

CAREY F. WEATHERS TRANSFER & STORAGE COMPANY

December 13, 1963

Mr. J. B. Fuqua
W.J.B.F.
Augusta, Ga.

Dear J. B.:

In regards to our telephone conversation regarding information on my suspension at Ft. Gordon. I did not know anything about the whole thing until it came out in the papers.

I immediately called the FBI and they came up to my office on August 15, 1963. They apologized for the thing being put in the papers. They did not know who put it in there. I gave them a sworn statement and answered a good many questions they ask me. I indirectly lent a lady, Mrs. Barfell, \$625.00 in February 1963. Attached is a copy of letter to Grievance Committee, Ft. Gordon which will explain in detail. Mrs. Barfell has repaid this loan and has been reinstated at Ft. Gordon with full salary less 5 days penalty.

I also lent a soldier at Ft. Gordon in 1961 \$600.00 which I have notes signed by him at time of transaction. He has not repaid this loan but has promised on several occasions that he will do so as soon as possible.

The FBI came back at a later date with the typed sworn statement for my signature but same was not correct. They finally made statement to me that there wasn't enough for me to sign.

Mr. Morton, the District Attorney, at Augusta assured us that he would talk to us before anything was done prior to going to the Grand Jury if there was enough evidence. On November 18, 1963 he told Mr. Jack McGahee that they did not have any evidence that they could take to the Grand Jury and that he was mailing this information to Mr. Carl W. Belcher, General Crimes Section, Criminal Division, Justice Department, Washington, D. C. Case # HJM-HWA-51-20-53.

I had my representative, Mr. John T. MacBrayer in Washington to contact Mr. Belcher. He informed him that as soon as he got Mr. Morton's letter that he would send a copy to Defense Department and that everything was in the clear.

When we didn't receive release Mr. MacBrayer contacted Mr. Belcher several other times regarding this matter. Mr. Belcher at first stated he couldn't locate letter sent by Mr. Morton and Tuesday, December 10, 1963 I called Mr. MacBrayer and he says he had talked to Mr. Belcher Monday and there was some small technicality that he would have to get cleared up before he could send the Defense Department a release.

LEROY W. WEATHERS TRANSFER & STORAGE COMPANY

Page #2 Mr. J. B. Fuqua

December 13, 1963

The Defense Department says they can not issue a release until they get a release from the Justice Department.

Ft. Gordon has tied up moneys due me since April 1963 until to date which would amount to some \$30,000.00 or more. We have been on suspension at Ft. Gordon except for permanent storage. We have continued to handle storage in and out but have not received money due prior to or since the suspension. They suspended us from long distance moving and storage in-transit but continued to give us permanent storage in and out.

I have talked with Col. Hilton at Ft. Gordon and he assures me that the minute we get released that he will stop everything to get us straightened out at once as we were not entitled to be suspended but he could not do anything about it until we were released. Col. Hilton and General Salet stated that they did not know this action had taken place until after it happened.

Anything you might be able to do to get this matter cleared will greatly be appreciated.

Thank you for taking your valuable time to help with this matter.

Yours truly,

Leroy W. Weathers
Leroy W. Weathers

LWW/ct

Enclosures

*P.S. I am enclosing copy of letter
received from Mr. Mc Baker Sat.
morning for your information.*

AFFIDAVIT

FORT GORDON
GEORGIA

Mr. Leroy W. Weathers, President, Carey F. Weathers Transfer & Storage Company, Augusta, Georgia, being duly sworn, upon his oath, deposes and says:

Around February 1st or 2d, I could not say exactly, Mrs. Barfell came into our office here and she started crying and really raising cane. She was all to pieces, just hysterical. Sgt. Cain was in here behind the counter and this lady just kept crying terrifically, just hysterical. Sgt. Cain came in there and put his arm around her and said, "The world is not coming to an end and don't take it so hard." She said, "I can't go, I can't go." She kept on crying for thirty minutes or longer, just sobbing and crying. A little later on Mrs. Taylor came in. She had been to have her hair fixed at the beauty parlor. She was out when Mrs. Barfell came in. When she came in she inquired what was wrong. She said, "What is the matter with you?" Mrs. Barfell got up and went on in the office with Mrs. Taylor. I went on to the back. A woman crying can really get you. I think it was on a Friday. I am not sure about the time, but Mrs. Taylor said it was around 12:00 or 1:00 o'clock. When she went out the door we discussed about her crying and going on so and at that time Mrs. Taylor said Mrs. Barfell had gone to the Finance Company and they had promised to let her have the money to go on a trip to see her daughter and son-in-law and kids. She said that the Household Finance Company turned her down and it was dropped at that time. Sometime Monday, Mrs. Taylor asked me if it was any way for me to let her (Mrs. Barfell) have the money to go over there. She had already made reservations and got off at Fort Gordon to make the trip and I told her I could not. Then the following Tuesday, Mrs. Taylor came back and asked if I would lend her (Mrs. Taylor) the money for Mrs. Barfell and I told her, "Yes." She said she would give me a note for it for six months. The Finance Company, according to Mrs. Taylor, had promised that as soon as she had made some of the payments which she had already borrowed from the Finance Company they would let her have the money to repay it. Friday morning, the following Friday, when we went to get the payroll I drew a check for \$625.00 and that afternoon Mrs. Barfell came up here when she got off from work at Fort Gordon and gave Mrs. Taylor a note for the \$625.00 to be paid back on a monthly basis with no stipulated amount—just a monthly basis. Mrs. Taylor, in turn, gave me a six months note from her to me, covering the \$625.00. Mrs. Barfell had told Mrs. Taylor that her sister in New Jersey had a diamond ring and she was going to send it down as a collateral. Mrs. Barfell went to Paris and while she was over there she fell and broke her leg and came back with a cast on her leg. She had slipped on the snow and ice. That is all the information I have. I investigated further about the loan at the Finance Company. I found she had made application and she was told she was going to get the money until the manager turned it down. It was on the record—written down, that she did not have enough collateral for the loan so when I found that out I called the FBI and told them about it. The manager they had is gone. They have a different

AFFIDAVIT - Cont'd

manager there now and he said if he had been there he would have let her have it but he could not criticize as each manager has a different way of doing things. He said she had always been prompt paying.

QUESTIONS AND ANSWERS

MR. FRY: What is the nature of your acquaintance with Mrs. Barfell?

MR WEATHERS: None whatsoever except just chatting over the phone.

MR FRY: Are you acquainted with her socially?

MR WEATHERS: No.

MR FRY: Has there been any occasion where she has appealed to you or Mrs. Taylor for a loan?

MR WEATHERS: No. I will add this. She (Mrs. Barfell) was out at the hospital one time when Mrs. Rushing was out there and I rode out there with her (Mrs. Taylor) to see Mrs. Rushing and I talked with her more that time than at any other time in the past.

MR FRY: At any time during this entire affair did Mrs. Barfell come directly to you for the loan?

MR WEATHERS: No. The only thing she did was sit down and cry in my presence. Mrs. Taylor did more talking over the phone to Mrs. Barfell than I did.

LERROY W. WEATHERS

Sworn to and subscribed before me this
9th day of September 1963.

Robert Fry
ROBERT FRY, GS-12
Grievance Examiner

McGAHEE & PLUNKETT
ATTORNEYS AT LAW
SOUTHERN FINANCE BUILDING
AUGUSTA, GA.

JACK E. McGAHEE
PAUL H. PLUNKETT
ARTHUR W. DENNING

December 13, 1963

Mr. Leroy Weathers
Carey F. Weathers Transfer and
Storage Company
1268 Druid Park Avenue
Augusta, Georgia

Dear Mr. Weathers:

I have recently been in touch with Mr. Troup Morton the Assistant United States Attorney for this area concerning your matter and he stated to me that he received a letter from Mr. Carl W. Belcher of the Department of Justice in Washington, dated December 6, 1963, and he has authorized me to quote therefrom as follows: "We have advised the Army Officials here that their administrative action in banning certain transport companies and in withholding payments is independent of any prosecutive action and the continuance or discontinuance of their administrative action is a matter for their decision".

So we can see that the Department of Justice is bucking the matter back to the Army Officials and I do not know when if ever the Department of Justice would write a letter that would suffice as far as the Department of Army is concerned.

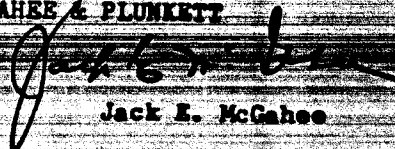
I further asked about the investigation of this matter and Mr. Morton informed me that it is still being investigated, but they hope to finish soon.

So it appears to me now that we have reached the stage where some pressure should be brought to bear in Washington in order to get the Department of Army to lift their ban. I will talk to your office about this letter before it reaches you but were anxious to write it in order to put the quote included therein.

Yours very truly,

McGAHEE & PLUNKETT

By



Jack E. McGahee

JEM/n

2 January 1964

C. G. Gomillion, Chairman
Macon County Progressive Democratic
Committee
308 Bibb Street
Tuskegee Institute, Alabama 36088

Dear Dr. Gomillion:

Thank you for your letter of December 18 regarding McDonald Gallion. I had seen the news stories. If any such appointment is under consideration, which it is not as far as I know, I am sure that Mr. Gallion's views and performance on racial matters will be known and taken account of.

Thank you very much for writing.

Very truly yours,

Burke Marshall
Assistant Attorney General
Civil Rights Division

Air Mail

J. CVR-17
4-7-63) Civil Rights Division

FROM: MAIL AND DOCKET ROOM

- () Assistant Attorney General
- () First Assistant
- (/) Second Assistant
- () Trial Staff
- ()
- () Chief, General Litigation Sec.
- () Head, Const. Rts. Unit
- ()
- (/) Chief, Appeals & Research Sec.
- () Federal Custody Unit
- ()
- () Chief, Voting & Election Sec.
- ()
- ()

REMARKS:

NO DOCKET CARD

FROM

THE OFFICE OF THE DEPUTY ATTORNEY GENERAL

TO

- ☐ ATTORNEY GENERAL
- ☐ EXECUTIVE ASSISTANT
- ☐ OFFICE OF PUBLIC INFORMATION
- ☐ DEPUTY ATTORNEY GENERAL
- ☐ EXECUTIVE OFFICE—U. S. ATTORNEYS
- ☐ EXECUTIVE OFFICE—U. S. MARSHALS
- ☐ SOLICITOR GENERAL
- ☐ ADMINISTRATIVE DIVISION
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- ☐ INTERNAL SECURITY DIVISION
- ☐ LANDS DIVISION
- ☐ TAX DIVISION
- ☐ OFFICE OF LEGAL COUNSEL
- ☐ OFFICE OF ALIEN PROPERTY
- ☐ BUREAU OF PRISONS
- ☐ FEDERAL PRISON INDUSTRIES, INC.
- ☐ FEDERAL BUREAU OF INVESTIGATION
- ☐ IMMIGRATION AND NATURALIZATION SERVICE
- ☐ PARDON ATTORNEY
- ☐ PAROLE BOARD
- ☐ BOARD OF IMMIGRATION APPEALS
- ☐ ATTENTION: _____

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REMARKS:

*Records
Miss Hyde*

Please resign

MACON COUNTY PROGRESSIVE DEMOCRATIC COMMITTEE
308 Bibb Street
Tuskegee Institute, Alabama 36088

December 18, 1963

Att. Gen.

Mr. Robert F. Kennedy, Attorney General
United State Department of Justice
Washington 25, D. C.

Dear Sir:

Enclosed is a clipping from today's Montgomery Advertiser concerning Mr. McDonald Gallion, who, according to reports, is being considered by President Johnson for a position on the Interstate Commerce Commission. This disturbs liberal Democrats and Negro citizens in Alabama. Please note the marked passage: "Gallion is a steadfast segregationist who has often opposed integration attempts. He is, for example, attorney for the private school in Tuskegee."

The private school is the Macon Academy which was organized to accomodate the white high school students who withdrew from the Tuskegee High School when Judge Frank M. Johnson ordered it desegregated.

Note, also, the clause "Gallion attacked the President (Kennedy) in severe if not raw terms."

The proposed appointment should not be made. Please use whatever influence you have to prevent this appointment.

Sincerely,

C. G. Gomillion

C. G. Gomillion
Chairman

cc: Mr. Burke Marshall
Mr. John Doar

Enclosure
CGM

144-2-0
DEC 23 1963
Sec. Lt. Sec.

Ally Adv.
12-18-63

A Friend Remembered

THAT ATTY. GEN. MacDonald Gallion should be under consideration by President Johnson for appointment to the Interstate Commerce Commission is not much short of a spectacular event.

It is also a happy event in that President Johnson is eager to reward Gallion for the support he provided at the 1960 Democratic Convention in Los Angeles. Further, it is good to see Gallion's record of public service recognized in the national sphere.

Gallion has a good name in Alabama and one that is widely known through the three statewide races he has made and for his prominent part in the investigation and prosecution following the assassination of Albert Patterson.

His name is such that he is considered a figure of importance in the 1966 race for governor.

Gallion's views are generally those of the majority of Alabamians.

Viewing the appointment in terms of Alabama, Johnson has had an inspiration. Many would be induced to feel that Johnson meant to be friendly to Alabama.

But what is not clear is how the President expects to soothe those in the northern wing of the party who would be dismayed if not inflamed by the appointment of Gallion.

Gallion is a steadfast segregationist who has often opposed integration attempts. He is, for example, attorney for the private school in Tuskegee.

Moreover, in a speech at Dothan not too long before the assassination of President Kennedy, Gallion attacked the President in severe if not raw terms.

All of this cannot go unnoticed and it seems mathematically predicable that many potent northern liberal Democrats will be disappointed if Gallion is appointed to the Interstate Commerce Commission.

Apart from that, it is good to see Johnson remembering his debt to Gallion. That debt is large.

In 1960 Gov. John Patterson invoked all his influence, energy and elaborate patronage powers to align the Alabama delegation to Los Angeles for Kennedy.

Gallion, largely with his bare hands, became chief of the Johnson drive for delegates in Alabama and got the majority. Of Alabama's 29 votes at the convention, Johnson got 20; Kennedy 3½ (the remainder were divided among other candidates).

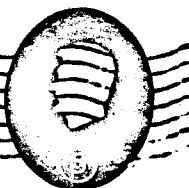
In the course of this, Gallion got to be well known to Johnson.

Gallion made it plain yesterday that it was by no means definite that he was going to Washington. But if he did it would be a big chapter in a notable political career.

The post is important, the term is for seven years and Congress is expected to raise the salary from \$20,000 to \$30,000. Yet acceptance would presumably foreclose forever any chance that Gallion might be elected governor or enter Congress.

Gomillion
TUSKEGEE CIVIC ASSOCIATION
TUSKEGEE INSTITUTE, ALABAMA

VIA AIR MAIL



Mr. Robert F. Kennedy, Attorney General
United States Department of Justice
Washington 25, D. C.

27 December 1963

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

From Burke Marshall

Re: Middle District of North Carolina

I have the following further information about Eugene Gordon. This is from McNeill Smith, who is an excellent white lawyer in Greensboro, and formerly chairman of the North Carolina Advisory Committee to the Civil Rights Commission.

Mr. Smith's first comment was that Mr. Gordon would be pretty conservative on civil rights but may not be impossible. He said that he would check further, and did so.

Mr. Smith talked with a white liberal lawyer from Alamance County, which is where Gordon lives, who is a friend and supporter of Gordon. This lawyer said that Gordon was conservative on the racial question but that he had "mellowed" since the vacancy on the court occurred. Gordon changed his position on the question of permitting Negroes to become members of the local bar association. This man reported to Smith that Gordon did support Beverly Lake in 1960, but that he believed this support was due to personal animosity toward Terry Sanford rather than an agreement with Lake's racial extremism. He further said that Gordon was a good man, not mean, that he would have a "judicious attitude", that he would not want to be reversed, and that he had always gotten along all right with the Negroes in the local Democratic Party organization. In summary, this

lawyer told Smith that he could not give Gordon a clean bill of health on the civil rights question, but that he thought he would be all right, and that he was not an out-and-out segregationist, but only conservative.

Smith also talked with a Negro lawyer in the county who said that he did not believe that Gordon was a segregationist.

Finally, Smith talked with a Negro political leader in the county who said that he believed that Gordon was all right and that he also did not believe that Gordon was a segregationist.

30 December 1963

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

From Burke Marshall

Re: Middle District of North Carolina

I have the following information from Bill Staton, a lawyer in Sanford, North Carolina, who is also a member of the National Committee and a close supporter of Terry Sanford and Judge Preyer. He is politically allied with Bert Bennett and Henry Wilson.

Mr. Staton has known Gordon for a long time. They were in the Army together and they were in fact wounded in the same battle.

He says Gordon is a very capable man and is straightforward, honest and intelligent. He is a chief supporter and close ally of Senator Jordan. He is very conservative in all matters. He has been aligned politically against Governor Sanford since at least 1948.

Mr. Staton says that he has no doubt that Gordon supported Beverly Lake in the second primary in 1960. That primary was concerned almost solely with the race issue, with Lake taking an outright segregationist, racist position, in contrast to Governor Sanford.

Mr. Staton believes that, although it is not clear, Lake will run for Governor again in 1964, and will make the second primary which will take place around June 20. He believes that it would be helpful from that point of view if no appointment is made until after that date.

- 2 -

Nevertheless, Mr. Staton said that he thought Gordon would make a good judge, that he has a good judicial temperament, and that he would be fair on matters involving racial questions.

FROM

THE OFFICE OF THE DEPUTY ATTORNEY GENERAL

TO

- ☐ ATTORNEY GENERAL
 - ☐ EXECUTIVE ASSISTANT
 - ☐ OFFICE OF PUBLIC INFORMATION
- ☐ DEPUTY ATTORNEY GENERAL
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- ☐ TAX DIVISION
- ☐ OFFICE OF LEGAL COUNSEL
- ☐ OFFICE OF ALIEN PROPERTY
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- ☐ PAROLE BOARD
- ☐ BOARD OF IMMIGRATION APPEALS
- ☐ ATTENTION: _____

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REMARKS:

December 27, 1963

Burke Marshall
Civil Rights Division
Rm. 1145

File

20 December 1963

MEMORANDUM FOR THE HONORABLE RALPH DUNGAN
THE WHITE HOUSE

From Burke Marshall

Attached is a news story from The Tuscaloosa News in Alabama reporting a rumor, presumably originating from Gallion, that McDonald Gallion was under consideration for appointment to the ICC.

Gallion was Attorney General for the State of Alabama at the time of the Freedom Rides. He was present at the Montgomery Bus Station, observed a good bit of the riot, served papers on one of the Freedom Riders while he was virtually unconscious from a beating, and in every way obstructed rather than assisted in the maintenance of law and order.

Gallion is reputed to have a good many Klan connections.

If he is ever under consideration for any sort of an appointment, among the people who should be given an opportunity to express their views are Mr. Justice White, who represented the President at the time of the Freedom Ride episode in May 1961, and Louis Oberdorfer, who accompanied Justice White at the time.

VIIIONTA CENEVY
LEBOLA

Attachment

DEC 53 5 03 PM '63

OFFICE OF THE
DIRECTOR

Offer From Johnson?

Gallion Reported in Line For Appointment To ICC

WASHINGTON, D. C., Jan. 10 (AP)—The name of J. Edgar Gallion, 47, of St. Louis, Mo., is being mentioned as a possible appointee to the Interstate Commerce Commission by President-elect Franklin D. Roosevelt.

Gallion, who has been in the St. Louis office of the Federal Reserve Bank since 1934, is a former member of the St. Louis Board of Trade and has been active in the city's business and financial circles.

He is a graduate of the University of Missouri and has served in the St. Louis office of the Federal Reserve Bank since 1934. He is a member of the St. Louis Board of Trade and has been active in the city's business and financial circles.

Gallion is a graduate of the University of Missouri and has served in the St. Louis office of the Federal Reserve Bank since 1934. He is a member of the St. Louis Board of Trade and has been active in the city's business and financial circles.

He is a graduate of the University of Missouri and has served in the St. Louis office of the Federal Reserve Bank since 1934. He is a member of the St. Louis Board of Trade and has been active in the city's business and financial circles.

U. S. DEPARTMENT OF JUSTICE
INTER OFFICE COMMUNICATION

The Deputy Attorney General
Room 4111
Dept of Justice

DO NOT MAIL

DEPARTMENT OF JUSTICE

ROUTING SLIP

NAME	DIVISION	BUILDING	ROOM
1. Frank Dunbarugh			
2.			
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4.			

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☐ AS REQUESTED
☐ NOTE AND FILE
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REMARKS

Any comment?

Happy New Year!

FROM:	NAME	BUILDING, ROOM, EXT.	DATE

* FIRST WE CLOSED OUR SCHOOLS, THEN ONE THING LED TO ANOTHER!

Atlanta Constitution, Atlanta, Georgia

the Economic Consequences

POPULATION OF

could locate
New England and
the pilot plan.
million, estimates the
was thinking in terms of
The Wall Street Journal

HIGH
COST

FROM

THE OFFICE OF THE DEPUTY ATTORNEY GENERAL

TO

- ☐ ATTORNEY GENERAL
- ☐ EXECUTIVE ASSISTANT
- ☐ OFFICE OF PUBLIC INFORMATION
- ☐ DEPUTY ATTORNEY GENERAL
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- ☐ FEDERAL BUREAU OF INVESTIGATION
- ☐ IMMIGRATION AND NATURALIZATION SERVICE
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- ☐ ATTENTION: _____

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REMARKS:

December 27, 1963

Burke Marshall
Assistant Attorney General
Civil Rights Division
Rm. 1145

Frank Dumborg
Any comment?
for

HIGH
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1964
"FIRST WE CLOSED OUR SCHOOLS, THEN ONE THING LED TO ANOTHER."

Atlanta Constitution, Atlanta, Georgia,

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"The pu
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The Wall Street Jour

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LAW OFFICES OF
AYLOR, PORTER, BROOKS, FULLER & PHILLIPS

LOUISIANA NATIONAL BANK BUILDING

POST OFFICE DRAWER 2671
TELEPHONE 348-3221

BATON ROUGE I. LOUISIANA

Bud Marshall

BENJAMIN B. TAYLOR 1888-1958
CHARLES VERNON PORTER 1888-1957
LAURANCE W. BROOKS
JAMES R. FULLER
CHARLES W. PHILLIPS
WILLIAM G. RANDOLPH
BEN B. TAYLOR, JR.
FRANK W. MIDDLETON, JR.
ADA HOTT
ROBERT J. VANDAWORKER
TOM F. PHILLIPS
DAVID M. ELLISON, JR.
FRANK M. COATES, JR.
JOHN I. MOORE
WILLIAM M. MCCLENDON, III
WILLIAM A. NORFOLK

*Mr. Nicholas Katzenbach
Dept of Justice
Washington, D.C.*

Dec 23-63

Merry Christmas -

B. B. Taylor

*P.S. We are trying to turn
this into a steel with
effort -*
B.B.T.

1964
"FIRST WE CLOSED OUR SCHOOLS, THEN ONE THING LED TO ANOTHER."
Atlanta Constitution, Atlanta, Georgia
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Wall Street Journal
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Statement signed by 410 citizens of Baton Rouge, Louisiana
submitted to East Baton Rouge Parish School Board and
Other Officials of City and Parish, April 4, 1960

DECLARATION OF PRINCIPLES

The United States District Court has ordered the School Board of the Parish of East Baton Rouge to present a plan for the orderly desegregation of public schools.

Our School Board has indicated that it will obey this order and will present a plan to the Court. However difficult this task may be, we believe that the School Board will be acting wisely, and in the best interest of the education and safety of our children, by presenting such a plan.

If the School Board should fail to present a plan, as ordered by the Court, this would not prevent desegregation of the schools. In that event, the Federal Judge would have no choice (under established law) but to devise a plan for our schools.

Our School Board was elected to direct public education and preserve our public school system. We believe that an acceptable plan, prepared by our own well-informed School Board, would be less disturbing to our community than a plan provided by the Court.

We support the School Board of this Parish for its dedicated and courageous service in this difficult situation.

Baton Rouge is now faced with the same situation that has recently confronted other Southern cities. This Parish must now choose whether or not it will follow the path of law and order. What is done here now will determine the welfare, and the economy, of the entire Baton Rouge area for years to come.

We believe that the course to be followed, by our people and by our public officials, should be governed by the following principles:

1. Public Education Must Be Preserved.

Our children are entitled to a schooling uninterrupted by violence and danger.

2. Law and Order Must Be Maintained.

This requires compliance with the final decisions of our Courts. Any other course would result in violence and chaos.

3. The Right of Parents to Send Their Children to Private Schools Should Be Recognized.

However, we believe that a private school system cannot become an adequate substitute for the public school system.

We join together in public support of these principles.

W. A. Abercrombie
E. A. Acker
Page W. Acree, M.D.
H. Marvin Adams
W. Wright Adams, Jr.
R. W. Ammon
Budd Anderson
Gordon Anderson
Paul H. Anderson
R. D. Anding
H. Dale Andrews
Wallace F. Armstrong
Paul Arst
W. F. Atwell
C. W. Austin
Boris Bagelman
Andrew Bahlinger, Sr.
J. A. Bahlinger, III
Stephen J. Bailey
Moss M. Bannerman, M.D.
Stan Bardwell
Charles C. Barnard
Lew Barnum
Harry V. Barnes
Kenneth S. Bayless
Joseph Henry Baynard
T. B. Beale, Jr.
Charles Bedell
Fred G. Benton, Jr.
Fred G. Benton, Sr.
Thomas H. Benton
H. B. Berman, Jr.

Warren Berwick
C. A. Beskin, M.D.
George W. Best
F. H. Binning, Sr.
Verdell Blakely
Fred A. Blanche, Sr.
Ralph Bodman
O. Arthur Boehmer
Robert A. Bogan
Emile J. Bourg, Sr.
Robert E. Bowlius
James H. Boyce
Ray Brannon
Leo Brassett
H. Payne Breazeale, Sr.
Hopkins P. Breazeale, Jr.
Robert P. Breazeale
Hubert F. Brennan
Allan R. Brent
Ralph Brewer
L. W. Brooks, Sr.
L. W. Brooks, Jr.
Frederick Broussard
H. E. Brown
Heidel Brown
Paul B. Brown
Walter Brown
H. Alva Brumfield
A. Clark Brundick, Jr.
Jack S. Brum
Walter Brum
Mildred E. Byrd, M.D.

Richard C. Cadwallader
Roland K. Caldwell
Miss Josie Camors
R. Frank Cangelosi
Roy F. Cangelosi, Jr.
Theo F. Cangelosi
Paul G. Carpenter
F. M. Carroll
H. V. Carroll
Arthur L. Carter
Newton Carter
Harry A. Cassidy
N. S. Catchings
Camille Cazédessus
Eugene R. Cazédessus
A. L. Champagne
Sidney Champagne
J. B. Chapman
M. H. Cheeley
Perry L. Chesney, M.D.
Harrie Chusztz
L. G. Cliver
Dudley W. Coates
Frank M. Coates, Jr.
Arthur Cobb
James L. Coffee
Henry Louis Cohn
Joe Cohn
Thomas W. Collins
Lloyd Collette
Charles E. Colvin, Jr.
Charles E. Colvin, III

Clifford C. Comeaux
George J. Comeaux
R. H. Cowlishaw
Frank S. Craig, Jr.
Winston Cundiff
Roy A. Dardenne
George Davis
Herbert C. Davis
John R. Davis
Thomas J. Davis
Murry A. Decoteau
Jacques deTarnowsky
J. Saunders Devall
Clyde P. Didier
Margaret Dixon
P. H. Doherty
W. J. Doran
Charles F. Duchesne
Sam Dupree
Robert Earle
Embrue K. Easterly
L. W. Eaton, Jr.
Leonard B. Edelman
David M. Ellison, Jr.
Wilbur D. Epting
R. A. Erbland
Robert T. Erie
J. B. Eriani
John Ferguson
Gordon Flory

Joseph M. Fornaris
Daniel J. Fourrier, M.D.
J. H. Francis
Charles Frankline
Fred C. Frey, Jr.
Albert Frutchie, Jr.
Alvin Furrow
C. S. Galehouse, Jr.
Sam Galle
Charles Garvey
Owen Gaudier
Edward J. Gay
T. E. Gibbons
Joseph V. Gilbert
William B. Gladney
Edward F. Glusman
Charles A. Gogreve, Jr.
Lewis Gottlieb
Fred J. Grace, Jr.
Lloyd W. Graving
Edward W. Gray
Murphy Gregoire
J. A. Griffith
J. G. Griggs
Davis A. Guymard
Ernest Guymard
R. L. Guidry
M. J. Guilford
Lawrence D. Gulfo, III
Charles W. Guy
Elwood B. Hain
Robert Hall
U. S. Hargrove, M.D.
J. C. Harvey
R. B. Hawthorn
Paul E. Haygood
Don B. Hearin, Jr.
Irvin Heath
A. Leon Hebert
Paul M. Hebert
W. J. Henry
Paul Hernandez
Lee Herzberg
J. S. Heyward
L. J. Hicks
D. B. Hile
J. R. Hill
Dan Hoffman
Wilson B. Holcombe
John Holeman
J. Sidney Holliday
Mack H. Hornbeak
J. C. Hosmer
R. F. Howe
Charles P. Hoyt
J. Elton Huckabay
William J. Hughes, Jr.
F. M. Hurst, Jr.
James H. Hynes
A. R. Johnson, III
D. D. Johnson
Donald L. Johnson
Stuart Johnson
Henry W. Jolly, Jr., M.D.
E. O. Jones
Luther Jordan, Jr.
Gerald Joseph, M.D.
Charles Kane
Byron R. Kantrow
Charles Kantrow

Joseph H. Kavanaugh
John S. Kean
Nolan Keller
John C. Klock
Harold Knox
Allison R. Kolb
Preston V. Kora
Charles A. Kyle
William W. Kyle, M.D.
J. D. Lalonde
Mrs. E. J. Land
Jules P. Landry
K. P. Landry
Leroy P. Landry
Horace Lane
Keith P. Lannous
J. Wesley Leake
W. H. LeBlanc, Jr.
Casey Lee
Harold C. Leonard
Joe Lipsey, Jr.
Joe Lipsey, Sr.
C. P. Lister
E. J. London
C. W. Lovell, M.D.
Charles C. Lynch
Jimmie R. Major
David S. Makin, M.D.
Lawrence Mann
H. H. Manner, Jr.
Charles P. Manship, Jr.
Douglas L. Manship
Maurice A. Maranto
Paul L. Marks, M.D.
George Mathews
William L. May
Louis Mayer, M.D.
Douglas Mayfield
Drew Mayfield
Robert B. McCall
M. Aubrey McCleary, Jr.
Rolfe McCollister
George T. McCollough
Charles W. McCoy
J. Webb McGhee, M.D.
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A. K. McInnis, Sr.
H. L. McKenzie
Henry G. McMahon
E. D. McMillan
E. W. McNeil
Charles McVea, M.D.
Dr. John W. Melton, Jr.
George H. Menefee
O. R. Menton
Frank W. Middleton, Jr.
Troy H. Middleton
Ben R. Miller
W. Barry Mitchell
Willard Mitchell
Aubrey L. Moore
Edward E. Moore
Elbert E. Moore, Jr.
Clifton T. Morris, Sr., M.D.
William A. Morris
Edward Donald Moseley
C. H. Moseley, M.D.
William S. Moss, Jr.
Hermann Moyses, Jr.
Julius Mullins, M.D.

Richard C. Murrell
Beris F. Navrali
J. F. Naylor, Jr.
Caye Nelson, Jr.
Caye Nelson, Sr.
Prewitt Nelson
W. B. Newbold
Glenn Nordyke
W. P. Obier
J. T. O'Brien
Hugh B. O'Connor
Blanchard Odom
Henry G. Ognibene
Glen H. Olds, Jr.
W. J. Oliver, Jr.
Maurice O'Hourk
J. Clifford Ours
Eugene H. Owen
G. T. Owen, Jr.
G. T. Owen, III
Wm. G. Palfrey, M.D.
Robert F. Parish
E. V. Patterson
Roger E. Peak
C. A. Penniman, Jr.
C. B. Pennington
Stanley E. Peters
Hal S. Phillips
Tom F. Phillips
Clint L. Pierson
James F. Pierson, Jr.
Ben F. Pillow
Herbert L. Polk
O. Miles Pollard, Jr.
Harvey H. Posner
Alex Postlethwaite
John Ray Powers, M.D.
Lehman K. Preis
Edwin W. Price, Jr.
Charles Prosser, M.D.
John L. Rabun
W. G. Randolph
Millard G. Redden
Paul Reeves
Kevin Reilly
John S. Reitzel
George H. Raymond
W. P. Raymond, Jr.
J. Henson Robertson
David W. Robinson
J. S. Rockholt
Robert L. Roland
Robert M. Rosenthal
Arthur Ross
I. H. Rubenstein
Alvin Rubin
Joseph A. Sabathier, M.D.
Harry R. Sachse
Victor A. Sachse, Jr.
Victor A. Sachse, III
Edward A. Salassi
Charles E. Schwing
W. B. Seekind, Jr.
Louis Selig
Mortimer J. Stivey, M.D.
McHugh Simmons, M.D.
Ralph H. Sims
Thomas P. Singletary
Shewen Slaughter, M.D.
James Hamilton Smith

J. Paul Smith
Mark E. Smith
Matt C. Smith
Robert W. Smith
T. M. Snylle
Edgar Sowar
Carlos G. Spadt
Edmund O. Spiller
Schely Stafford
J. W. Stanard
L. H. Stander
Joseph W. Starring
John R. Stein
Eric Sternberg
J. C. Stovall, M.D.
W. C. Strader
Edward H. Sutter
Douglas W. Svendsen
Troy A. Svendsen
R. Swartwood
Benjamin B. Taylor, Jr.
Robert C. Taylor
J. Frank Terrell
Charest Thibaut, Jr.
Robert Thibodeaux, Jr.
L. A. Thompson
O. M. Thompson, Jr., M.D.
O. M. Thompson, Sr.
Charles R. Trank
Kemp Tricou
Perry A. Turner
Frank G. Turpin
Elmer A. Uffman
Robert J. Vandaworker
D. W. VanGelder, M.D.
DuBois A. Vann, Jr.
J. R. Vannoy
W. O. Vennard, M.D.
C. W. Voigt
Henry J. Voorhies
Thompson N. Wallace
Gerald L. Walter
W. L. Ward, Jr.
W. L. Ward, III
Warren O. Watson
John F. Waymouth
Merle M. Welsh
E. A. Werner
J. C. Werner
William E. West
R. O. Wheeler
Emerson Whitaker
Herbert E. Wiese
Chester A. Williams, M.D.
Robert D. Williams
R. W. Williams, Jr.
Wilson Williams
Riggs Willie
Charles W. Wilson
Ernest D. Wilson
John Wilson
Maurice J. Wilson
Robert A. Winslow
P. H. Witherspoon
William L. Wolf
Floyd W. Womack
Ira J. Woodfin
Charles H. Zeasah

**Tragedy Seares Off St. Louis
Firm Discourages Efforts
To Lure Industry, Personnel**

By NIEL MAXWELL

BIRMINGHAM - The already bad climate for attracting new industry and executive talent to this city appears to have worsened markedly following Sunday's bombing which killed four Negro youngsters.

First evidence of the blast's damage to Birmingham's economic hopes came within 24 hours. "We had a hot prospect from St. Louis for a plant and figured we'd have the deal wrapped up in a week or two," says an official of a firm trying to lure new business here. "But he called me Monday morning and said the deal was off. I couldn't even talk to him; he just didn't want any part of Alabama."

The harmful impact of racial strife on economic growth has been felt here since last May, when fire hoses and police dogs were used against Negro civil rights demonstrators. Sunday's tragedy has greatly disheartened some business leaders who have been trying to remedy the situation.

"We haven't had a commitment for a new industry all summer, but we had hopes that things were going to improve," says Glenn E. Taylor, a Birmingham Chamber of Commerce official in charge of attracting industry. "I was planning to take a trip next week to contact some prospects. But what's the use now?"

"A Red Turner"

"This is a bad time to try to advertise our wares," says Caldwell Marks, chairman of a committee of 100 businessmen set up to bring new business here. "We're going to have to prove what kind of a city we have first."

"We thought we were beginning to see a little interest by some prospects, until the school situation and the bombing came along," Mr. Maras adds. "This is going to have a bad effect—how bad depends on whether we can catch and punish the ones responsible for blowing up that church. Right now Birmingham looks like a lawless city to some outsiders."


Many local businessmen blame the combination of stunted industrial growth and continued racial unrest for recent sharp drops in department store sales. Such sales were off 20% in the Labor Day holiday week ended Sept. 7 from the like week a year earlier and off 14% for the four weeks ended then, according to Federal Reserve statistics.

"When people are concerned about their community, and their minds are taken up with the problem of that community, there is a change in buying habits," says one merchant. "This thing is affecting every phase of our business, social and civic life."

Hindering Recruiting

Business and professional men complain that Birmingham's racial problems also have been hindering their efforts to recruit personnel. "I've had an executive position open for three months," says a bank president. "I thought I had it filled once, but then I got a note from the man I was negotiating with. All he said was: 'I don't want to live in Birmingham, Alabama.'"

A doctor who is a partner in a clinic says: "We've got a doctor lined up to come down here from the Dakotas next July. I've been thinking all afternoon about calling him to assure him that we're still practicing medicine down here and not to be scared off by what he reads in the papers."



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Alabama businessmen are convinced t

"The racial situation has kept some people from joining our faculty, even though we offered them a greater opportunity than anywhere else," says Dr. Richard Hill, dean of the University of Alabama Medical Center here. "One doctor had already decided this was the best place for him. But after he talked it over with his family he decided against it."

Birmingham has been spared any major violence since Sunday. But sporadic incidents, such as stoning of autos, have generated continued fear and tension. "People are simply afraid to go out at night," says Pete Kaskorian, vice president and general manager of the Colony Motor Hotel, which operates two restaurants. "My food business has gone to nothing in the past three days—it's off 40% to 50%."

The manager of one of the city's largest and oldest downtown theaters complains: "Business is worse this week than it has ever been since the theater opened." A major department store reports: "Our business Monday and Tuesday was off 20% to 25%."

But many business leaders are hopeful that the city's current state of shock will be followed by a long period of calm. The president of one company says: "We're going to be all right if we can just get Martin Luther King, Gov. Wallace and President Kennedy out of here and keep them out."

The most obvious injury is to the cause of those who seek to enice
industry to Alabama to create payrolls and provide the material
so long denied by the Civil War and its aftermath.
disc dereliction in Birmingham probably shrank business
the city.
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The Business Community

Business officials in Alabama corroborate the immediate economic effects of the violence in Birmingham. "In the last few days, I bet I've spent more time than I have in the last year trying to convince a top official of the state's largest bank, 'We've been hurt and hurt bad,' declares a big Ohio company that is planning a telephone call to Birmingham. But I'm afraid we've lost it to a plant in Alabama. The first stage was scheduled to cost about \$3 million and if it had worked out, the company would have invested about \$40 million to \$50 million."

PHIL WITTE

HIGH COST

COST OF CONFLICT

the Economic Consequences of School Closings and Violence

Alabama businessmen are convinced the State's

HIGH COST OF CONFLICT

EXPANDING SIANA DRIVE

All Parishes Will Become
Targets, Farmer Says

By JACK LANGGUTH

Special to The New York Times

PLAQUEMINE, La., Aug. 31—The state capital, which is a major center of the country's oil industry, is the national director said today.

James Farmer, who faces trial Tuesday for his part in demonstrations here, said:

"So far, New Orleans and Baton Rouge have been the only cities where progress has been made. Now, we're not going to leave out any part of Louisiana."

He said Plaquemine, a small town across the Mississippi from Baton Rouge, will be the state headquarters for CORE. A number of national staff members from the organization then to attempt to circumvent the ruling. Assuming that Baton Rouge would be the next battleground, he added four members, all staunch segregationists, to the East Baton Rouge Parish School Board.

Last year, when the new members came up for election, one did not run and the other three were defeated. Observers credit the city's moderation to several factors. One is that Louisiana State University and Southern University, a Negro institution, are both located here. Another is that the prosperous oil industry has brought money and jobs to Baton Rouge.

Also, the parish (county) has a large Roman Catholic population. Although Catholic schools remain segregated, integration of the 11th and 12th grades has been scheduled for 1964. And the two newspapers and a television station, owned by the Manship family, are generally praised by Negroes for their fairness.

Under the plan approved this year by United States District Judge E. Gordon West, only the 12th grade is being integrated. Each successive year, a lower grade in white schools will be opened to Negroes for transfers. School Superintendent Lloyd Lindsey approved the application of 28 of the 38 seniors who applied for the fall term. Negro leaders suggest that the other 10 were turned down as a sop to the segregationists. Mr. Lindsey denies the charge. "In most cases," he said, "academic achievement was just too low."

The superintendent's own position is difficult. He was chosen by the Governor's appointees had tipped the balance on the 11-member board toward the segregationists. It was widely as-though Mr. Lindsey training and guidance were for

Other mentioned were Douglas L. Manship, president and general manager of WBRZ-TV, who was praised for his editorial leadership for law and order, and B. R. Taylor, local attorney who cited the community's efforts to form a committee and the holding of a list of 100 business and

Several flashbacks of President Kennedy at his news conference last week were tied in with the show. The President had visited 150 cities in the South in recent desegregation moves. Kennedy called it an impressive story of great credit on South-

Who but respect for the

Baton Rouge Faces New Test As Schools Integrate Tuesday

Both Negroes and Whites Are
Uneasy on Desegregation
of 12th-Grade Classes

By JACK LANGGUTH

Special to The New York Times

BATON ROUGE, La., Aug. 31—This state capital, which overruled its Governor and Legislature to preserve moderate racial policies, faces another test Tuesday when 28 Negro students enter white

schools for the first time. Nobody expects trouble. But Negro and white leaders are uneasy, remembering the frantic days three years ago when New Orleans received Federal court orders to integrate schools.

Gov. Jimmie H. Davis called five special Legislative sessions members from the organization then to attempt to circumvent the ruling. Assuming that Baton Rouge would be the next battleground, he added four members, all staunch segregationists, to the East Baton Rouge Parish School Board.

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Who but respect for the



Judge E. Gordon West, who approved integration plan.

such statement—that he was dedicated to preserving segregation.

The board is controlled again by moderates, with Ben Peabody as its chairman. Mr. Peabody, who is completing his 13th year on the board, scoffs at labels.

"I suppose we're all really segregationists," he said, "but anyone who campaigned last year with a promise to keep the schools open became a moderate." He said he has lost white customers at the service stations he operated "because they think I'm a nigger lover."

Events of the spring and summer have bolstered confidence that Tuesday will pass quietly. A committee of 15 whites and 15 Negroes appointed by Mayor John J. Christian has moved quickly. Racial signs have been removed from drinking fountains and rest rooms in public buildings. Three Negro policemen have been hired and 12 lunch counters have been desegregated.

Another gain for Negroes came last April when 410 prominent whites of Baton Rouge signed a "declaration of principles." Flatly, the group said that public schools must stay open and that the courts must be obeyed.

About a third of the city's 156,232 population is Negro. Schools for Negro children are for the most part, well constructed and maintained.

But Raymond Scott, who heads a local Negro action group called FOCUS, said that no Negro school offered trigonometry, and that language instruction and vocational training and guidance were for

Trouble-Free School Mixing Draws Praise

Students and parents drew praise Wednesday from school officials as a second day of desegregation went on without incident.

Students and parents drew praise Wednesday from school officials as a second day of desegregation went on without incident.

At the end of the school day, taxicabs awaited the Negro 12th graders outside each school, and the Negroes left without incident.

In the second day, not even the few taxicabs who showed up earlier at Istrouma High School and Lee and Baton Rouge High schools.

"You couldn't ask for a finer student body than this one," commented Principal Ellis Brown of Istrouma.

Students "are conducting themselves like ladies and gentlemen," said Principal Pat C. Lambert of Glen Oaks.

"Everything is going fine," said Principal C. G. McGeehee of Lee.

Principal Dennis Burge of Baton Rouge High said, "We have no problems."

Lloyd Lindsey, parish school superintendent, said everything was fine and officials were grateful.

One of the original 23 Negroes who started Tuesday was disqualified as not being a senior, but another enrolled during the day. Lindsey said there had been a mixup in the records.

Most Negro students arrived again Wednesday in taxicabs, one or two in family automobiles.

School officials said attendance continued near normal at the schools.

All the Negro students who transferred to white high schools were seniors, since a federal court approved a reverse staircase plan for desegregation. One grade downward each year will be desegregated.

Police Chief Wingate White said the number of policemen assigned to the three schools within the city limits was reduced. Two sheriff's deputies remained on duty at Glen Oaks, located in a suburban area.

There was no evidence of any FBI agents at the schools.

McGeehee said he and principals of the other three integrated high schools have agreed to take a "wait and see" attitude before making any decision on possible curtailment of social activities at the schools.

Burge said "earlier he would play it by ear" with reference to social activities.

Emmett said no disciplinary action was taken against Mrs. Ethel Falconer, a Glen Oaks school bus driver, who staged a minor protest of her own at the school Tuesday.

MORNING ADVOCATE, Baton Rouge, La., Sept. 1, 1963

TV Program Praises BR's Peaceful Mixing

A national television program seen over a local station Tuesday evening praised the community's race relations program and peaceful desegregation of four white high schools in the city.

The half-hour long Huntley-Brinkley report devoted about seven minutes to Baton Rouge's racial relations program.

Chet Huntley, one of the commentators and producers of the show, introduced the report on the capital city by remarking:

"What has been happening in Birmingham has assured what has happened in Baton Rouge."

Spotlighted in the program were several leaders of the newly formed biracial committee, James L. Winfree, chairman; Leon Netterville, vice chairman; Rev. T. J. Jemison, Negro minister and member; and Raymond Scott, white businessman.

Other mentioned were Douglas L. Manship, president and general manager of WBRZ-TV, who was praised for his editorial leadership for law and order, and B. R. Taylor, local attorney who cited the community's efforts to form a committee and the holding of a list of 100 business and

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Something is likely to happen soon...can't say just when, but SOON.

We talked with a number of Negro leaders this past week in Washington and they told us that the tempers are heating up again. There's a current of dissatisfaction among Negroes about how things are going in Congress.

Another march on Washington... Instead, delegations to Congress, small groups of Negroes to express the urgency on rights, jobs, housing.

Local demonstrations... "marches" in a number of cities and towns. New boycotts and picketing of "lily-white" companies to force businessmen into supporting civil rights laws with sharp teeth in them.

Even "general strikes" are now being talked...city by city... all Negro workers hitting the bricks as a protest against the inaction.

The fear of violence weighs heavily on responsible Negro leaders.

KIPPLINGER

DEPARTMENT OF JUSTICE.

HONORABLE MACOM L. WEAVER
UNITED STATES ATTORNEY
354 FEDERAL BUILDING
BIRMINGHAM 3, ALABAMA

PLEASE PROCURE THE TEXT, CITATION, DATE, ANY AMENDMENT OR
REPEAL, OF ANY PRESENT AND PAST ORDINANCES ^{in Birmingham & Gadsden} GOING BACK TO
1865, PERTAINING TO RACIAL SEGREGATION, DISCRIMINATION,
SEPARATION OF THE RACES, OR EXCLUSION OF NEGROES IN
RESTAURANTS, HOTELS, INNS, THEATERS, PLACES OF AMUSEMENT,
PUBLIC TRANSPORTATION FACILITIES (INCLUDING RAILROADS,
BUSES, AND STREETCARS), AND PLACES OF PUBLIC ACCOMMODATION
GENERALLY, AND ANY OTHER ORDINANCES PURPORTING TO PROVIDE
FOR THE RACIAL SEGREGATION OF PRIVATELY-OWNED FACILITIES.
~~WITH RESPECT TO BIRMINGHAM AND GADSDEN.~~ THIS MATERIAL
SHOULD BE FORWARDED AS SOON AS RECEIVED BUT IN ANY EVENT
NOT LATER THAN MONDAY, JANUARY 6, 1964. IF YOU HAVE ANY
QUESTION OR PROBLEM CALL ME OR ASSISTANT ATTORNEY GENERAL
DURKE MARSHALL.

Harold M. Greene, Chief
Appeals and Research Section

2175

12/30/63 7:00 P.M.

20 December 1963

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

From Burke Marshall

Re: Eugene Gordon -- Middle District of North
Carolina

A preliminary check indicates that there may be a serious question about this appointment from the point of view of Mr. Gordon's views on racial matters and the equal protection laws.

I have made initial inquiries through John Wheeler, a Negro banker in Durham, who is a man of great integrity and tolerance. He is presently a member of the President's Committee on Equal Employment Opportunity.

Mr. Wheeler discussed Mr. Gordon with a number of Negroes in North Carolina, who in turn checked with both Negro and white citizens in whom they had confidence. Mr. Wheeler himself talked to about a dozen persons, including three lawyers.

Mr. Gordon was reported to be a competent lawyer. Mr. Wheeler got only negative reactions, however, on Gordon's attitude on civil rights. Mr. Gordon is reported to have supported Beverly Lake, a militant segregationist, in the gubernatorial race against Terry Sanford in 1960. Mr. Wheeler is informed that Gordon is still strongly allied with Lake, and is politically

aligned with extremely conservative segregationists. There is accordingly, Mr. Wheeler states, deep concern about the possible appointment in the liberal groups of North Carolina.

I am continuing to get the facts on this matter.

CLASS OF SERVICE

This is a fast message unless we deferred character is indicated by the proper symbol.

WESTERN UNION

TELEGRAM

W. P. MARSHALL

EF-1201 (1-65)

SYMBOLS

DL = Day Letter

NL = Night Letter

LT = International Letter Telegram

The time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination.

141P EST JAN 1 64. PA141

P WA362 PD WASHINGTON DC 1 117P EST.

BURKE MARSHALL, CIVIL RIGHTS DIVISION JUSTICE DEPT

15 EAST MELROSE AVE CHEVYCHASE MD

WE DEMAND IMMEDIATE INTERVENTION BY THE JUSTICE DEPARTMENT TO PROTECT THE LIVES OF 14 PEACE WALKERS IN JAIL NOW IN ALBANY GEORGIA. THESE PEOPLE ARE BEING TORTURED WITH CATTLE PRODS FOR DEMANDING RIGHTS GUARANTEED BY THE UNITED STATES CONSTITUTION AND PRESUMABLY ENFORCED BY THE JUSTICE DEPT. WE REMIND YOU. THAT THE JUSTICE DEPT HAS PROSECUTED CIVIL RIGHTS WORKERS IN THIS SAME CITY. IF THE DEPARTMENT CAN INTERVENE WHEN LIVES WERE NOT INVOLVED, SURELY IT CAN INTERVENE TO STOP HEINOUS TORTURE BY BRUTAL POLICE OFFICIALS IN ALBANY WE AWAIT WORD FROM YOUR OFFICE BEFORE ACTING

JULIUS W HOBSON SOUTHEAST REGIONAL DIRECTOR CONGRESS OF RACIAL EQUALITY

Answered



Office of the Solicitor General
Washington, D. C.

December 18, 1963

NOTE FOR:

Messrs. Marshall, Spritzer, Greene and Claiborne

Attached is a summary of my present tentative analysis of the "sit-in" cases.

It might be helpful to read it before our meeting at 11 a.m., Wednesday (this morning).

Archibald Cox

Attachment

P.S.

Burke:

Just for your information.

A.C.

Zethine

Glen Echo

(2) purpose of restaurant

(3) ~~the~~ limit to growth
public administration

Introduction and Summary of Argument

The fundamental issue in these cases is, under what circumstances and to what extent does the Fourteenth Amendment bar State enforcement of racial segregation in privately owned and operated places of public accommodation or entertainment. Millions of Negroes are subjected to racial discrimination in private businesses open to the general public. The "sit-in" demonstrations leading to these convictions were part of a widespread peaceful protest against the practice. Petitioners claim that the involvement of the States in their arrest, prosecution and conviction is enough to violate the Equal Protection Clause. Respondents, on the other hand, invoke the freedom and responsibility of individuals to make their own decisions concerning the use of private property and the choice of associates. In a civilized community, they say, where legal remedies have supplanted private force, private choice necessarily depends upon the support of sovereign sanctions, and consequently, when the State does no more than protect the owner against all unwanted and unprivileged intrusions, there is no denial of equal protection of the law.

In the Civil Rights Cases, 109 U.S. 3, 11, the Court drew a fundamental distinction between a State's denial of equal protection of the law and a private enterprise's discriminatory conduct, however odious:

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the Amendment.

We fully accept the fundamental distinction. The key to the resolution of the present conflict lies, we believe, in a full appreciation of the nature and sources, in many States, of the practice of subjecting Negroes to the stigma of segregation in places of public accommodation and entertainment. For when the true nature and sources of the practice are understood, it becomes apparent that the convictions at bar should be reversed upon grounds fully consistent with the distinction supported only by color-blind State remedies between private discrimination and State denial of equal protection of the laws.

For some purposes, an isolated refusal to permit a Negro to sit at a lunch counter open to white members of the public can be fairly described in legal concepts as a private businessman's exercise of the right to choose his

customers, or as a property-owner's exercise of the rights to choose whom he will permit on his premises or in specified areas. In these terms the practice of racial segregation in places of public accommodation seems to be no more than a series of private choices concerning the use of private property and the conduct of private business, all running in the same direction but nonetheless non-governmental. For the purposes of the Fourteenth Amendment, however, such a description is as inaccurate as it is incomplete when applied to widespread customary segregation in virtually all places of public accommodation and entertainment in States which adopted and enforced policies of segregation in order to maintain the inferior status of the former slaves.

In the first place, segregation is enforced in places of public accommodation and entertainment as a stigma of inferiority--a badge of a subjection--the cruel function of which is to brand Negroes a caste not entitled to social or political equality with other people. The bare legal concepts are no more adequate to describe the truth of segregation in this context than chemical formulas to describe a man. Hitler's pogroms were more than assault, battery and

the malicious destruction of property. Auschwitz was not merely homicide.

Here, we are dealing with the most casual and evanescent of all business relationships. Places of public accommodation serve any orderly person, always and automatically, up to their capacity, except those branded as members of an inferior race. There is none of the continuity or selectivity that enters into employment; and none of the personal contact or need for mutual trust, confidence and compatibility that characterizes the doctor-patient and lawyer-client relationships. The virtual irrelevance of the legal concepts of private property and choice of customers is vividly demonstrated by the practice of many department stores. They solicit the patronage of Negroes, invite them onto the property and into the store, make sales in all departments but then deny them the privilege of breaking bread with other men. Manifestly, it is the stigma--the brand of inferiority that is important, not the use of the premises or choice of customers.

Second, the practice of segregation as a mark of inferiority was fostered and promoted by State action in the narrowest sense of the term. State statutes and municipal

ordinances, on a wide scale, required segregation in places of public accommodation, upon common carriers, and in places of public entertainment. State laws provided for segregation in related areas such as schools, court houses and public institutions. State policy has long expressed, in countless other ways, the notion that Negroes should be treated as an inferior caste. In every real sense, the custom of segregation is a product of State action.

These two critical elements, especially the second, distinguish the Civil Rights Cases from the cases at bar.

The objection will be raised that the laws commanding segregation have been repealed, that the laws in related areas are falling into disuse, and that today discrimination or segregation in places of public accommodation is the result of the proprietor's private decision uncoerced by State action. The fact that many proprietors share the same prejudice, it will be said, cannot destroy their individual right to choose; and State violations of the Fourteenth Amendment sometime in the past cannot deprive the individual proprietors of their private right once the unconstitutional State action has ceased. The repeal of the unconstitutional law, the argument concludes, takes the State out of the picture.

The operation of the Fourteenth Amendment is not shut off so easily. The Amendment was concerned not merely with what a State did, but with the effect of the State's action upon the opportunities for the former slaves to become equal with other men. It was concerned with conditions--with denials of equal civil rights as a consequence of State action. The right to equal treatment in places of public accommodation is one of the fundamental rights the Amendment was intended to secure against all forms of denial as a consequence of State action. The consequence does not end when the State action ceases. We do not suggest that the victim of the discrimination has a right to service that he can enforce against the proprietor of the private establishment. Our case is pitched upon the much narrower proposition that so long as the custom of practicing discrimination against Negroes in places of public accommodation survives as a proximate consequence of earlier discriminatory State laws, Congress has power to enact legislation appropriate to remedy the violation and the State may not, without a further violation, lend the aid of its police or courts to support the discrimination. In such cases the State is involved both in creating the

discriminatory practice and in supporting it by the criminal prosecution. It cannot say that the State's only involvement has been color-blind.

Whether an individual's discrimination against Negroes is to be regarded as a proximate consequence of the State's earlier violations of the Fourteenth Amendment presents a question of degree that can be resolved only by consideration of all the relevant circumstances. That the immediate decision to discriminate is private is inconclusive; the Amendment is violated if the State in any of its manifestations is sufficiently involved. Thus, a State may not enforce, by injunction or damages, a restrictive covenant against the sale of a parcel of real estate to non-Caucasians even though the covenant was the product of voluntary negotiations. Shelley v. Kramer, 334 U.S. 1; Barrows v. Jackson, 346 U.S. 249. Nor may a municipal corporation serve as trustee under a charitable trust the terms of which, as executed by the private settlor, call for discrimination against Negro children. In Burton v. Wilmington Parking Authority, 365 U.S. 715, the Court held that the Equal Protection Clause was violated when a restaurant, privately owned and operated, refused to serve Negroes in the space it

rented in a municipally owned and operated parking facility. In Lombard v. Louisiana, 373 U.S. 267, even though the law left restaurant owners freedom to choose, it was enough that the Mayor and Chief of Police issued statements condemning demonstrations against the practice of racial segregation.

The central fact here is that the States commanded segregation for many years on a wide front. Between State policy and the prejudices and customs of the dominant portions of the community there was a symbiotic relation. The prejudices and customs gave rise to State action. Legislation and executive action confirmed and strengthened the prejudices, and also prevented individual variations from the solid front. State responsibility under such conditions is too clear for argument even though segregation might be the proprietor's choice in the absence of legislation. Peterson v. Greenville, 373 U.S. 244.

State responsibility should not end with the bare repeal of laws commanding segregation in places of public accommodation. Having shared in the creation of a practice depriving Negroes of the kind of equality the Fourteenth Amendment was intended to secure, the State cannot turn its

back and deny involvement through the momentum its action has generated. The law is filled with instances of liability for the consequences of negligent or wrongful acts. Until the connection between the wrong and the consequences becomes too attenuated. [Citations.] Nor can the State claim to be like an innocent bystander. Even one who without fault puts another in danger of injury has a duty to act to prevent the danger from eventuating or to minimize the damage if harm occurs. [Citations.] One who makes an innocent misrepresentation must communicate the truth to the recipient as soon as he learns that the representation was false. [Citations.] Similarly, until time and events have attenuated the connection, the State continues to bear responsibility for the conditions it has shared in creating that result in branding Negroes as an inferior caste.

~~In deciding whether the connection is too attenuated~~
~~it is relevant~~ There can be little doubt even today that the practice of maintaining racial segregation as a stigma of imposed inferiority is, in many States, a consequence of the State's antecedent action.

We recognize that treating the practice as a consequence
of State action for the purposes of imposing a measure of

State responsibility will, to a corresponding extent, lessen the opportunities and/or protection for private choice.

Judgments concerning "legal cause" and the resulting legal responsibility inevitably involve considerations of policy.

Here it is relevant to consider that we are dealing with businesses essentially similar to the public callings traditionally subject to the duty to serve all members of the public without discrimination. Whether to impose the duty is a matter for State law, and we do not mean to suggest that wherever a State has power to regulate a business so as to eliminate racial discrimination, its failure to exercise the power violates the Fourteenth Amendment. Our point is the much narrower submission that in deciding whether to hold that discrimination is the product of earlier State action, which would to some extent curtail individual freedom, it is relevant to consider that these are all businesses already subject to detailed regulation in the public interest.

"The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it." Marsh v. Alabama, 326 U.S. 501, 506.

It is also relevant, we submit, that the only private right ~~invoked~~ invoked in behalf of these businesses that have voluntarily dedicated their property to public use is the right to impose a stigma of inferiority. As pointed out above, the relationship between restaurant and patron involves neither the continuity nor the mutual trust, confidence and compatibility of professional relationships. The operator makes none of the judgments concerning reliability, competence and personal acceptability formed by an employer in selecting employees. And surely it cannot be seriously argued that the operator has any desire to close his property to the use of Negroes except as a means of branding them an inferior people.

There can be little doubt of the power of Congress to legislate under the Fourteenth Amendment with respect to widespread racial discrimination in places of public accommodation. The Amendment was intended to grant power to enact broad civil rights legislation in situations in which the States had denied the freedom of equal protection of the laws. Congress is not limited under Section 5 to inhibiting the State's violations. It has the power to secure the right to civil equality by dealing with the consequences of the violation. Section 5 of Amendment XIV(a),

like the "necessary and proper" clause in Article I, ~~must~~ carries authority to enact any measure suited to remedy unconstitutional State action even though it may have wider ramifications. The controlling principle was stated by Chief Justice Marshall in McCulloch v. Maryland, 4 Wheat. 421:

"The sound construction of the Constitution must allow the national legislature that discretion, with respect to which the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

While the choice of an affirmative remedy may rest with Congress, a State which has fostered the practice of racial segregation in places of public accommodation as a stigma of racial inferiority, and which thus has created a condition in which Negroes are denied the equality with other members of the public that the Fourteenth Amendment was intended to

secure, may not, without further violating the Fourteenth Amendment, lend the aid of its law enforcement agencies and courts to the preservation of that unlawful condition. Whether the Negroes would have a direct action against such an establishment to secure the services of food or admission to entertainment need not be decided; possibly there would be no affirmative relief in the absence of congressional legislation. Our contention is simply that a State that has created this unworthy custom by earlier laws may not constitutionally take steps to preserve it when invoked by public establishments without the compulsion of earlier laws. By the same token, a State would violate the Fourteenth Amendment if it gave the owners of such establishments a privilege of self-help in ejecting the members of the public against whom they desired to impose the unlawful stigma.

Mr. David C. Acheson
United States Attorney
Washington, D. C.

December 17, 1963

JWS
John W. Douglas
Assistant Attorney General
Civil Division

Dave, I just wanted to make sure that in defending Senator Eastland and Mr. Sourwine we don't attempt to defend the actions of the Louisiana police. As I understand it, Joe Hannan would be getting affidavits from the Louisiana police officials which would support our contention that neither Eastland nor Sourwine had participated in or knew anything about the arrest and seizure by the Louisiana authorities. It seems to me that the affidavits should be confined to this point and should not get into the reasons or justification for the Louisiana police action.

I'm sure that both you and Joe have the foregoing in mind, but I thought that you wouldn't mind if I remind you again of my concern.

bcc: Mr. Nicholas deB. Katzenbach
Mr. Burke Marshall ✓

December 17, 1963

Mr. Harold W. Pfautz
Professor of Sociology
Brown University
Providence 12, Rhode Island

Dear Professor Pfautz:

If you wish to make arrangements to come down here, I think I would be able to make at least a good deal of our underlying data available. I do not know whether they would be sufficient to support a research project, but the events of 1963 in street and student demonstrations are certainly of historical interest. I would be glad to discuss the matter with you.

Very truly yours,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

Dear Professor Pfau:

If you wish to make arrangements to use some here, I think I would be able to make at least a good deal of our underlying data available. I ~~do~~ do not know whether ^{they} would be sufficient to support a research project, but the events of 1963 in that and student demonstrations are certainly of historical interest. I would be glad to discuss the matter with you.

Sincerely yours,

FROM
DIRECTOR OF PUBLIC INFORMATION
OFFICE OF THE ATTORNEY GENERAL
to
Official indicated below by check mark

Attorney General	
Deputy Attorney General	
First Assistant Deputy Attorney General	
Executive Office For U. S. Attorneys	
Executive Office For U. S. Marshals	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Office of Legal Counsel	
Assistant Attorney General, Internal Security	
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Supplies and Printing Section	
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Director, FBI	
Assistant to the Director - Room 5640	
Director of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Librarian	

MEMORANDUM

12/13/63

Burke: It won't hurt to be helpful, if it doesn't interfere too much with your office routine.

A letter from Norman Thomas is attached which has no connection with this inquiry. Incidentally, I don't remember ever seeing Prof. Mautz' original letter.

PM

1-96
437

DEPARTMENT OF JUSTICE
ROUTING **P**

NAME	DIVISION	BUILDING	ROOM
Ed Guthman			
2			
1		RECEIVED	
4			1153

☐ SIGNATURE

☐ APPROVAL

☐ SEE ME

☐ RECOMMENDATION

☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____

☐ PREPARE REPLY FOR THE SIGNATURE OF _____

☐ COMMENT

☐ NECESSARY ACTION

☐ NOTE AND RETURN

☐ CALL ME

☐ PLR CONVERSATION

☐ AS REQUESTED

☐ NOTE AND FILE

☐ YOUR INFORMATION

REMARKS

What is your advice?

see check



BROWN UNIVERSITY
Bicentennial 1764-1964
PROVIDENCE 12, RHODE ISLAND

DEPARTMENT OF
SOCIOLOGY AND ANTHROPOLOGY

December 9, 1963

Mr. Burke Marshall
Assistant Attorney General
Civil Rights Division
Washington, D. C.

Dear Mr. Marshall:

Thank you for your letter of December 7. I appreciate very much your taking time to provide me with the data which you included in your letter.

My primary interest in writing was to inquire as to whether it would be possible for me to obtain access to your data (i.e., your clippings and your reports). This, of course, would involve my coming to Washington. If I can obtain access to the data, however, I plan to write up a research proposal and obtain the necessary funds for travel and analysis from some Foundation.

Thanks again for your interest. Needless to say, I would appreciate very much having an answer at your earliest convenience.

Sincerely yours,

Harold W. Pfautz
Harold W. Pfautz
Professor of Sociology

HWP/C

*Ed Guttman:
what is your
advice?
for*

Linda-

*find per correspondence on this.
attached*

*has no info.
on Guttman. 12/13/63
D.D.*

University Hall, 1770, A National Landmark

