missouri, on April 8, 1963."

U.S. Department of State. "Report on the Conference on Equality of Employment Opportunity, United States State Department, August 16, 1961." Press Release No. 579, dated August 18, 1961.

_____. "Statement of Secretary of State Dean Rusk before the Senate Committee on Commerce regarding S. 1732, July 10, 1963."

U.S. Housing and Home and Finance Agency. Press Release HHFA-OA-No. 63-318, dated December 13, 1963.

U.S, President's Committee on Equal Employment Opportunity. "Remarks by Hobart Taylor, Jr., Executive Vice Chairman, President's Committee on Equal Employment Opportunity, before the National Conference of the Urban League, Statler-Hilton Hotel, July 31, 1963."

_____. "Remarks by Hobart Taylor, Jr., Executive Vice Chairman of the President's Committee on Equal Employment Opportunity, at Wayne State University, McGregor Memorial Conference Center, August 15, 1963."

U.S. President's Committee on Equal Opportunity in Housing. "Remarks of Former Governor David L. Lawrence to Suburban Maryland Fair Housing Committee, on October 16, 1963."

White House Release, June 24, 1962: "President Kennedy Creates Committee on Equal Opportunity in the Armed Forces."

_____. "A Report on the Progress in the Field of Civil Rights by Attorney General Robert F. Kennedy to the President" dated January 24, 1963.

Books

Adams, Sherman. Firsthand Report: The Story of the Eisenhower Administration. New York: Harper, 1961.

Ahmann, Mathews. Race: Challenge to Religion. Chicago: Henry Regnery Company, 1963.

_____. The New Negro. New York: Fides, 1961.

Anderson, J.W. Eisenhower, Brownell, and the Congress: The Tangled Origins of the Civil Rights Bill of 1956-1957. University, Alabama: The University of Alabama Press, 1964.

Arkansas Gazette. Crisis In The South: The Little Rock Story. (A selection of editorials from the Arkansas Gazette). Little Rock, Arkansas, n.d.

Ashmore, Harry S. An Epitaph for Dixie. New York: W.W. Norton & Company, Inc., 1958.

_____. The Other Side of Jordan. New York: W.W. Norton & Company Inc., 1960.

_____. The Negro and the Schools. Chapel Hill, North Carolina: The University of North Carolina Press, 1954.

Baldwin, James. Another Country. New York: Dial Press, 1962.

_____. The Fire Next Time. New York: Dial Press, 1963.

_____. Notes of a Native Son. New York: Beacon, 1957.

Bennett, Lerone, Jr. Before the Mayflower: A History of the Negro in America, 1619-1962. Chicago, Illinois: Johnson Publishing Company, 1962.

Berger, Morroe. Equality by Statute: Legal Controls over Group Discrimination. New York: Columbia University Press, 1952.

Berman, Daniel M. A Bill Becomes a Law: The Civil Rights Act of 1960. New York: The Macmillan Company, 1962.

Binkley, Wilfred E. The Man in the White House: His Powers and Duties. Baltimore: The Johns Hopkins Press, 1958.

_____. The Powers of the President: Problems of American Democracy. Garden City, New York: Doubleday, Doran & Company, Inc., 1937.

Blaustain, Albert P., and Ferguson, Clarence Clyde, Jr. Desegregation and the Law: The Meaning and Effect of the School Desegregation Cases. New Brunswick, New Jersey: Vintage Books, 1957.

Blossom, Virgil T. It Has Happened Here. New York: Harper & Brothers, 1959.

Bontemps, Arna. 100 Years of Negro Freedom. New York: Dodd, Mead & Company, 1961.

Brady, Tom P. Black Monday. Winona, Mississippi: Association of Citizens Councils, 1955.

Brickman, William W., and Lehrer, Stanley, eds. The Countdown on Segregated Education. New York: Society for the Advancement of Education, 1960.

Brink, William, and Harris, Louis. The Negro Revolution in America. New York: Simon and Schuster, 1964.

Brown, Ina Corinne. Race Relations in a Democracy. New York: Harper and Brothers Publishers, 1949.

Brownlow, Louis. The President and the Presidency. Chicago: Public Administration Service, 1949.

Burns, James MacGregor. The Deadlock of Democracy: Four Party Politics in America. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1963.

_____. John Kennedy: A Political Profile. New York: Harcourt, Brace & World, 1961.

_____. Roosevelt: The Lion and the Fox. New York: Harcourt, Brace and Company, 1956.

Campbell, Angus, Converse, Philip E., Miller, Warren E., and Stokes, Donald E. The American Voter. New York: John Wiley and Sons, Inc.: 1960.

Carr, Robert K. Federal Protection of Civil Rights: Quest for a Sword. Ithaca, New York: Cornell University Press, 1947.

Carter, Hodding, III. The South Strikes Back. Garden City, New York: Doubleday, 1959.

Childs, Marquis William. Eisenhower: Captive Hero: A Critical Study of the General and the President. New York: Harcourt, Brace and Company, 1958.

Clark, Kenneth. The Negro Protest. Boston: Beacon Press, 1963.

Clark, Thomas D. The Emerging South. New York: Oxford University Press, 1961.

Clarke, Jacqueline J. These Rights They Seek: A Comparison of the Goals and Techniques of Local Civil Rights Organizations. Washington, D.C.: Public Affairs Press, 1962.

Conant, James Bryant. Slums and Suburbs: A Commentary on Schools in Metropolitan Areas. New York: McGraw-Hill Book Company, Inc., 1961.

Cook, James Graham. The Segregationist. New York: Appleton, 1962.

Corwin, Edward Samuel. Liberty Against Government: The Rise, Flowering, and Decline of a Famous Juridical Concept. Baton Rouge, Louisiana: State University Press, 1948.

_____. The Presidency Today. New York: New York University Press, 1956.

_____. The President, Office and Powers: History and Analysis of Practice and Opinion. 4th ed. New York: New York University Press, 1940.

Coyle, David Cushman. Ordeal of the Presidency. Washington: Public Affairs Press, 1960.

Cushman, Robert Eugene. Civil Liberties in the United States: A Guide to Current Problems and Experience. Ithaca, New York: Cornell University Press, 1956.

_____. Leading Constitutional Decisions. 8th ed. New York: F.S. Crofts and Co., 1946.

Davis, Warren Jefferson. Law of the Land. New York: Carlton Press, 1962.

Dineen, Joseph Francis. The Kennedy Family. Boston: Little, Brown, 1959.

Donovan, Robert J. Eisenhower: The Inside Story. New York: Harper & Brothers, Publishers, 1956.

_____. PT 109: John F. Kennedy in World War II. New York: McGraw-Hill, 1961.

Eisenhower, Dwight David. Eisenhower Speaks: Dwight D. Eisenhower in His Messages and Speeches. Selected and Edited by Rudolph L. Treuenfels. New York: Farrar, Straus, 1948.

_____. The White House Years: Mandate for Change, 1953-1956. Garden City, New York: Doubleday & Company, Inc., 1963.

Essien-Udom, E. U. Black Nationalism: A Search For Identity in America. Chicago: The University of Chicago Press, 1962.

Ezell, John Samuel. The South Since 1865. New York: The Macmillan Company, 1963.

Finer, Herman. The Presidency: Crisis and Regeneration: An Essay in Possibilities. Chicago: The University of Chicago Press, 1960.

Ford, Henry J. The Rise and Growth of American Politics. New York: The Macmillan Co., 1900.

Fraenkel, Osmond Kessler. The Supreme Court and Civil Liberties: How the Court Has Protected the Bill of Rights. New York: Oceana Publications, 1960.

Franklin, John Hope. From Slavery to Freedom: A History of American Negroes. New York: Alfred A. Knopf, 1948.

Fuller, Helen. Year of Trial: Kennedy's Crucial Decisions. New York: Harcourt, Brace and World, 1962.

Golden, Harry. Mr. Kennedy and the Negroes. Cleveland, Ohio: World Publishing Company, 1964.

Greenberg, Jack. Race Relations and American Law. New York: Columbia University Press, 1959.

Griffin, John Howard. Black Like Me. New York: New American Library, 1962.

Grossman, Richard L., ed. The First 100 Days of the Kennedy Administration. New York: Simon and Schuster Publishers, 1961.

Harris, Robert J. The Quest for Equality: The Constitution, Congress and the Supreme Court. Baton Rouge, Louisiana: Louisiana State University Press, 1960.

Hays, Brooks. A Southern Moderate Speaks. Chapel Hill, North Carolina: The University of North Carolina Press, 1959.

Herring, Edward Pendleton. Presidential Leadership: The Political Relations of Congress and the Chief Executive. New York: Farrar and Rinehart, Inc., 1940.

Hughes, Emmet John. The Ordeal of Power: A Political Memoir of The Eisenhower Years. New York: Atheneum, 1963.

Hughes, Langston. Fight for Freedom: The Story of the NAACP. New York: Norton, 1962.

Huszar, George Bernard. Equality in America: The Issue of Minority Rights. New York: H.W. Wilson Co., 1949.

Hyman, Sidney. The American President. New York: Harper & Brothers, 1954.

Isaacs, Harold R. The New World of Negro Americans. New York: The John Day Company, 1963.

Kennedy, John Fitzgerald. Profiles in Courage. New York: Harper, 1956.

_____. The Strategy of Peace. Ed. by Allen Nevins. New York: Harper & Brothers, 1960.

_____. To Turn the Tide: Addresses During First Year in Office. New York: Harper and Row, 1962.

Kennedy, Robert F. Just Friends and Brave Enemies. New York: Harper and Row, 1962.

Kesselman, Louis Coleridge. The Social Politics of FEPC: A Study in Reform Pressure. Chapel Hill, North Carolina: The University of North Carolina Press, 1948.

Key, V.O., Jr. Public Opinion and American Democracy. New York: Alfred A. Knopf, Inc., 1961.

_____., with the assistance of Alexander Heard. Southern Politics in State and Nation. New York: Alfred A. Knopf, 1949.

Kilpatrick, James Jackson. The Southern Case for School Segregation. New York: The Crowell-Collier Press, 1962.

King, Martin Luther, Jr. Letter From Birmingham City Jail. Philadelphia, Pennsylvania: American Friends Service Committee, 1963.

_____ _. Stride Toward Freedom: The Montgomery Story. New York: Harper and Brothers, 1958.

Koenig, Louis W., ed. The Truman Administration: Its Principles and Practice. New York: New York University Press, 1956.

Konvitz, Milton Ridvas, and Leskes, Theodore. A Century of Civil Rights, With a Study of State Law Against Discrimination. New York: Columbia University Press, 1961.

Konvitz, Milton Ridvas. The Constitution and Civil Rights. New York: Columbia University Press, 1947.

Kraus, Sidney, ed. The Great Debates: Background, Perspective, Effects. Bloomington, Indiana: Indiana University Press, 1962.

Laski, Harold Joseph. The American Presidency: An Interpretation. New York: Harper and Brothers, 1940.

Lasky, Victor. JFK: The Man and the Myth. New York: The Macmillan Company, 1963.

Leadership Conference on Civil Rights. Federally Supported Discrimination. New York: Leadership Conference on Civil Rights, 1961.

Let Us Begin: The First 100 Days of the Kennedy Administration. Commentary by Martin Agronsky and others. New York: Simon and Schuster, 1961.

Lewinson, Paul. Race, Class and Party: A History of Negro Suffrage and White Politics in the South. London: Oxford University Press, 1932.

Lincoln, C. Eric. The Black Muslims in America. Boston: Beacon Press, 1961.

Lomax, Louis E. The Negro Revolt. New York: The New American Library of World Literature, Inc., 1962.

Longaker, Richard P. The Presidency and Individual Liberties. Ithaca, New York: Cornell University Press, 1961.

Lubell, Samuel. The Future of American Politics. New York: Harper & Brothers.

_____. The Revolt of the Moderates. New York: Harper & Brothers, 1956.

McCarthy, Joe. The Remarkable Kennedys. New York: Dial Press, 1960.

McGill, Ralph. The South and the Southerner. Boston: Little, Brown, 1963.

Mack, Raymond W. Race, Class and Power. New York: American Book Co., 1963.

Manchester, William Raymond. Portrait of a President: John F. Kennedy in Profile. Boston: Little, Brown and Company, 1962.

Markham, Charles, ed. Jobs, Men and Machines: Problems of Automation. New York: Frederick A. Praeger, 1964.

Markham, Charles Lam, and Sherwin; Mark. John F. Kennedy: A Sense of Purpose. New York: St. Martin's Press, 1961.

Martin, Ralph G., and Plaut, Ed. Front Runner, Dark Horse. Garden City, New York: Doubleday & Company, 1960.

May, E. R., ed. The Ultimate Decision: The President as Commander-in-Chief. New York: George Braziller, 1960.

Mendelson, Wallace. Discrimination. New York: Spectrum Books, 1962.

Morland, J. Kenneth. School Desegregation: Help Needed?: A Survey of Southern Educators. Washington, D.C.: The Potomac Institute, Inc., 1962.

_____. Token Segregation and Beyond. Atlanta, Georgia: Southern Regional Council, 1963.

Morrow, E. Frederick. Black Man in the White House. New York: Macfadden Books, 1963.

Muse, Benjamin. Virginia's Massive Resistance. Bloomington, Indiana: Indiana University Press, 1961.

Myrdal, An American Dilemma: The Negro Problem and Modern Democracy. With the assistance of Richard Sterner and Arnold Rose. 1st ed. and 20th anniversary ed. New York: Harper and Brothers, 1944 and 1962.

National Association for the Advancement of Colored People. Executive Power and Civil Rights. New York: National Association for the Advancement of Colored People, 1960.

_____. Report for 1962: The March To Freedom. New York: The National Association for the Advancement of Colored People, 1962.

_____. Report for 1961: NAACP in Action. New York: National Association for the Advancement of Colored People, 1961.

_____, NAACP 54th Annual Convention Resolutions. New York: National Association for the Advancement of Colored People, 1963.

_____. The Negro Wage-Earner and Apprenticeship Training Programs. New York: National Association for the Advancement of Colored People, 1960.

National Association of Intergroup Relations Officials. Federal, State and Local Action Affecting Race and Housing. New York: National Association of Intergroup Relations Officials, 1962.

National Urban League. Automation and the Retraining of Negro Workers. New York: National Urban League, 1962.

_____. The Search for Creative Brain-Power. New York: National Urban League, 1963.

_____. Economic and Social Status of the Negro in the United States. New York: National Urban League, 1961.

Neustadt, Richard E. Presidential Power: The Politics of Leadership. New York: John Wiley & Sons, Inc., 1960.

The New Frontiersmen: Profiles of the Men Around Kennedy. Articles written by reporters of the Washington Star. Washington, D.C.: Public Affairs Press, 1961.

Nichols, Lee. Breakthrough on the Color Front. New York: Random House, 1954.

Opotowsky, Stan. The Kennedy Government. New York: E.P. Dutton Co., Inc., 1961.

Patterson, Caleb Perry. Presidential Government in the United States: The Unwritten Constitution. Chapel Hill, North Carolina: The University of North Carolina Press, 1947.

Peck, James. Freedom Ride. New York: Simon and Schuster, 1962.

Peltason, J.W. Fifty Eight Lonely Men: Southern Federal Judges and School Desegregation. New York; Harcourt, Brace and World, 1961.

Peters, William. The Southern Temper. Garden City, New York: Doubleday & Company, Inc., 1959.

Porter, Kirk H. and Johnson, Donald Bruce. National Party Platforms, 1840-1960. 2d. ed. Urbana, Illinois: University of Illinois Press, 1961.

The Potomac Institute, Inc. The Federal Role in Equal Housing Opportunity. Washington, D.C.: The Potomac Institute, Inc., 1964.

_____. State Executive Authority to Promote Civil Rights. Washington, D.C.: The Potomac Institute, 1963.

Price, Hugo. The Negro and Southern Politics: A Chapter of Florida History. New York: New York University Press, 1957.

Price, Margaret. The Negro and the Ballot. Atlanta, Georgia: Southern Regional Council, 1959.

Pritchett, C. Herman. The American Constitution. New York: McGraw-Hill Book Company, 1959.

Proudfoot, Merrill. Diary of a Sit-In. Chapel Hill, North Carolina: The University of North Carolina Press, 1962.

Reppy, Alison. Civil Rights in the United States. New York: Central Book Co., 1951.

Rice, Arnold S. The Ku Klux Klan in American Politics. Washington, D.C.: Public Affairs Press, 1962.

Rich, Bennet Milton. The Presidents and Civil Disorder. Washington, D.C.: The Brookings Institution, 1941.

Roche, John Pearson. Quest for the Dream: The Development of Civil Rights and Human Relations in Modern America. New York: Macmillan, 1963.

Rose, Arnold The Negro in America. New York: Harper & Brothers, 1948.

Rossiter, Clinton Lawrence. The American Presidency. New York: Harcourt, Brace, 1956.

_____. Constitutional Dictatorship: Crisis Government in the Modern Democracies. New York: Harcourt, Brace & World, 1963.

Rossiter, Clinton, and Lare, James, eds. The Essential Lippmann: A Political Philosophy for Liberal Democracy. New York: Random House, 1963.

Rossiter, Clinton. The Supreme Court and the Commander-in-Chief. Ithaca, New York: Cornell University Press, 1951.

Rovere, Richard H. Affairs of State: The Eisenhower Years. New York: Farrar, Straus, and Cudahy, 1956.

Rowan, Carl T. Go South to Sorrow. New York: Random House, 1957.

_____. South of Freedom. New York: Alfred A. Knopf, 1952.

Ruchames, Louis. Race, Jobs and Politics. New York: Columbia University Press, 1953.

Schechter, Betty. The Peaceable Revolution. Boston: Houghton-Mifflin, 1963.

Schlesinger, Arthur M. Paths to the Present. New York: The Macmillan Co., 1949.

Schlesinger, Arthur, Jr. Kennedy or Nixon: Does It Make Any Difference? New York: The Macmillan Company, 1960.

Schnapper, M.B., ed. The Truman Program: Addresses and Messages by President Harry S. Truman. Washington, D.C.: Public Affairs Press, 1948.

Severaid, Arnold Eric. Candidates 1960: Behind the Headlines in the Presidential Race. New York: Basic Books, 1959.

Sherwood, Robert. Roosevelt and Hopkins: An Intimate History. New York: Harper & Brothers, 1950.

Shoemaker, Don, ed. With All Deliberate Speed: Segregation-Desegregation in Southern Schools. New York: Harper & Brothers, 1957.

Sidey, Hugh. John F. Kennedy: A Reporter's Inside Story. New York: Atheneum Publishers, 1963.

Silverman, Corinne. The Little Rock Story. University, Alabama: The University of Alabama Press, 1958.

Smith, A. Merriman. A President Is Many Men. New York: Harper, 1948.

_____. Meet Mister Eisenhower. New York: Harper & Brothers, 1954, 1955.

Sorensen, Theodore C. Decision-Making in the White House: The Olive Branch or the Arrows. New York: Columbia University Press, 1963.

Southern Regional Council. Executive Support of Civil Rights. Atlanta, Georgia: Southern Regional Council, 1961.

_____. The Federal Executive and Civil Rights. Atlanta, Georgia: Southern Regional Council, 1961.

_____. Plans for Progress: Atlanta Survey. Atlanta, Georgia: Southern Regional Council, 1963.

_____. The Student Protest Movement: A Recapitulation. Atlanta, Georgia: Southern Regional Council, 1961.

Spicer, George Washington. The Supreme Court and Fundamental Freedoms. New York: Appleton-Century Crofts, 1959.

Swisher, Carl B. American Constitutional Development. Boston: Houghton Mifflin Co., 1943.

Tanzer, Lester, ed. The Kennedy Circle. Washington, D.C.: Luce, 1961.

Thompson, Robert E., and Myers, Hortense. Robert F. Kennedy: The Brother Within. New York: The Macmillan Company, 1962.

Truman, Harry S. Memoirs. 2 vols. Garden City, New York: Doubleday, 1955, 1956.

_____. Mr. President: The First Publication from the Personal Diaries, Private Letters, Papers and Revealing Interviews of Harry S. Truman, Thirty-Second President of the United States of America. New York: Farrar, Straus and Young, 1952.

_____. The Truman Administration, Its Principles and Practice. Ed. by Louis W. Koenig. New York: New York University Press, 1956.

_____. Truman Speaks: Lectures and Discussions Held at Columbia University on April 27, 28 and 29, 1959. New York: Columbia University Press, 1960.

Tugwell, Rexford Guy. The Enlargement of the Presidency. Garden City, New York: Doubleday, 1960.

United States Constitution.

Virginia Commission on Constitutional Government. Civil Rights and Civil Wrongs: A Critical Commentary Upon the President's Pending "Civil Rights" Bill of 1963. Richmond, Virginia: Virginia Commission on Constitutional Government, 1963.

White, Theodore Harold. The Making of the President 1960. New York: Atheneum Publishers, 1961.

White, Walter. A Man Called White: The Autobiography of Walter White. New York: The Viking Press, 1948.

Wilson, James Q. Negro Politics: The Search for Leadership. Glencoe, Illinois: The Free Press, 1960.

Zinn, Howard. Albany: A Study in National Responsibility. Atlanta, Georgia: Southern Regional Council, 1962.

Periodicals

Ackley, Gardner. "Automation: Threat and Promise," New York Times Magazine, March 22, 1964, p. 16 ff.

Advisory Council on Plans for Progress. Information News Letter No. 6, December 17, 1963.

Afro Magazine. Published in the Fall, 1962, by the Republican National Committee, Washington, D.C.

Alsop, Stewart. "The White House Insiders," Saturday Evening Post, June 10, 1961, pp. 21 ff.

American Jewish Congress. Newsletter, August 11, 1960.

Attwood, William. "In Memory of John F. Kennedy," Look, December 31, 1963, pp. 11-13.

Bendiner, Robert. "The Negro Vote and the Democrats," The Reporter, May 31, 1956, pp 8-12.

Bennett, Lerone, Jr. Series on American Negro History, Ebony. July, September and November, 1961, and January, 1962.

The Benson Sun, 1963.

Bickel, Alexander M. "Beyond Tokenism: The Civil Rights Task that Lies Ahead," The New Republic, January 4, 1964, pp. 11-14.

_____. "Civil Rights: The Kennedy Record," The New Republic, December 15, 1962, pp. 11-16.

Carter, Barbara. "The Fifteenth Amendment Comes to Mississippi," The Reporter, January 17, 1963, pp. 20-24.

_____. "The Role of the Civil Rights Commission," The Reporter, July 4, 1963, pp. 10-14.

Cave, Clarence L. "Black and White," Reprint from Social Progress, December, 1963.

"Civil Rights Planks," America, September 8, 1956, p. 514 ff.

Collins, Frederick W. "The Mind of John F. Kennedy," New Republic, May 8, 1961, pp. 15-20.

The Committee Reporter, published by the President's Committee on Government Contracts, Number 1, November, 1963.

Congressional Quarterly Almanac - 1st Session, 1961.

The Daily Oklahoman, 1964.

"Death for Civil Rights," Time, August 6, 1956, p. 11.

"Direct Action in the South," New South, October-November, 1963.

Dunbar, Ernest. "Black Men, White Unions," Look, December 17, 1963, pp. 43-44 ff.

Duscha, Julius. "The Dull Part of Desegregation," The Reporter, August 15, 1963, pp. 43-46.

Esterday, Bjorn J. "The Great Game of Civil Rights," America, November 2, 1963, p. 505.

Farmer, James. "We Cannot Afford to Fail," New York Times Magazine, September 29, 1963, pp. 27 and 91.

Feild, John G. "Equal Employment Opportunity," ADL Bulletin, March, 1962, pp. 14-16.

Friedrich, Carl. "Rights, Liberties, Freedoms: A Reappraisal," The American Political Science Review, December, 1963, pp. 841-854.

"Full Safeguards for Civil Rights are Constant Goal," FBI Law Enforcement Bulletin, October, 1962.

Harding, Vincent. "A Beginning in Birmingham," The Reporter, June 6, 1963, pp. 13-18.

"Harriman's Hope: Civil Rights Split," New Republic, August 13, 1956, p. 3.

Hoover, John Edgar, "The FBI's Role in the Field of Civil Rights," Reprint from Yale Political Magazine, August, 1963.

"How Kennedy Differs from Ike," U.S. News and World Report, November 13, 1961, pp. 68-70.

"How Kennedy Runs the White House," U.S. News and World Report, November 13, 1961, pp. 54-57.

Jacobs, Paul. "The Negro Worker Asserts His Rights," The Reporter, July 23, 1959, pp. 16-21.

"JFK All the Way," New Republic, June 29, 1963, pp. 3-4.

Kempton, Murray. "The March on Washington " New Republic, September 14, 1963, pp. 19-20.

King, Martin Luther, Jr. "Fumbling on the New Frontier," Reprint from The Nation, March 3, 1962.

Leonard, George B., Harris, George T., and Wren, Christopher W., "How a Secret Deal Prevented a Massacre at Ole Miss.," Look, December 31, 1962, pp. 18-24.

Lippmann, Walter. "Kennedy at Mid-Term," Newsweek, January 21, 1963, pp. 24-28.

_____. "The Racial Crisis," Newsweek, May 27, 1963, p. 23.

Lomax, Louis E. "The Negro Revolt Against 'The Negro Leaders'," Harper's, June, 1960, pp. 41-48.

_____. "Why the Negroes Continue to Revolt," Look, September 10, 1963, pp. 52-54.

McGill, Ralph, "The Case for the Southern Progressive," Saturday Review, June 13, 1964, pp. 17-20.

Marshall, Burke. "The Enforcement of Civil Rights," ADL Bulietin, March, 1962, pp. 9-13.

Massie, Robert. "What Next in Mississippi?" The Saturday Evening Post, November 10, 1962, pp. 18-23.

Morsell, John A. "The Revolt of Louis E. Lomax," Reprint from The Crisis, October, 1962.

Neustadt, Richard E. "Approaches to Staffing the Presidency: Notes on FDR and JFK," American Political Science Review, December, 1963, pp. 855-863.

_____. "Presidency and Legislation: Planning the President's Program," The American Political Science Review, December, 1955, pp. 980 ff.

New Republic, October 5, 1963.

New York Post, April 8, 1960.

New York Times, 1939-1964.

Newsweek, 1963.

Oklahoma City Times, 1964.

"Powell Fights Kennedy in '60," The Washington Star, June 30, 1959. p. 4.

"Racial Crisis in the Deep South," Saturday Evening Post, December 17, 1955, pp. 26-27.

Reston, James. "The Crisis of Lawlessness in Alabama," New York Times, September 18, 1963, p. 36.

Rostow, Eugene V. "The Freedom Riders and the Future," The Reporter, June 22, 1961, pp. 18-21.

Severaid, Eric, "Slow Progress of Integration," The Reporter, March 8, 1956, pp. 20 ff.

Shannon, M.W. "Crisis in Birmingham: The Federal Government's Part," Commonweal, May 24, 1963, pp. 238 ff.

Silberman, Charles E. "The City and the Negro," Reprint from Fortune, March, 1962.

Smith, Charles H. "The Sit-Ins and the New Negro Student," The Journal of Intergroup Relations, Summer, 1961.

Southern School News, 1954-1963.

Taylor, Hobart, Jr. "The President's Committee on Equal Employment Opportunity," Southwestern Law Journal, Volume XVI, pp. 101-112.

Time, 1957-1964.

U.S. News and World Report, Interview with Robert F. Kennedy on Freedom Riders, October 23, 1961, pp. 76-79.

Wall Street Journal, 1964.

The Washington Post and Times Herald, 1962-1964.

Wofford, Harris, Jr., "Moving Ahead: Aims and Methods," ADL Bulletin, March, 1962, pp. 3-6.

Young, Whitney, Jr. "Marshall Plan for Negroes," St. Louis Post Dispatch, Reprint, Editorial Section, August 29, 1963.

_____. "We've Got to Have Victories," U.S. News and World Report, February 24, 1964, pp. 56-59.

Zinn, Howard. "Registration in Alabama," The New Republic, October 26, 1963, pp. 11-12.

Reports, Press Releases, Transcripts, Statements and Memoranda from Non-Governmental Organizations

American Veterans Committee. "Civil Rights Audit of the National Guard, 1961." Washington, D.C.: American Veterans Committee, 1961.

Columbia Broadcasting System, CBS News. "A Conversation With President Kennedy," broadcast over the CBS Television Network on Monday, December 17, 1962. Transcript.

Columbia Broadcasting System, CBS Reports. "Filibuster - Birth Struggle of a Law," as broadcast over the CBS Television Network on March 18, 1964. Transcript.

Congress on Racial Equality. "This is CORE." New York: Congress on Racial Equality, n.d.

Democratic National Committee, Research Division. "The 1960 Election Report." Washington, D.C.: Democratic National Committee, 1962.

Finley, Otis E., Jr. Statement on "Special Educational Problems Faced by Negro Youths," made before Subcommittee on Employment and Manpower, Senate Committee on Labor and Public Welfare, on October 17, 1963. Mimeographed by National Urban League, New York.

Leadership Conference on Civil Rights. Statement on Civil Rights Plank of Republican Platform by Roy Wilkins, on July 27, 1960.

National Association for the Advancement of Colored People. Monthly Report of the Washington Bureau, May 10, 1963.

National Broadcasting Company Television Network. Three Hour News Special: "The American Revolution of '63," broadcast on Monday, September 2, 1963. Transcript.

Republican National Committee. "The 1960 Elections: A Summary Report with Supporting Tables," August, 1961.

Snyder, John I., Jr. Statement on "The Implications of Automation" before the U.S. Senate Committee on Labor and Public Welfare on October 3, 1963. (Mr. Snyder is Chairman and President of U.S. Industries, Inc.)

Student Nonviolent Coordinating Committee "High Court Refuses Plea From Mississippi Registrar." Press Release dated January 11, 1964.

Voter Education Project, Southern Regional Council. "First Annual Report." Atlanta, Georgia: Southern Regional Council, 1963.

Wilkins, Roy. Keynote address to 54th Annual Convention, National Association for the Advancement of Colored People, Chicago, July 1, 1963.

Young, Whitney M., Jr., and Finley, Otis E., Jr., Statement on behalf of National Urban League to Francis Keppel, Commissioner, U.S. Office of Education, on January 24, 1963 on "Equal Opportunities in Education - New Perspectives and Recommendations."

Unpublished Materials

Cowhig, James D., and Beale, Calvin L. "Relative Socioeconomic Status of Southern Whites and Non Whites, 1950 and 1960." Economic Research Service, U.S. Department of Agriculture. Unpublished m.s., dated November, 1963.

Reichley, Marlin S. "Federal Military Intervention in Civil Disturbances." Unpublished Ph.D. dissertation, Georgetown University, Washington, D.C., 1939.

Letters

Bond, Horace Julian, Communications Director, Student Nonviolent Coordinating Committee, Atlanta, Georgia, to the writer, dated April 16, 1964.

Branton, Wiley A., Director of Voter Education Project, Southern Regional Council, Atlanta, Georgia, to the writer, dated March 19 and April 30, 1964.

Caplan, Marvin, Leadership Conference on Civil Rights, Washington, D.C., to the writer, dated March 16, 1964.

Celler, Honorable Emanuel, Chairman, Committee on the Judiciary, U.S. House of Representatives, to the writer, dated May 7, 1964.

Dungan, Ralph A., Special Assistant to the President, to the writer, dated January 15, 1964.

Hoover, J. Edgar, Director, Federal Bureau of Investigation, to the writer, dated March 3, 1964.

Johnson, Mrs. Cernoria D., National Representative, National Urban League, to Mr. Whitney M. Young, Executive Director, National Urban League, on "Government- Private Industry Partnership in Training," dated January 5, 1964.

Jordan, Robert E., Staff Assistant to Deputy Assistant Secretary of Defense (Civil Rights), to the writer, dated April 29, 1964.

Kennedy, President John F., to Secretary of Defense Robert S. McNamara, dated June 21, 1963.

Kennedy, Honorable Robert F., Attorney General, to Ted J. Davis, Oklahoma City, dated June 28, 1963.

McVeigh, Edward J., Assistant Administrative Assistant Secretary, Department of Labor, to the writer, dated January 10, 1964.

Marshall, Burke, Assistant Attorney General, Civil Rights, to the writer, dated April 24, May 6, and May 20, 1964.

Murphy, John L., Chief, General Litigation Section, Civil Rights Division, U.S. Department of Justice, to the writer, dated March 12 and May 25, 1964.

O'Brien, Lawrence F., Special Assistant to the President, to the writer, dated March 31, 1964.

Pohlhaus, J. Francis, Counsel, Washington Bureau, National Association for the Advancement of Colored People, to the writer, dated April 6 and May 6, 1964.

Wofford, Harris, presently Associate Director for Planning, Evaluation and Research, The Peace Corps; and from 1961-1962, Special Assistant to the President, to the writer, dated March 25, 1964.

Interviews by the Writer

Alves, Padget, Associate Director, Housing, National Urban League, New York, on February 19, 1964.

Butler, George, Director, Division of Education and Community Relations, President's Committee on Equal Employment Opportunity, Washington, D.C., on February 10, 1964.

Carter, Lisle, Department of Health, Education and Welfare, Washington, D.C., on February 10, 1964.

Clinchy, Ross, presently Assistant to the Director of Personnel, Housing and Home Finance Agency; former Executive Director, President's Committee on Government Employment Policy, 1956-1960, in Washington, D.C. on February 3, 1964.

Des Marais, Philip H., Deputy Assistant Secretary for Legislation, U.S. Department of Health, Education and Welfare, in Washington, D.C. on February 5, 1964.

Evans, James C., Counsellor to the Deputy Assistant Secretary of Defense (Civil Rights), in Washington, D.C. on February 14, 1964.

Feild, John, Assistant to Senator Hubert Humphrey; former Executive Director, President's Committee on Equal Employment Opportunity, 1961-1963, in Washington, D.C. on February 10, 1964.

Finley, Otis E., Jr., Associate Director, Education, National Urban League, in New York on February 19, 1964.

Fleming, Harold C., Executive Vice President, The Potomatac Institute, Inc.; and former Executive Director, the Southern Regional Council; in Washington, D.C., on February 5, 1964.

Foley, Miss Helen, Writer - Editor, President's Committee on Equal Employment Opportunity, Washington, D.C., on February 4, 1964.

Foley, William, Chief Counsel, Committee on the Judiciary, U.S. House of Representatives, in Washington, D.C. on February 13, 1964.

Gerard, David, Special Assistant to the Chairman, President's Committee on Equal Opportunity in Housing. The White House, February 12, 1964.

Giesey, Walter, Staff Director, The President's Committee on Equal Opportunity in Housing, The White House, February 6 and 12, 1964.

Holmes, Adolph, Assistant Director for Job Development and Employment, National Urban League, New York, on February 19, 1964.

Jeltz, Mrs. Mattie, Oklahoma State Employment Service, Oklahoma City, on April 16, 1964.

Johnson, Mrs. Cernoria D., National Representative, National Urban League, in Washington, D.C. on February 7, 1964.

Katzenbach, Nicholas deB., Deputy Attorney General, in Washington, D.C. on February 13, 1964.

Kurland, Michael, Office of U.S. Commissioner of Education, Department of Health, Education and Welfare, Washington, D.C. on February 10, 1964.

La Penta, James, Deputy Assistant Postmaster General, Washington, D.C., on February 14, 1964.

Lawrence, Honorable David L., Chairman and Executive Director, The President's Committee on Equal Opportunity in Housing, The White House, on February 12, 1964.

Levett, Ed, Staff Member, The President's Committee on Equal Opportunity in Housing, The White House, on February 6, 1964.

Levin, Arthur J., Staff Director, The Potomac Institute, Inc., in Washington, D.C. on February 5, 1964.

Libassi, E. Peter, Director, Liaison and Information Division, U.S. Civil Rights Commission, Washington, D.C. on February 5, 1964.

McNeil, Dr. Robert, Research Fellow, Democratic National Committee, Washington, D.C. on February 7, 1964.

Mack, Charles, Research Department, Republican National Committee, Washington, D.C. on February 11, 1964.

Marshall, Burke, Assistant Attorney General, Civil Rights, U.S. Department of Justice, Washington, D.C., on February 13, 1964.

Mann, David, Director, Survey Division, The President's Committee on Equal Employment Opportunity, Washington, D.C., on February 4, 1964.

Martin, Louis, Deputy Chairman, Democratic National Committee, Washington, D.C., on February 12, 1964.

Mitchell, Harry R., Bureau of Employment Security, U.S. Department of Labor, Washington, D.C., on February 14, 1964.

Monroney, Honorable A.S. "Mike," U.S. Senator, Washington, D.C. on February 12, 1964.

Morsell, Dr. John A., Assistant to the Executive Secretary, National Association for the Advancement of Colored People, New York, on February 19, 1964.

Nolan, John E., Jr., Administrative Assistant to the Attorney General, U.S. Department of Justice, Washington, D.C., on February 4, 1964.

Pohlhaus, J. Francis, Counsel, Washington Bureau, National Association for the Advancement of Colored People, Washington, D.C., on February 14, 1964.

Puryear, M.T., Associate Director, Employment. National Urban League, New York, on February 19, 1964.

Routh, Dr. Frederick, Executive Director, National Association of Intergroup Relations Officials, Washington, D.C., on February 10, 1964.

Rush, Harold F.M., Administrative Coordinator, Plans for Progress, The President's Committee on Equal Employment Opportunity, Washington, D.C., on February 4, 1964.

Sauer, Robert, Assistant General Counsel and Special Assistant to the Deputy Administrator, Housing and Home Finance Agency, Washington, D.C., on February 3, 1964.

Sawyer, David, Equal Employment Opportunity Officer, Department of the Army, Washington, D.C., on February 3, 1964.

Seeley, David S., Special Assistant to the U.S. Commissioner of Education, U.S. Department of Health, Education and Welfare, Washington, D.C., on February 10, 1964.

Taylor, Hobart, Jr., Executive Vice Chairman, The President's Committee on Equal Employment Opportunity, Washington, D.C., on February 5, 1964.

White, Lee C., Assistant Special Counsel to the President, The White House, on February 7, 1964.

Wise, Malcolm, Director of Information, The President's Committee on Equal Employment Opportunity, Washington, D.C., on February 4, 1964.