

THE WHITE HOUSE

SPECIAL MESSAGE ON CIVIL RIGHTS

TO THE CONGRESS OF THE UNITED STATES:

"Our Constitution is color blind," wrote Mr. Justice Harlan before the turn of the century, "and neither knows nor tolerates classes among citizens." But the practices of the country do not always conform to the principles of the Constitution. And this Message is intended to examine how far we have come in achieving first-class citizenship for all citizens regardless of color, how far we have yet to go, and what further tasks remain to be carried out -- by the Executive and Legislative Branches of the Federal Government, as well as by state and local governments and private citizens and organizations.

One hundred years ago the Emancipation Proclamation was signed by a President who believed in the equal worth and opportunity of every human being. That Proclamation was only a first step -- a step which its author unhappily did not live to follow up, a step which some of its critics dismissed as an action which "frees the slave but ignores the Negro." Through these long one hundred years, while slavery has vanished, progress for the Negro has been too often blocked and delayed. Equality before the law has not always meant equal treatment and opportunity. And the harmful, wasteful and wrongful results of racial discrimination and segregation still appear in virtually every aspect of national life, in virtually every part of the Nation.

The Negro baby born in America today -- regardless of the section or state in which he is born -- has about one-half as much chance of completing high school as a white baby born in the same place on the same day -- one-third as much chance of completing college -- one-third as much chance of becoming a professional man -- twice as much chance of becoming unemployed -- about one-seventh as much chance of earning \$10,000 per year -- a life expectancy which is seven years less -- and the prospects of earning only half as much.

No American who believes in the basic truth that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights" can fully excuse, explain or defend the picture these statistics portray. Race discrimination hampers our economic growth by preventing the maximum development and utilization of our manpower. It hampers our world leadership by contradicting at home the message we preach abroad. It mars the atmosphere of united and classless society in which this Nation rose to greatness. It increases the costs of public welfare, crime, delinquency and disorder. Above all, it is wrong.

Therefore, let it be clear, in our own hearts and minds, that it is not merely because of the Cold War, not merely because of the economic waste of discrimination, that we are committed to achieving true equality of opportunity. The basic reason is because it is right.

The cruel disease of discrimination knows no sectional or state boundaries. The continuing attack on this problem must be equally broad. It must be both private and public -- it must be conducted at national, state and local levels -- and it must include both legislative and executive action.

In the last two years, more progress has been made in securing the civil rights of all Americans than in any comparable period in our history. Progress has been made -- through executive action, litigation, persuasion and private initiative in achieving and protecting equality of opportunity in education, voting, transportation, employment, housing, government, and the enjoyment of public accommodations.

But pride in our progress must not give way to relaxation of our effort. Nor does progress in the Executive Branch enable the Legislative branch to escape its own obligations. On the contrary, it is in the light of this nationwide progress, and in the belief that Congress will wish once again to meet its responsibilities in this matter, that I stress in the following agenda of existing and prospective action important legislative as well as administrative measures.

1. THE RIGHT TO VOTE

The right to vote in a free American election is the most powerful and precious right in the world -- and it must not be denied on the grounds of race or color. It is a potent key to achieving other rights of citizenship. For American history -- both recent and past -- clearly reveals that the power of the ballot has

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enabled those who achieve it to win other achievements as well, to gain a full voice in the affairs of their state and nation, and to see their interests represented in the governmental bodies which affect their future. In a free society, those with the power to govern are necessarily responsive to those with the right to vote.

In enacting the 1957 and 1960 Civil Rights Acts, Congress provided the Department of Justice with basic tools for protecting the right to vote -- and this Administration has not hesitated to use those tools. Legal action is brought only after voluntary efforts fail -- and, in scores of instances, local officials, at the request of the Department of Justice, have voluntarily made voting records available or abandoned discriminatory registration, discriminatory voting practices or segregated balloting. Where voluntary local compliance has not been forthcoming, the Department of Justice has approximately quadrupled the previous level of its legal effort -- investigating coercion, inspecting records, initiating lawsuits, enjoining intimidation, and taking whatever follow-up action is necessary to forbid further interference or discrimination. As a result, thousands of Negro citizens are registering and voting for the first time -- many of them in counties where no Negro had ever voted before. The Department of Justice will continue to take whatever action is required to secure the right to vote for all Americans.

Experience has shown, however, that these highly useful Acts of the 85th and 86th Congresses suffer from two major defects. One is the usual long and difficult delay which occurs between the filing of a lawsuit and its ultimate conclusion. In one recent case, for example, nineteen months elapsed between the filing of the suit and the judgment of the court. In another, an action brought in July 1961 has not yet come to trial. The legal maxim "Justice delayed is Justice denied" is dramatically applicable in these cases.

Too often those who attempt to assert their Constitutional rights are intimidated. Prospective registrants are fired. Registration workers are arrested. In some instances, churches in which registration meetings are held have been burned. In one case where Negro tenant farmers chose to exercise their right to vote, it was necessary for the Justice Department to seek injunctions to halt their eviction and for the Department of Agriculture to help feed them from surplus stocks. Under these circumstances, continued delay in the denial of the franchise -- particularly in counties where there is mass racial disfranchisement -- permits the intent of the Congress to be openly flouted.

Federal executive action in such cases -- no matter how speedy and how drastic can never fully correct such abuses of power. It is necessary instead to free the forces of our democratic system within these areas by promptly insuring the franchise to all citizens, making it possible for their elected officials to be truly responsive to all their constituents.

The second and somewhat overlapping gap in these statutes is their failure to deal specifically with the most common forms of abuse of discretion on the part of local election officials who do not treat all applicants uniformly.

Objections were raised last year to the proposed literacy test bill which attempted to speed up the enforcement of the right to vote by removing one important area of discretion from registration officials who used that discretion to exclude Negroes. Preventing that bill from coming to a vote did not make any less real the prevalence in many counties of the use of literacy and other voter qualification tests to discriminate against prospective Negro voters, contrary to the requirements of the 14th and 15th Amendments, and adding to the delays and difficulties encountered in securing the franchise for those denied it.

An indication of the magnitude of the overall problem, as well as the need for speedy action, is a recent five-state survey disclosing over 200 counties in which fewer than 15% of the Negroes of voting age are registered to vote. This cannot continue. I am, therefore, recommending legislation to deal with this problem of judicial delay and administrative abuse in four ways:

First, to provide for interim relief while voting suits are proceeding through the courts in areas of demonstrated need, temporary Federal voting referees should be appointed to determine the qualifications of applicants for registration and voting during the pendency of a lawsuit in any county in which fewer than 15% of the eligible number of persons of any race claimed to be discriminated against are registered to vote. Existing Federal law provides for the appointment of voting referees to receive and act upon applications for voting registration upon a court finding that a pattern or practice of discrimination exists. But to prevent a successful case from becoming an empty victory, insofar as the particular election is concerned, the proposed legislation would provide that, within these prescribed

limits, temporary voting referees would be appointed to serve from the inception to the conclusion of the Federal voting suit, applying, however, only State law and State regulations. As officers of the court, their decisions would be subject to court scrutiny and review.

Second, voting suits brought under the Federal Civil Rights statutes should be accorded expedited treatment in the Federal courts, just as in many state courts election suits are given preference on the dockets on the sensible premise that, unless the right to vote can be exercised at a specific election, it is, to the extent of that election, lost forever.

Third, the law should specifically prohibit the application of different tests, standards, practices, or procedures for different applicants seeking to register and vote in Federal elections. Under present law, the courts can ultimately deal with the various forms of racial discrimination practiced by local registrars. But the task of litigation, and the time consumed in preparation and proof, should be lightened in every possible fashion. No one can rightfully contend that any voting registrar should be permitted to deny the vote to any qualified citizen, anywhere in this country, through discriminatory administration of qualifying tests, or upon the basis of minor errors in filling out a complicated form which seeks only information. Yet the Civil Rights Commission, and the cases brought by the Department of Justice, have compiled one discouraging example after another of obstacles placed in the path of Negroes seeking to register to vote at the same time that those with college degrees, have been denied registration for their inability to give a "reasonable" interpretation of the Constitution. They have been required to complete their applications with unreasonable precision -- or to secure registered voters to vouch for their identity -- or to defer to white persons who want to register ahead of them -- or they are otherwise subjected to exasperating delays. Yet uniformity of treatment is required by the dictates of both the Constitution and fair play -- and this proposed statute, therefore, seeks to spell out that principle to ease the difficulties and delays of litigation. Limiting the proposal to voting qualifications in elections for Federal offices alone will clearly eliminate any Constitutional conflict.

Fourth, completion of the sixth grade should, with respect to Federal elections, constitute a presumption that the applicant is literate. Literacy tests pose especially difficult problems in determining voter qualification. The essentially subjective judgment involved in each individual case, and the difficulty of challenging that judgment, have made literacy tests one of the cruelest and most abused of all voter qualification tests. The incidence of such abuse can be eliminated, or at least drastically curtailed, by the proposed legislation providing that proof of completion of the sixth grade constitutes a presumption that the applicant is literate.

Finally, the 87th Congress -- after 20 years of effort -- passed and referred to the states for ratification a Constitutional Amendment to prohibit the levying of poll taxes as a condition to voting. Already thirteen states have ratified the proposed Amendment and in three more one body of the legislature has acted. I urge every state legislature to take prompt action on this matter and to outlaw the poll tax -- which has too long been an outmoded and arbitrary bar to voting participation by minority groups and others -- as the 24th Amendment to the Constitution. This measure received bipartisan sponsorship and endorsement in the Congress -- and I shall continue to work with governors and legislative leaders of both parties in securing adoption of the anti-poll tax amendment.

11. EDUCATION

Nearly nine years have elapsed since the Supreme Court ruled that State laws requiring or permitting segregated schools violate the Constitution. That decision represented both good law and good judgment -- it was both legally and morally right. Since that time it has become increasingly clear that neither violence nor legalistic evasions will be tolerated as a means of thwarting court-ordered desegregation, that closed schools are not an answer, and that responsible communities are able to handle the desegregation process in a calm and sensible manner. This is as it should be -- for, as I stated to the Nation at the time of the Mississippi violence last September:

"...Our Nation is founded on the principle that observance of the law is the eternal safeguard of liberty, and defiance of the law is the surest road to tyranny. The law which we obey includes the final ruling of the courts, as well as the enactments of our legislative bodies. Even among law-abiding men, few laws are universally loved -- but they are uniformly respected and not resisted.

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"Americans are free to disagree with the law but not to disobey it. For in a government of laws and not of men, no man, however prominent or powerful, and no mob, however unruly or boisterous, is entitled to defy a court of law. If this country should ever reach the point where any man or group of men, by force of threat of force, could long defy the commands of our court and our Constitution, there no law would stand free from doubt, no judge would be sure of his writ, and no citizen would be safe from his neighbors."

The shameful violence which accompanied but did not prevent the end of segregation at the University of Mississippi was an exception. State supported universities in Georgia and South Carolina met this test in recent years with calm and maturity, as did the state supported universities of Virginia, North Carolina, Florida, Texas, Louisiana, Tennessee, Arkansas and Kentucky in earlier years. In addition, progress toward the desegregation of education at all levels has made other notable and peaceful strides, including the following forward moves in the last two years alone:

--Desegregation plans have been put into effect peacefully in the public schools of Atlanta, Dallas, New Orleans, Memphis and elsewhere, with over 60 school districts desegregated last year -- frequently with the help of Federal persuasion and consultation, and in every case without incident or disorder.

--Teacher training institutes financed under the National Defense Education Act are no longer held in colleges which refuse to accept students without regard to race, and this has resulted in a number of institutions opening their doors to Negro applicants voluntarily.

--The same is now true of Institutes conducted by the National Science Foundation;

--Beginning in September of this year, under the Aid to Impacted Area School Program, the Department of Health, Education, and Welfare will initiate a program of providing on-base facilities so that children living on military installations will no longer be required to attend segregated schools at Federal expense. These children should not be victimized by segregation merely because their fathers chose to serve in the armed forces and were assigned to an area where schools are operated on a segregated basis.

--In addition, the Department of Justice and the Department of Health, Education, and Welfare have succeeded in obtaining voluntary desegregation in many other districts receiving "impacted area" school assistance; and, representing the Federal interest, have filed lawsuits to end segregation in a number of other districts.

--The Department of Justice has also intervened to seek the opening of public schools in the case of Prince Edward County, Virginia, the only county in the Nation where there are no public schools, and where a bitter effort to thwart court decrees requiring desegregation has caused nearly 1500 out of 1800 school age Negro children to go without any education for more than 3 years.

In these and other areas within its jurisdiction, the Executive Branch will continue its efforts to fulfill the Constitutional objective of an equal, non-segregated, educational opportunity for all children.

Despite these efforts, however, progress toward primary and secondary school desegregation has still been too slow, often painfully so. Those children who are being denied their constitutional rights are suffering a loss which can never be regained, and which will leave scars which can never be fully healed. I have in the past expressed my belief that the full authority of the Federal government should be placed behind the achievement of school desegregation, in accordance with the command of the Constitution. One obvious area of Federal action is to help facilitate the transition to desegregation in those areas which are conforming or wish to conform their practices to the law.

Many of these communities lack the resources necessary to eliminate segregation in their public schools while at the same time assuring that educational standards will be maintained and improved. The problem has been compounded by the fact that the climate of mistrust in many communities has left many school officials with no qualified source to turn to for information and advice.

There is a need for technical assistance by the Office of Education to assist local communities in preparing and carrying out desegregation plans, including the supplying of information on means which have been employed to desegregate other schools successfully. There is also need for financial assistance to enable those communities which desire and need such assistance to employ specialized personnel to cope with problems occasioned by desegregation and to train school personnel to

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with problems occasioned by desegregation and to train school personnel to facilitate the transition to desegregation. While some facilities for providing this kind of assistance are presently available in the Office of Education, they are not adequate to the task.

I recommend, therefore, a program of Federal technical and financial assistance to aid school districts in the process of desegregation in compliance with the Constitution.

Finally, it is obvious that the unconstitutional and outmoded concept of "Separate but equal" does not belong in the Federal statute books. This is particularly true with respect to higher education, where peaceful desegregation has been underway in practically every state for some time. I repeat, therefore, this Administration's recommendation of last year that this phrase be eliminated from the Morrill Land Grant College Act.

III. EXTENSION AND EXPANSION OF THE COMMISSION ON CIVIL RIGHTS

The Commission on Civil Rights, established by the Civil Rights Act of 1957, has been in operation for more than five years and is scheduled to expire on November 30, 1963. During this time it has fulfilled its statutory mandate by investigating deprivations of the right to vote and denials of equal protection of the laws in education, employment, housing and the administration of justice. The Commission's reports and recommendations have provided the basis for remedial action both by Congress and the Executive Branch.

There are, of course, many areas of denials of rights yet to be fully investigated. But the Commission is now in a position to provide even more useful service to the Nation. As more communities evidence a willingness to face frankly their problems of racial discrimination, there is an increasing need for expert guidance and assistance in devising workable programs for civil rights progress. Agencies of State and local government, industry, labor and community organizations, when faced with problems of segregation and racial tensions, all can benefit from information about how these problems have been solved in the past. The opportunity to seek an experienced and sympathetic forum on a voluntary basis can often open channels of communication between contending parties and help bring about the conditions necessary for orderly progress. And the use of public hearings -- to contribute to public knowledge of the requirements of the Constitution and national policy -- can create in these communities the atmosphere of understanding which is indispensable to peaceful and permanent solutions to racial problems.

The Federal Civil Rights Commission has the experience and capability to make a significant contribution toward achieving these objectives. It has advised the Executive Branch not only about desirable policy changes but about the administrative techniques needed to make these changes effective. If, however, the Commission is to perform these additional services effectively, changes in its authorizing statute are necessary and it should be placed on a more stable and more permanent basis. A proposal that the Commission be made a permanent body would be a pessimistic prediction that our problems will never be solved. On the other hand, to let the experience and knowledge gathered by the Commission go to waste, by allowing it to expire, or by extending its life only for another two years with no change in responsibility, would ignore the very real contribution this agency can make toward meeting our racial problems. I recommend, therefore, that the Congress authorize the Civil Rights Commission to serve as a national civil rights clearing house providing information, advice, and technical assistance to any requesting agency, private or public; that in order to fulfill these new responsibilities, the Commission be authorized to concentrate its activities upon those problems within the scope of its statute which most need attention; and that the life of the Commission be extended for a term of at least four more years.

IV. EMPLOYMENT

Racial discrimination in employment is especially injurious both to its victims and to the national economy. It results in a great waste of human resources and creates serious community problems. It is, moreover, inconsistent with the democratic principle that no man should be denied employment commensurate with his abilities because of his race or creed or ancestry.

The President's Committee on Equal Employment Opportunity, reconstituted by Executive Order in early 1961, has, under the leadership of the Vice President, taken significant steps to eliminate racial discrimination by those who do business with the Government. Hundreds of companies -- covering 17 million jobs -- have agreed to stringent non-discriminatory provisions now standard in all Government.

contracts. One hundred four industrial concerns -- including most of the Nation's major employers -- have in addition signed agreements calling for an affirmative attack on discrimination in employment; and 117 labor unions, representing about 85% of the membership of the AFL-CIO, have signed similar agreements with the Committee. Comprehensive compliance machinery has been instituted to enforce these agreements. The Committee has received over 1,300 complaints in two years -- more than in the entire 7½ years of the Committee's prior existence -- and has achieved corrective action on 72% of the cases handled -- a heartening and unprecedented record. Significant results have been achieved in placing Negroes with contractors who previously employed whites only -- and in the elevation of Negroes to a far higher proportion of professional, technical and supervisory jobs. Let me repeat my assurances that these provisions in Government contracts and the voluntary non-discrimination agreements will be carefully monitored and strictly enforced.

In addition, the Federal Government, as an employer, has continued to pursue a policy of non-discrimination in its employment and promotion programs. Negro high-school and college graduates are now being intensively sought out and recruited. A policy of not distinguishing on grounds of race is not limited to the appointment of distinguished Negroes -- although they have in fact been appointed to a record number of high policy-making, judicial and administrative posts. There has also been a significant increase in the number of Negroes employed in the middle and upper grades of the career Federal service. In jobs paying \$4,500 to \$10,000 annually, for example, there was an increase of 20% in the number of Negroes during the year ending June 30, 1962 -- over three times the rate of increase for all employees in those grades during the year. Career civil servants will continue to be employed and promoted on the basis of merit, and not color, in every agency of the Federal Government, including all regional and local offices.

This Government has also adopted a new Executive policy with respect to the organization of its employees. As part of this policy, only those Federal employee labor organizations that do not discriminate on grounds of race or color will be recognized.

Outside of Government employment, the National Labor Relations Board is now considering cases involving charges of racial discrimination against a number of union locals. I have directed the Department of Justice to participate in these cases and to urge the National Labor Relations Board to take appropriate action against racial discrimination in unions. It is my hope that administrative action and litigation will make unnecessary the enactment of legislation with respect to Union discrimination.

V. PUBLIC ACCOMMODATIONS

No act is more contrary to the spirit of our democracy and Constitution -- or more rightfully resented by a Negro citizen who seeks only equal treatment -- than the barring of that citizen from restaurants, hotels, theatres, recreational areas and other public accommodations and facilities.

Wherever possible, this Administration has dealt sternly with such acts. In 1961, the Justice Department and the Interstate Commerce Commission successfully took action to bring an end to discrimination in rail and bus facilities. In 1962, the fifteen airports still maintaining segregated facilities were persuaded to change their practices, thirteen voluntarily and two others after the Department of Justice brought legal action. As a result of these steps, systematic segregation in interstate transportation has virtually ceased to exist. No doubt isolated instances of discrimination in transportation terminals, restaurants, rest rooms and other facilities will continue to crop up, but any such discrimination will be dealt with promptly.

In addition, restaurants and public facilities in buildings leased by the Federal Government have been opened up to all Federal employees in areas where previously they had been segregated. The General Services Administration no longer contracts for the lease of space in office buildings unless such facilities are available to all Federal employees without regard to race. This move has taken place without fanfare and practically without incident; and full equality of facilities will continue to be made available to all Federal employees in every state.

National parks, forests and other recreation areas -- and the District of Columbia Stadium -- are open to all without regard to race. Meetings sponsored by the Federal Government or addressed by Federal appointees are held in hotels and halls which do not practice discrimination or segregation. The Department of Justice has asked the Supreme Court to reverse the convictions of Negroes arrested for seeking to use public accommodations; and took action both through the Courts and the use of Federal marshals to protect those who were testing the desegregation of transportation facilities.