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Department of Justice

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ADDRESS

BY

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Prepared for Delivery

Before

THE ANNUAL BROTHERHOOD DINNER

of the

NATIONAL CONFERENCE OF CHRISTIANS AND JEWS

Miami Beach, Florida

Tuesday, February 23, 1960

It is a privilege to be invited to address this banquet which is the highlight of the annual observance of Brotherhood Week in Miami Beach. The National Conference of Christians and Jews which has sponsored Brotherhood Week for over 30 years has a right to be proud of its notable achievements in promoting better understanding among persons of all races and religious beliefs. The existence of this Conference and of similar organizations throughout the land gives hope and promise that the time is coming when prejudice because of race, religion or national origin will no longer be a significant problem in our national life. I congratulate all who have worked to make Brotherhood Week a success and particularly congratulate you for the important part you are playing in meeting this difficult challenge of our times.

Because our Nation draws its strength from many racial stocks and religious creeds, it must encourage and protect the right to be different. At the same time a democratic society must avoid the divisive effects which can come from prejudice and intolerance. To this end, it must constantly seek to encourage respect for the rights of others as the National Conference is doing and, through its legal processes, protect those rights for all its citizens.

Tonight, as a representative of the Department of Justice of the United States, I want to speak of these legal processes as applied to the rights guaranteed to all our citizens by the 15th Amendment to the

As you know, that amendment, which has been part of our constitutional fabric for 90 years states unequivocally:

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

Despite this mandate, thousands of American citizens who are fully qualified under our laws to take part in the election process will be denied that right solely because of their color. This is a matter which I know is of concern to this organization. It is of fundamental concern to those of us charged with the official responsibility of making the Constitution mean what it says to all citizens in every part of our country.

That a pattern of racial discrimination in the voting process exists in some areas of our country cannot be and, indeed, has not been seriously disputed. Through such devices as "grandfather clauses", "white primaries", resignations of registrars, mass purges of Negro voters from the rolls on hypertechnicalities, and other discriminatory tactics, we have witnessed almost a century of persistent and successful efforts by some states to avoid their constitutional responsibilities and to defeat the objectives of the 15th Amendment.

How has this been defended? For the most part by distorting the doctrine of "states' rights". Because this argument has caused some confusion concerning the responsibilities of the state on the one hand, and the

the duty of the federal government on the other, it may be helpful to analyze briefly the respective roles of each.

In the election process the Constitution vests responsibility in the state to determine reasonable voter qualifications--citizenship, residence, age, literacy and the like. By tradition, the state has also exercised control over the voting process--both in state and federal elections--by preparing ballots, operating voting booths and collecting and counting ballots. As long as these functions are carried out in a manner consistent with the 15th Amendment to the Constitution, that is, without discrimination on account of race or color, the state enjoys wide latitude in selecting and administering procedures best suited to its needs.

But it is both fallacious and harmful to our national structure to contend, as some do, that because certain powers are reserved to the states, a state may disregard and in some communities flagrantly defy its responsibility to perform these functions in conformity with the Constitution of the United States. Racial discrimination in the voting process is not only undemocratic but it is clearly unconstitutional. It is therefore most regrettable that it still finds adherents in a few areas.

That this is the case, however, is clear beyond doubt. You will recall that the first Civil Rights legislation in over 80 years was enacted in 1957. It conferred on the Attorney General authority to bring civil suits on behalf of Negroes who complained of racial discrimination by state officials.

It provided that where a federal court found that state officials had in fact discriminated against qualified Negroes, it could enjoin such practices and bring contempt proceedings against those who refused to comply with its order.

It was thought that this legislation would bring about a willingness on the part of the responsible officials to comply with the Constitution and the law. Instead, there has been an adamant refusal in certain areas and few, if any, good faith efforts to comply in the others. After the law was enacted some states passed statutes authorizing or requiring the destruction of voting records. The publicly announced purpose was to make it difficult if not impossible to secure evidence necessary to determine whether or not racial discrimination in fact existed. Some communities responded by systematically purging the names of qualified Negroes from the rolls.

When these and similar tactics are defended in the name of "states' rights" the real issue is obscured. The real issue is not "states' rights" but "states' responsibilities." Had the states concerned been willing to exercise their responsibilities under the Constitution of the United States the present debate in Congress--which I am confident will result in constructive new civil rights legislation--would not have been necessary. It is only because some states have either failed to understand this responsibility or have sought to set themselves above the Constitution that the problem has become one of national significance demanding national attention. When a state refuses to

carry out its responsibilities to the United States as expressly provided by the Constitution, the United States then has a duty to act; otherwise the Federal Constitution guarantees which protect all of us would be meaningless platitudes. In summary, then, the state has a right to conduct elections. The state has a responsibility under the Federal Constitution not to discriminate in the voting process on account of race or color. The federal government has a duty to see to it that the states live up to this responsibility.

Let me mention briefly the Administration's legislative proposals in the field of voting which are presently under consideration. One proposal, made last year, would require the preservation of voting records for a reasonable period of time and authorize the Attorney General to inspect them. The purpose of this amendment is simply to make it possible to determine when a complaint is filed whether or not there has been unconstitutional discrimination in the voting process. Can it seriously be contended that this is an invasion of "states' rights"?

The voting referee proposal, introduced this year, would authorize the court to appoint a "voting referee" after the court had found that through state action a pattern of racial discrimination violating the 15th Amendment was found to exist. The proposal is a sound and workable one, and yet it has been strongly challenged as violating states' rights. Can it seriously be contended that the federal government is without authority to protect constitutional rights after a state has consistently and openly refused to recognize them?

The voting referee proposal would not supplant state or local election officials. Under the plan, these officials would still have full responsibility over the election process--subject only to a requirement that they not discriminate in an unconstitutional manner against named qualified voters. Thus the proposal would not displace existing state procedures.

All voters would have to meet the voting requirements imposed by state law. Local officials would have an opportunity to establish to the satisfaction of the court any lack of qualifications under state law. No persons failing to meet these requirements could vote.

It should be emphasized that the right of citizens to vote free of invidious discrimination is a right guaranteed by the Constitution. When states fail in their responsibility in this regard the duty falls on the federal government to assure as speedily as possible the free exercise of that right.

In a free society it is basic that every individual shall be free from oppression, and shall enjoy, in full measure, the means of self-expression. Voting is the principal means by which an individual may make his will manifest. Those who vote have a say in the destiny of our nation. As all groups exercise their franchise effectively we realize, in greater measure, those fundamental rights and liberties which are the common heritage of all free peoples.

Up to now, I have been speaking of law enforcement. But the ideal of brotherhood, to which we reaffirm our dedication this evening, contains the greatest potential of bringing to fruition for all citizens the

charter guarantees of our Constitution. Has not the time arrived when responsible state officials by voluntary action should act to see that the rights guaranteed by the 15th Amendment are given full recognition to all of our citizens, regardless of race or color. As citizens of the United States, our first responsibility is to live up to the ideals upon which this Nation was founded and which over the years have made it strong and free. To be sure, the process of law will ultimately succeed but the road will be costly to our national prestige and self-respect. Guided by the spirit of brotherhood, however, discriminatory practices could be voluntarily abandoned to the great credit of all our people and their official representatives.

As we think about these problems it is well to remember that our country is in the forefront of a struggle for the survival of freedom. We must constantly remind ourselves that millions of persons throughout the world -- most of whom are of the colored race -- have the same yearnings for independence, for advancement, and for freedom that our forefathers had in 1776. The challenge of our times is to demonstrate anew in a rapidly changing world that a free and democratic society is man's best hope for achieving man's highest aspirations. And brotherhood of man practiced day by day by all of us is the most certain guarantee of obtaining those aspirations.