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144-3-0
No Doc.

Honorable A. Sydney Herlong, Jr.
Member of Congress
United States House of Representatives
Washington 25, D. C.

Dear Congressman:

The Attorney General has asked me to reply to your letter of October 25, concerning reports that vehicles rented by the Department of Justice were used to transport Reverend Martin Luther King, Jr., around Alabama. On the 18th of October we issued the following statement. I think that it will completely answer your inquiry. Of course, any effort at all by Sheriff Clark or Governor Wallace to ascertain the true facts would have made these false reports unnecessary in the first place.

> The reports that automobiles rented by the Department of Justice were used to furnish transportation for Reverend Martin Luther King in Alabama are either a gross mistake or a deliberate attempt to mislead the people of Alabama.
>
> We are setting forth all the facts so that there can be no misunderstanding although we issued a complete denial on Wednesday.
>
> Attorneys for the Department of Justice on duty in Alabama and elsewhere in the

cc: Records
Chrono
Doar
Putzel
Trial File

United States frequently rent automobiles. In recent weeks, Department attorneys have rented two automobiles in Alabama -- one a 1963 blue Chevrolet Impala and the other a 1964 white Ford Galaxie.

It has been reported that the 1963 Chevrolet was used to take Reverend King from Birmingham to Selma on October 15. This car had been rented by Kenneth McIntyre, a Department attorney, but was being used by Thelton Henderson, another Justice Department attorney.

At about 5:15 p.m. on October 15, Mr. Henderson went to the Gaston Motel to interview Reverend King at the specific direction of the Department of Justice. At that time Dr. King was at a meeting at the Gaston Motel. When Dr. King came out of the meeting, Mr. Henderson asked to speak to him. Dr. King replied that he was late and had to go immediately to the New Pilgrim Church in Birmingham. Henderson offered to drive him there if he could interview him on the way and Dr. King agreed. Henderson left the Gaston Motel at 5:30 p.m. and let Dr. King off at the New Pilgrim Church at 5:40 p.m. Henderson then returned to the Gaston Motel. The Chevrolet never left Birmingham that night.

We have learned that Reverend King was driven to Selma in a Chevrolet similar to the one rented by the Department of Justice. However, it was a privately-owned vehicle and was not the one used by Mr. Henderson.

It has been reported that later on October 15, Reverend King was driven from Selma

to Montgomery in the 1964 Ford which also was rented by Mr. McIntyre. Mr. McIntyre rented the Ford in Montgomery at 8:41 p.m. on October 15 and drove to Craig Air Force Base near Selma, checking into the Base at 9:35 p.m. Thereafter, neither Mr. McIntyre nor the Ford left Craig Air Force Base that night. Mr. McIntyre does not know Reverend King and has never met him. The Ford remained overnight in Selma and the following morning John Doar, First Assistant Attorney General in charge of the Civil Rights Division, drove the Ford to Tuskegee and then back to Montgomery. We have been informed that Reverend King drove from Selma to Montgomery in a privately-owned Cadillac.

It is obvious from these facts that neither the Chevrolet nor the Ford, nor any other car rented by the Department of Justice, was used to transport Reverend King. The reports to the contrary are false. Any efforts to ascertain the truth would have revealed these facts.

Very truly yours,

Burke Marshall
Assistant Attorney General
Civil Rights Division

144-3-0

November 6, 1963

Honorable Kenneth A. Roberts
House of Representatives
Washington 25, D.C.

Dear Congressman Roberts:

I regret to inform you that the information I furnished to you concerning reports that vehicles rented by the Department of Justice were used to transport Reverend Martin Luther King around Alabama was in part inaccurate.

The enclosed statement corrects the inaccurate information which I earlier furnished you.

The Department is issuing a statement to this effect today. If you have any further inquiries about this matter, I would be happy to answer them for you.

Very truly yours,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

BY HAND

Attachment

cc: Records
Chrono
Marshall
Doar
Trial File (1345)

NOV 5 1963

T. 11/4/63
BM:sb
144-3-0 No Dm.

Honorable Robert E. Jones
Member of Congress
United States House of Representatives
Washington 25, D. C.

Dear Congressman:

The Attorney General has asked me to reply to your letter of October 21, concerning reports that vehicles rented by the Department of Justice were used to transport Reverend Martin Luther King, Jr., around Alabama. On the 18th of October we issued the following statement. I think that it will completely answer your inquiry. Of course, any effort at all by Sheriff Clark or Governor Wallace to ascertain the true facts would have made these false reports unnecessary in the first place.

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At about 5:25 p.m. on October 15, Mr. Henderson went to the Gaston Motel to interview Reverend King at the specific direction of the Department of Justice. At that time Dr. King was at a meeting at the Gaston Motel. When Dr. King came out of the meeting, Mr. Henderson asked to speak to him. Dr. King replied that he was late and had to go immediately to the New Pilgrim Church in Birmingham. Henderson offered to drive him there if he could interview him on the way and Dr. King agreed. Henderson left the Gaston Motel at 5:30 p.m. and let Dr. King off at the New Pilgrim Church at 5:40 p.m. Henderson then returned to the Gaston Motel. The Chevrolet never left Birmingham that night.

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Very truly yours,

Burke Marshall
Assistant Attorney General
Civil Rights Division

29 October 1963

Honorable George Andrews
Member of Congress
United States House of Representatives
Washington 25, D. C.

Dear Congressman:

The Attorney General has asked me to reply to your letter of October 19, concerning reports that vehicles rented by the Department of Justice were used to transport Reverend Martin Luther King, Jr., around Alabama. On the 18th of October we issued the following statement. I think that it will completely answer your inquiry. Of course, any effort at all by Sheriff Clark or Governor Wallace to ascertain the true facts would have made these false reports unnecessary in the first place.

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Burke Marshall
Assistant Attorney General
Civil Rights Division

Final
Sat 3/3/62

The Enforcement of Civil Rights

By Burke Marshall
Assistant Attorney General

Professor John Hope Franklin suggested in his recent Sidney Hillman lectures at Howard University that "enforcement, not enactment" is the "key test" of civil rights legislation. I agree. I think that we as a nation have made important progress in civil rights during the past year, and have done so simply by using many existing tools and powers of the federal government which have not been used -- or not fully used -- in the past.

This has been on a much broader front than by enforcement of civil rights legislation by the Department of Justice. The Administration has, for example, started on the very long but very important task of ensuring full equality of employment opportunity not only in the federal government but also by the thousands

of concerns contracting with the Government. This had not been made before in any affirmative or effective fashion.

There are other advances. A significant one reflecting the tone of the Administration is the creation of a Subcabinet Group, consisting of representatives of all of the important agencies and departments of the executive branch, to meet regularly at the White House. Its purpose, which I think has been realized, is to provide a forum in which the civil rights problems of the United States -- and the impact and potential impact of the Federal Government on them -- can be impressed particularly on the parts of the Government whose primary responsibilities lie elsewhere.

What follows does not extend to these matters. It is limited to the work of the Department of Justice. But I do not want it to be thought that what follows tells the complete story. Civil rights problems in this country are not exclusively racial or Southern. Northern police misconduct is not principally racially motivated, and the Northern racial problems in administering school systems are not limited to New Rochelle. Irrational, invidious discrimination persists nationally in our housing, labor unions, corporations, hospitals,

law firms, and universities, and creates an ugly, persistent economic crisis for minority racial groups which is a major national welfare and economic problem. Undeniably, however, the most apparent and, in some ways, most difficult legal civil rights problems -- the problems which are the Department's responsibility -- involve the Negro and the South. Consequently, this report, like our work, focuses on that region and its people.

Even within that limitation an exhaustive compendium of our statutes and activities is beyond the scope of this piece. Nor shall I offer a statistic-studded specialist's memorandum. Rather, I hope to exemplify the Justice Department's increasing civil rights role by describing several of our representative cases involving voting, transportation, and schools.

Voting

In a large number (though by no means a majority) of counties in a small number of states the right to vote is denied to hundreds of citizens by preventing Negro registration in two major ways: discrimination by registrars in the application of qualification tests; and intimidation by (most often) private individuals. Prior to 1947 the Justice Department had only

an unwieldy parcel of criminal statutes with which to implement the guarantees of the Fourteenth and Fifteenth Amendments. Criminal cases ran afoul of the South's assumptions in the form of Southern juries.

The Civil Rights Acts of 1957 and 1960 have given us three new tools. First, by proving discrimination or intimidation in court we can ask a federal judge to order the defendants to cease their actions or go to jail. Secondly, if we can prove a pattern or practice of discrimination, any Negro who is thereafter rejected by the Board of Registrars may apply to the federal court for a registration certificate which is valid at all subsequent elections. In determining the qualifications of the Negro applicant, the court must determine his qualifications in accordance with the qualifications and standards used by the registrars in registering white persons in the past. Thirdly, we now are able to prepare cases thoroughly before filing as we can compel local officials to let us examine and copy their registration records. How do these laws work?

Macon County occupies about 900 square miles in Southeastern Alabama. About 10,000 of the voting age population are Negroes, many of whom are associated with Tuskegee Institute and its related Veterans Hospital. In 1958, all 3000 eligible white persons, but

only 1000 or 10 percent of the Negroes, were registered. Investigation disclosed that the racially disparate voting figures were the result of myriad discriminatory devices. It developed that, in effect, whites became registered by reaching twenty-one. In fact, the registration books were taken to illiterates' homes where these persons -- despite the state's stringent literacy statute -- were enrolled at their convenience.

The Negro applicant's route was far different. First, he had to ferret out a functioning registration board which, as often as not, had secreted itself in an unlikely part of the courthouse. Moreover, several of the post-1950 boards had to be sought soon after their appointments because they resigned after registering the newly eligible whites. If cornered, the Board subjected Negroes to interminable literacy tests so that, at most, three or four applicants were processed on a registration day. One woman wrote out Article II of the Constitution five different times in an eighteen-month period. Each time she "failed" the "test" because she omitted on her application form the date of the month on which she had moved into Macon County over ten years prior to the date of her application, even though

she had been a resident there continuously since that date. All that the county required was a one-year residence for registration.

State law provides for about thirty registration days per year and some of these may be spent in precincts chosen by the registrars, i.e., non-Negro precincts. In short, most Negroes did not get to apply for registration and those who did were rejected for trivial errors on tests on which the whites received aid and assistance in completing. All of this added up to these astonishing figures. In 1957-58 an average of a about 50 Negroes were registered; in 1959 no Negroes were registered; in 1960 eight Negroes were registered. In 1961 to the date of the Federal Court's decree no Negroes were registered.

Suit had been filed in December of 1958 under that part of the 1957 Act which is directed at discrimination by local officials. Delays followed -- principally from the absence of a registration board when the suit was filed -- and the situation was not dealt with until this year. Out of the trial last March came a strong, detailed court order which directed in effect that only the registration standards theretofore applied to whites could legally be applied to Negroes. The Department has

been active in ensuing compliance with the order, and obtained supplementary relief in September. The figures are graphic; as of March 1, almost 1300 Negroes had been registered since the court's decree. On the last two registration dates in Macon County an average of about 125 Negroes were processed for registration. Furthermore, throughout this period the District Judge has required the Board to report monthly as to its progress and with our help is constantly scrutinizing the registration procedures to preclude a departure from the terms of his order.

Between 1957 and January 1961, four other cases of this type were brought to court. Since that January, we have completed the last two of these cases -- at least to judgment for the United States. In reality the cases are never completed until Negroes go into the voting booth as freely and as comfortably as whites. Fourteen additional cases have been instituted. Of these, three have already been tried, one in a county with over 100,000 people, and a 3 1/2 day preliminary hearing has been held on a fourth. One important case, brought against the State of Louisiana, challenges the constitutionality of the constitutional interpretation test used in that state.

After I took office as Assistant Attorney General and after consultation on the matter with the Attorney General, I concluded that if the Civil Rights Acts were to be vigorously enforced as the President had directed, it would be necessary to seek out specific information about statistically suspicious counties, i.e., those in which the Negro population over 21 exceeds abnormally the number of Negroes registered and in which the white population over 21 is close to 100 percent registered. Accordingly, we have inquired as to whether there is discrimination in a great number of these counties and within the coming months we will make additional inquiries into the rest of them.

One method of inquiry is by inspection of voter registration records. Voter registration records have been inspected about 40 times since the 1960 Civil Rights Act was passed. We have 6 non-legal personnel, under the supervision of 3 experienced trial attorneys, in the Division analyzing these records on a full-time basis.

We also interview persons who we believe have knowledge of relevant facts about discrimination. It should be kept in mind that for the untrained person it is not easy to discover legal evidence of discrimination. Local Negro leaders cannot pore over registration

records, nor can they find out the experiences of white persons who have been registered. For instance, a state may prescribe that voters must explain a portion of the Constitution. The Negro leaders pass with flying colors, the rank and file do not. Those leaders do not know that in some counties, if a reading and writing test is involved, or an application must be completed, white applicants are assisted by the local officials while Negroes go it alone, fail, and go home to practice.

This is a sketch of what we are doing to secure the right to vote against official discrimination. We have learned that the 1957 Civil Rights Act plus the risk of the appointment of federal referees under the 1960 Civil Rights Act has been effective in persuading southern officials to change ways established for three-quarters of a century; that the voting problem exists in less than 200 counties in the south; that it will be possible to resolve the problem in some of these without litigation; and that with competent and hard-working personnel, proper organization, plus cooperation from the United States Attorneys' offices in the south, the eventual result everywhere is inevitable, although it could be advanced in time by favorable Congressional action on the Mansfield bill (S. 2750) on literacy and

other performance tests which has bipartisan and Administration support.

I should also add that we have learned that in some cases -- not as many as might be hoped for, but some -- litigation is not proving necessary. The Attorney General has directed me to explore in advance of litigation all possible avenues of self-correction by local officials of whatever abuses and defects have existed. We in fact follow this path in all instances. As the law, and the consequences of failing to respect it, become more generally known, I am hopeful that this manner of dissolving legal blocks to Negro registration will prove increasingly fruitful.

In some ways, the problem of intimidation -- and intimidation mixed with indifference and apathy caused by years of rebuff and a loss of faith in our processes -- is the more difficult one. The statute provides that no person shall attempt to intimidate, threaten or coerce any other person for the purpose of interfering with the right of such other persons to vote at a federal election. It deals with many forms and causes of fear. For example, a person may be fired from his job because of his efforts to register; he may be evicted from his farm; his credit

may be cut off; the channels of trade may be closed to him; the state criminal processes may be used to intimidate him.

When intimidation occurs, its effect is devastating to the individual Negro involved and discouraging, to say the least, to all Negroes in the area. Consequently, if we are going to enforce the statute we must act fast. Fortunately, while intimidation is hard to prove, all of the factors are not on the side of those attempting to prevent Negro registration and voting. Unlike school cases where the defendants are public officials and have at their disposal the resources of the public treasury, here the individual defendants stand on their own. In addition, intimidation cases are usually dramatic and public opinion is squarely with those who are trying to register to vote. Here are examples of the type of situation with which we deal:

Fayette and Haywood Counties lie near Mississippi in southwestern Tennessee. Almost 25,000 people live in each county and in both more than 60 percent of the residents are Negroes. In 1959 no Negroes were registered in Haywood County and only 58 were on the rolls in Fayette.

Significant Negro registration activity began in Fayette County in 1959; there were no registration officials in Haywood County between 1958 and May of 1960. In the fall of 1959 Fayette County's whites atavistically excluded Negroes from a local primary election which, the whites explained, was a private affair. The insularity bespoken by this tactic was penetrated by an immediate voting discrimination suit which, in effect, brought word of the death and burial of the white primary some years before. A consent decree followed early in 1960.

To vote in Tennessee, a resident need only be twenty-one, sane, and law-abiding. This absence of tests to be used to exclude Negroes, plus the white determination to retain political dominance, produced classic intimidation cases and the first tests of that portion of the 1957 Act.

The whites prepared and circulated lists of the Negro leaders' names. These persons were denied credit by the banks and merchants, their insurance policies were cancelled, they lost their jobs, and those who were retail merchants were unable to stock their shelves. But the whites, acting on outmoded assumptions, underestimated the Negroes' determination, and registration continued in both counties. Sometime early in the summer of 1960,

most of the white community decided in effect to depopulate the counties of Negroes by evicting sharecroppers and tenants from the farmland which they had worked for years. Only registrants and their families were given notice and these persons came to know the other pressures that their leaders had suffered from the beginning.

By mid-December 1960, the Department had filed three cases against more than 150 defendants in both counties, including individuals, banks and business associations. Some evictions occurred before we were able to obtain temporary injunctions on 30 December 1960 and in April, 1961, preliminary injunctions for the remainder of the cases were issued.

These cases are not over yet, and further comment is inappropriate. However, they establish our ability to deal with instances of economic reprisal directed at Negroes' efforts to vote. Moreover, this portion of our statute is not limited to privately imposed pressures. In one of the two other cases brought under it (now pending in the Supreme Court), a preliminary injunction was secured against the use of the state criminal processes -- arrest, confinement, interrogation, bail, trial -- if the processes were being used to deter registration by Negroes.

While these legal victories show progress, the statute alone can never be adequate to cope with the problem. First, we can enjoin the repetition of dramatic, violent intimidation, but that first incident, which is the basis for our subsequent court order, may itself deter the Negro community from further efforts for months or even years. Secondly, the Negro teachers, who are best equipped to lead others, are economically most dependent upon the whites and most susceptible to subtle intimidation of the sort that is difficult to link to voting in the courtroom. These problems will not ultimately be solved except with progress in other basic civil rights areas -- the national problems of poverty and limited job opportunities to which I have already referred.

Schools

It is a politically widely advertised fact that the Attorney General has no authority to initiate school desegregation suits. This does not mean, however, that the federal government has no responsibility on this important national problem. With the approval of the Attorney General, we have taken care not to use the lack of legislation as an excuse for inaction.

At a minimum, the responsibility of the Department of Justice in this area is to take any action that is necessary to protect the integrity of orders of the federal courts and to protect and promote the due administration of justice in communities where school orders have issued. It is my personal belief that at least some, if not all, of the violence and law enforcement problems which have attended school desegregation in the past were caused -- or at least were not averted -- by reason of a failure to recognize explicitly and give effect to this responsibility. In some cities that failure created a temporary vacuum -- a corresponding failure by the local officials and community to accept the inevitable and prepare their cities for it -- which proved disastrous.

This year the South and the nation made great symbolic progress in school desegregation. For the first time since 1954, many cities and towns accepted initial desegregation without a single instance of disorder. Notable advances were made particularly by entirely peaceful transitions in Atlanta, Dallas, New Orleans and Memphis.

The Department did what it could to make clear the recognition and acceptance of our responsibility, and to offer to local officials any kind of assistance which it was within the power of the federal government to grant.

For the most part this work was done through informal conferences and a series of trips made by John Seigenthaler */ and me to the major communities to be affected. In each case we attempted to be useful rather than coercive, suggestive rather than demanding. In each case we discovered an acceptance of responsibility on their part by local officials -- in some cases, coupled with a remarkable willingness and ability to provide local leadership. In each case these officials, with the support and encouragement of others, in fact were fully effective in bringing their people into compliance with federal law in a fashion which reflected credit to the nation as a whole as well as to the South.

Where outside factors interfere with this kind of compliance the Department has an additional litigating responsibility. This year we participated formally as a friend of the court in perhaps a dozen school cases.

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*/ Administrative Assistant to the Attorney General.

The St. Helena Parish, Louisiana, case illustrates some of the problems these cases raise. The Negro private plaintiffs filed suit in September of 1952. Numerous procedural delays followed, and the district court did not order desegregation of the school until May of 1960. As a part of its own massive resistance program, in 1960 and 1961 Louisiana enacted several parcels of obstructionistic statutes. The most quaint revived the doctrine of interposition; the most troublesome authorized each parish to abandon its schools by referendum. Interposition was aborted in a case involving the New Orleans school system, but on 22 April 1961 St. Helena Parish voted to close its schools.

The school closing law is ostensibly racially neutral; that is, it was not accompanied by legislative history disclosing the racial purpose. Thus the case presented delicate problems of the judicial probing of the legislative mind and, absent that, a state's abstract obligation to provide a public school system. In this context, the court directed specific inquiries to the parties, to the United States, and all other states' attorneys general. We had previously moved to enter the case as <u>amicus curiae</u>, and also responded to the court's inquiries in a brief taking the position that the

Louisiana statute was unconstitutional under both the due process and the equal protection clauses of the Fourteenth Amendment. The court held the statute void, and the Supreme Court recently affirmed unanimously.

One other new development in this area is worth brief mention. We believe that the United States is authorized to protect its courts' orders by a civil suit for equity relief without a specific grant of standing from Congress, and have generally been upheld in this position. (A motion by the United States to intervene in the Prince Edward County case was denied, but the narrow grounds of the decision were limited to matters of timing and factors peculiar to that case.) Late last year officials in Louisiana permitted or arranged for the transfer of children from one parish which had been ordered to desegregate its schools to another that had not. We brought suit to desegregate the schools of the second parish, accepting children from the first, as the only realistic implementation of an order of our courts.

Transportation

The right to travel in interstate commerce without distinction of race has been won since World War II

largely by private plaintiffs on an arduous case-by-case basis. In several of the cases the Government participated as amicus at the Supreme Court level. In 1955 the ICC held that the non-discrimination provisions of Federal law governing interstate carriers and their facilities meant race as well as rates. Before 1961, however, progress was spotty. The Justice Department was thought to be without authority to protect such provate rights affirmatively and the limited resources of the ICC did not permit an effective enforcement campaign.

In 1960 the Supreme Court held that Federal law protected interstate travelers from racial discrimination in facilities used regularly by interstate carriers, whether or not the facilities were owned or controlled by the carriers. The Freedom Rides followed in the spring of 1961. After a tense week following the first outbreak of violence, in which every effort was made to induce local and state officials to meet their responsibilities, the events demanded direct and large scale federal intervention. Some Alabama officials looked on as violence erupted in Montgomery. The right of citizens of the United States to elemental protection of the law, and to travel securely among the States,

was at stake. Whatever the justification for complaint against the publicity methods used by the Freedom Riders, the legal situation, and our responsibility, was perfectly plain. Ordered liberty means the protected exercise of unpopular rights or it means nothing. It was under these pressures, and for these reasons, that the Attorney General was compelled to send a substantial number of deputy marshals to Montgomery.

This necessity also mothered the Division's resuscitation of the much criticized Debs case theory, i.e., that the Federal Government has a litigable interest in interstate commerce free from private interference. On that basis we sued successfully to enjoin the U. S. Klans from interfering with the Freedom Rides and to compel the police to Montgomery, Alabama, to fulfill their obligation to protect persons engaged in lawful -- though locally unpopular -- activity.

Next, the Attorney General petitioned the ICC to issue comprehensive regulations forbidding racial distinctions in facilities used by interstate common carriers. These regulations were issued on September 22, 1961, and they became effective on 1 November. We have brought suits to enforce compliance with them in Alabama, Louisiana, and Mississippi. Basically similar airport cases have been instituted in Alabama and Louisiana.

The results of this are in a way remarkable. Since May hundreds of bus terminals in hundreds of Southern cities and towns have been officially and formally desegregated. As a corollary we have been able, without litigation, to persuade the eighteen railroads operating in the South to take action to desegregate hundreds of additional rail terminal facilities. Where there were localities with continuing problems, we took action as promptly as possible to eliminate them. Virtually all rail and bus terminals are now at least formally desegregated, both officially and by the carriers. I think that everyone would admit that any remaining problems are now only a question of a short time.

This happened because of the basic respect the people of all parts of the United States have for the law, so long as they know the law is in fact -- to return to the beginning of this piece -- going to be enforced as well as enacted. We have used, in all three areas I have referred to, legal tools which were not generally known of, but tools which were always there, ready to be picked up, and which have been used only to enforce principles of federal and constitutional law as to the basic framework of which there has been no serious dispute for some years.

I think that there is a great deal more work of this kind which can be done in this way.

Burke Marshall
Assistant Attorney General

PRESS RELEASE BY CARL VINSON (D-GA.)

In connection with the bill to restrict the implementation

of the so-called Gesell Report

For P.M. afternoon papers

September 17, 1963

Carl Vinson (D-Ga.), Chairman of the House Armed Services Committee, announced today that he had introduced a bill which is intended to nullify the directive issued by the Department of Defense on July 26, 1963, which sought to implement major portions of the Gesell Report.

Mr. Vinson said "Apparently, the Secretary of Defense has forgotten that members of our Armed Forces are also citizens of the United States. They are entitled to the same freedom of choice when they leave military bases as other citizens. The Secretary of Defense has no right to seek to impose a new social order throughout the United States through the use of our Armed Forces."

"It is a tragedy," continued Mr. Vinson, "that the Secretary of Defense has seen fit to convert the mission of our Armed Forces from that of national security to one of direct involvement with local affairs."

Mr. Vinson quoted a portion of the Gesell Report which complained about the attitude of base commanders who said they should not involve themselves in local community affairs because "the authority of the base commander ends at the gate; that it is not his job to rearrange the social order; that it is not part of the military mission to change community attitudes; that any pressure would be misunderstood and would merely stir up trouble; that questions of this kind should be left to the courts; that military personnel are traditionally non-political and should not involve themselves in controversial questions."

"The members of the Gesell Committee," said Mr. Vinson, "take exception to these views expressed by base commanders."

"What the Gesell Committee recommends," said Mr. Vinson, "is that base commanders should involve themselves in rearranging the social order, seek to change community attitudes, and involve themselves in political questions."

"This recommended departure from the traditional relationship between the military and civilian elements of our nation is one of the most serious challenges to our form of government to occur in this century," Mr. Vinson said.

"The Secretary of Defense has directed that all members of the Department of Defense will oppose discriminatory practices on every occasion and will foster equal opportunity for servicemen and their families on and off-base. This is a direct invasion by the Department of Defense into local affairs. If it is social reform today, it may be direct participation in national elections tomorrow; if it is race today, it could be religion tomorrow," said Mr. Vinson.

"It is true that our Armed Forces have kept themselves free from political affairs since the foundation of the nation, and I intend to do what I can to keep it that way," said Mr. Vinson.

"The directive issued by the Secretary of Defense authorizes the use of off-limits sanctions by a local commander with the prior approval of the Secretary of his military department. In addition, the Secretary of Defense, in a memorandum to the President, requires the 'preparation of detailed directives, manuals, and regulations making clear the leadership responsibility both on and off-base.'"

"All of the action taken by the Secretary of Defense indicates clearly that the Armed Forces of the United States will be used to implement a program of social reform regardless of the areas in which our bases are located, regardless of the laws, mores, and customs of the communities which support these bases, and regardless of the danger inherent in transforming the Armed Services into political agents."

"The bill I have introduced," said Mr. Vinson, "makes it a court-martial offense to seek to direct or control in any way the manner in which a member of the Armed Forces lives off military bases. Any base commander who because of race, color, or religion tries to prohibit a member of the Armed Forces from making purchases for goods or services or renting housing accommodations or engaging in recreational activities, or any other similar activities, would be subject to a court-martial. Any base commander who directs, implements, or requests the use of an off-limits sanction because of race, color, or religion will also be subject to a court-martial."

Mr. Vinson continued, "the memorandum to the President from the Secretary of Defense, and the Gesell Report strongly suggest that the careers of military personnel will be jeopardized if they do not become active in social reforms in their local communities. To prevent that from taking place, the bill makes it a court-martial offense to make any notation on a fitness report, efficiency report, or any other written report, with respect to the manner in which a member of the Armed Forces because of race, color, or religion attempts to influence, or fails to influence the off-limits activities or conduct of any member of the Armed Forces."

Mr. Vinson also pointed out that the Gesell Report sought to establish a gestapo operation in the Department of Defense.

"The Gesell Report," said Mr. Vinson, "recommended that 'all personnel, officer and enlisted, should be free to contact the officer designated to receive complaints at any time, without the consent, knowledge, or approval of any person in the chain of command over them. Communications between servicemen and this officer should be privileged and service regulations should prohibit the disclosure of such communications or the identity of the complainant without the serviceman's consent.'"

"Here is a clear recommendation," said Mr. Vinson, "for the establishment of a political commissar on every base occupied by our Armed Services. If this recommendation is implemented, a serviceman could complain without ever confronting the man about whom he is complaining, and the officer designated to receive the complaint would not even have to forward the complaint through the chain of command."

"The Gesell Report goes further," said Mr. Vinson, "by stating that procedures must be established which will encourage military personnel to present complaints of discrimination."

"In other words," said Mr. Vinson, "members of the Armed Forces are encouraged to present complaints to keep the pot boiling. They are to be surrounded by protection and can make any wild-eyed accusation they wish. The accused will not be confronted by the complainant, and even the base commander will be denied any knowledge of the complaint if this portion of the report is implemented, and there is no reason to believe that this portion of the

report will not be implemented. For that reason, the bill I have introduced also mak s it a court-martial offense for any officer to act upon or report a complaint from any member of the Armed Forces without the knowledge of a person next in the chain of command to whom the complaint is made, and without disclosing the complaint to the person who is accused of an improper act against the complainant."

"My bill does not deal with segregation or integration -- my bill keeps the military where it belongs -- in the business of defending our nation. It keeps political commissars out of our Armed Forces. It keeps politics out of the promotion of officers and enlisted personnel because of race, color, or religion. It keeps members of our Armed Forces out of local politics, state politics, and Federal politics. It preserves the time-honored tradition of keeping our Armed Forces free from all political tinges."

"The future of this nation is at stake," said Mr. Vinson. "Too many nations of the world have fallen victims to over-zealous military leaders. Until now, we have never been threatened with this challenge, but the directive issued by the Secretary of Defense, the memorandum to the President of the United States, and the Gesell Report, are clear warnings to every American citizen that the role of our military, unless we act, is about to undergo a sharp and dangerous change. My bill seeks to keep the military in the business of defending the nation. Let the Congress, the courts, the States, and the people worry about social reform. Let the Armed Services concentrate on defending the nation."

Future of Ernie file

ADDRESS BY

HONORABLE BERL I. BERNHARD
STAFF DIRECTOR, U.S. COMMISSION ON CIVIL RIGHTS

AT

WAKEFIELD HIGH SCHOOL
ARLINGTON, VIRGINIA
APRIL 20, 1963

SLOGANS, SEMANTICS, AND SHIBBOLETHS

At this time of year, young people all over our land are being alternately deafened and sedated by speakers who urge them to go out and conquer the world. The trouble with this is that the student has enough to worry about just to find his place in the world. On the other hand, some of this year's Spring crop of speakers may fare better than usual because — in my opinion — there's a good deal more idealism and adventure in today's teenagers than there has been for many generations.

My purpose is to talk to you about slogans, semantics and shibboleths. I couldn't do this with an ordinary adult audience because the slogans they live by, and the things they think they mean by them, have been calcified by time and habit. Consequently, far from coming here to talk down to you as children, I come to talk up to you. You belong to an honor society whose membership is based on academic accomplishment; therefore, I assume you are intelligent, while still young and flexible enough to use your intelligence. The real reasons that parents are driven to distraction by their children's innocent questions — as

you shall find — as I have found — is that they can't answer many of them. Later on, when children realize that they will have to find the answers themselves, too many of them stop asking — even of themselves.

If I accomplish anything here, I want it to be one thing: To implant the desire that you find your own answers by avoiding the slogans and shibboleths that many people accept without question. I have a certain orientation in this matter because of my immediate experience as Staff Director of the United States Commission on Civil Rights. During this period of service, I have been attacked by some people for trying to wreck what they consider to be the American way of life. At the same time, I have been attacked by others who think that the program I serve is not doing enough to further the American way of life. I've learned the hard way that people frequently use exactly the same words with equal conviction to express totally contradictory ideas.

Examine, if you please, a phrase like the "American way of life" or "rugged American individualism." The American way of life to some people simply means continuing to live in the cozy security of their present neighborhood. To some, it means preserving a rigid caste system that denies the equal protection of the laws to minority citizens of the community. For those minority citizens so deprived of equal rights and opportunities, the American way of life is, for them, poverty, inequity, and bitterness. And what society and way of life do we talk about when we refer to "rugged American individualism?" Do we recall our history as revolutionists? Or the severe communal life of the

Pilgrim colonies? The lawlessness and vigilante justice of the early Western frontier? The days when fortunes were made by unrestrained exploitation of then abundant natural resources? Or just the carefree period before the income tax?

A well-worn phrase evokes a mental image for each of us and this image is created and conditioned by early teaching and prejudices and a thousand daily experiences. In addition to this, we happen to have a rather inexact language. It has been said that the English-speaking peoples of the world get along rather well together because each nation's representative can leave a conference believing that its words meant exactly what he wanted them to mean. On the other hand, it has been said that you can't ever get along with the French because their language is so precise that it's impossible for you or them to misunderstand its meaning.

If you want an example of how easily we can confuse ourselves, consider the word "fast." It's simple enough but it can simultaneously mean at least four quite different things. The word "fast" can mean motion, in the sense of being held fast, it can mean the absence of motion. In a religious sense, it can mean abstinence. And as a description of promiscuous behavior, it can mean somebody who does everything but abstain.

So much for semantics; what about our shibboleths? One of them, I submit, is the easy assumption that, barring instant destruction, we'll always enjoy an increasingly high standard of living. Yet the world population curve

clearly indicates otherwise. By about 1800, after a million or so years of human development, there were about one billion people on this planet. But about 150 years later, there were nearly three billion people and the curve is going nearly straight up. Within the next 40 years in this country alone we are told we will have to duplicate every structure in the United States to house a population that will nearly double in that time.

Take one population statistic that's a good deal closer to home. You've heard, doubtless, that Negroes comprise over 54 percent of the population of the District of Columbia because their birth rate is so fantastically high. This is misleading; social studies have established that the fertility ratio of Negroes living in the District is about equal to that of white persons living in suburban Washington, where most white families with children live. Moreover, while the Negro population of the District is over 54 percent, for the metropolitan area as a whole, it is 24 percent — about the same as it was in the time of Abraham Lincoln.

You've heard that the District's crime rate is the highest in the Nation and that this rate continues to soar. Here we have two untrue assumptions that have been taken as gospel by people who don't bother to question the source of their information. Instead of being first, Washington actually ranks thirteenth among America's 25 largest cities in the number of crimes per population thousand, according to FBI Uniform Crime Reporting statistics. Further, compared to a national crime increase of 7 percent for the calendar year 1962 over the year 1961, the crime rate in Washington increased only 4.9 percent.

These statistics are taken from a March 4, 1963, report of the FBI. This report also shows that in murder, non-negligent manslaughter, Atlanta is first with a 13.5% increase over 1961, and Washington is fourth, with an increase of 3.4%; forcible rape, Chicago is first, and Washington eighteenth, with an 18% decrease; robbery, Chicago is first again, and Washington sixth with a 16.6% increase; burglary — breaking or entering, Los Angeles is first with a 6.4% increase, and Washington is sixteenth, with a 2.4% increase; larceny $50 and over, Los Angeles is first with a 6.5% increase, and Washington is eighteenth with a 8.2% increase; and auto theft, Chicago is first, and Washington is fourteenth, with a 5% increase. Only in aggravated assault is Washington first, with an increase of 1.7%. However, aggravated assaults increased in Los Angeles 2.6%, in Houston 12.9%, and in St. Louis 99.9%.

As an Urban League official in Detroit has said: "Although crime is as old as time, its visitation upon a community has no respect for race, age, sex, affluence, or geography. Its abatement or its increase will depend on the degree to which the total community is willing to assure equality of opportunities in housing, employment, education, distribution of welfare, and equality of treatment by law enforcement officers." Concerning housing, a Richmond, Virginia Times-Dispatch editorial last fall said: "There can be little doubt that there is a correlation between crime and quality of housing.... Crime rates for slum districts are high, whether the people who live there are white or Negro."

Another shibboleth of the prejudiced is the assumption that the Negro came to America as a slave and has risen somewhat above that estate only because of the liberal charity of whites. In fact, the Negro did not come to the United States as a slave but as a bondsman or indentured servant, bound over to a master for a period of time, after which he was to have his freedom. Such Negro freedmen lived in early American communities as master mechanics and skilled workmen of all kinds. It was only during the first quarter of the eighteenth century, when slave labor became an attractive commodity for southern agriculture, that the social privileges of the free Negro were diminished and slavery became an American institution. And far from being the original home of the free, America lagged badly behind other nations in ending human slavery. The major European powers had sought to stamp out the slave trade entirely through the Treaty of London in 1841. Slavery was abolished in the newly-independent South American nations. Chile, Colombia, Bolivia, Guatemala, Mexico, Uruguay, Argentina, and Peru had all outlawed slavery by 1854. And after the Emancipation Proclamation in 1862, how much have we done as a nation to move from the condition of slavery to the realization of full citizenship for all Americans? The fact is that, to the end of the nineteenth century and well into the twentieth, the legally-free Negro was denied the franchise, excluded from public office, barred from juries, assigned to separate and inferior schools (as he still is in Virginia), herded into ghettos (as he still is in the District of Columbia), given menial jobs (as he is throughout this entire area), and segregated in his illness, his worship, and even in his death.

The wonder of it is that the American Negro survived at all or that he ever rose above the social role of laborer. In 1866, there were 4.5 million Negroes in the United States and an estimated 10 percent of them were literate. Today, there are 19 million Negroes and an estimated 93 percent are literate. Negroes are counted among the scholars, scientists, educators, business leaders, and high governmental officials of this country. Just a few days ago, a Negro Air Force Captain was selected as one of the trainees for the manned space program. The Negro has not only survived; he has raised himself to a level which is little short of astonishing, and he has done it against great social odds and with very little help from government. After Lincoln, you have to wait until Theodore Roosevelt before you can find an American President who took a significant interest in equal rights for all Americans. In the legislative area, you can count the Civil Rights Acts of 1866, 1875, 1957, and 1960. Judicially, the cupboard was largely bare until the Supreme Court decision of 1954 — a decision which has yet to be implemented for many thousands of children who want a decent education.

In the field of civil rights, the shibboleths abound. It took a major court case to establish what most of us knew all the time — that separate schools weren't equal. Now you may have heard that one-third of the total number of biracial school districts in the South have been desegregated and this is a heartening advance. Statistics don't lie; or do they? In terms of Negro children actually attending desegregated schools in the South, the actual

number is less than 8 percent, and less than one-half of one percent if we take only the States of the old Confederacy. The reason for this disparity is summed up in the phrase "token desegregation" — the practice of admitting a few children and claiming that the law has been obeyed.

You may also have heard that Negroes have been getting along fine in their second-class citizenship status — that they really don't want to assume civic obligations such as voting and only agitators say they do. But since a court action was concluded in 1961, the registration of Negroes in one Alabama county has tripled. In another Alabama county, Bullock — one in which the Civil Rights Commission first exposed conspiracies to keep Negroes from voting — Negro registration has risen from five to 1,000 in one year's time.

This is some of our American history in the struggle toward equal rights for all our citizens, and I urge you to study it further. It will be useful to you in two ways — first as an intellectual exercise to establish how fact has been distorted by fancy and how emotion can be substituted for reason; and second, so that you may explore a serious flaw in our American life that badly needs your attention.

What I am encouraging you to do is to carry into your community life the same intellectual objectivity and curiosity to know the truth that has served you so well in academic training.

We are told that 90 percent of all of the scientists in man's history are living today. Technically, we are terribly swift in our progress. But like the sorcerer's apprentice, we are bound to create uncontrollable chaos for ourselves if we cannot close the gap between our technical and social progress.

Short of altruism — far short of humanitarian idealism — can we apply this intellectual effort to our selfish and selfishly worthy national interest? Can we clearly examine that ideal, that quality of character known by the vastly-abused word "patriotism"? I think that all of us vaguely believe that patriotism in some sense is a desirable personal attribute. But what is it, really? Giving lip service and hand-salute to the flag? Feeling the skin prickle when the band plays and the parade goes by? Samuel Johnson said "that man is little to be envied whose patriotism would not gain force upon the plain of Marathon." Of those who would use it for personal gain, Dr. Johnson also said that "patriotism is the last refuge of the scoundrel."

Obviously, it has many meanings. To some, it means adherence to an ideology that seeks to subjugate men and nations. To others, it means preserving the status quo and sometimes a way of life that never was. To still others it is an active effort to turn back the clock, shut the mind to the present, and see the hobgoblin of cunning conspiracy whenever their narrow minds are confounded by complex events. Here indeed, in one well-worn word, is the place where slogans and shibboleths find their semantical haven.

I urge you to consider the thought that patriotism has a valid function in your life and that its meaning can only be found in one place — the Constitution of the United States. The more you read this remarkable document, the more you realize the value of the birthright that has been left to us by that little band of 'subversive' revolutionists who created this Nation.

The ideal, the philosophy of equal opportunity for all Americans, is set forth as principle and objective in the Declaration of Independence. It is re-emphasized in the original Constitution, and it is reinforced by amendments which have been adopted by the States. The Fourteenth Amendment forbids the States from making or enforcing any law which abridges the privileges and immunities of the citizens of the United States. Nor, it says, shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law. The Fifteenth Amendment says very clearly and simply that the right to vote shall not be denied or abridged on account of race, color, or previous condition of servitude. If anyone wants to study patriotism, that quality which we call Americanism, he will find it in the Constitution.

He will also find there the ideal of society that has yet to be realized in America. From the implementation of this ideal can come an enormous national strength — the exercise of equal rights and equal opportunities to eliminate racial discord, greatly accelerate education, reduce crime and poverty, utilize valuable manpower, add hugely to our economic wealth, and build an impregnable moral fortress whose flying banners will inspire the entire world.

But this fortress can only be built if you, as individuals in your personal life and actions, and as active members of your community, lay the foundation for it. This responsibility is clearly yours and the burden will be a great one. But, if you assume it, I think you will find life a good deal more interesting than

if you devote it merely to the conspicuous consumption of consumer goods. If you do not assume the burden, if you do nothing about the corrosive social inequities in your community and your country, then you may yourself lose that freedom you are unwilling to extend to others.

But the definitive word for those who slumber mentally while national ideals become empty slogans comes to us across a century's time from the Great Emancipator, himself, Abraham Lincoln. He said:

> ...are you quite sure that the demon you have roused will not turn and rend you? ...familiarize yourself with the chains of bondage and you prepare your own limbs to wear them. Accustomed to trample on the rights of others, you have lost the genius of your own independence and become the fit subjects of the first cunning tyrant who rises among you.