Simyeon Murray

The Sit-In Movement
1960 – 1963

Although the Congress of Racial Equality (CORE) conducted its first Baltimore sit-in in 1953, most do not attribute Baltimore as one of the locations where the sit-in movement began. Instead the sit-in taking place in Greensboro, North Carolina on February 1, 1960 is often accredited as the first lunch counter sit-in. Since it is evident that the first sit-in did not take place in Greensboro, I would like to explore why Greensboro has received such acclaim, and why the Baltimore sit-ins were different.

The sit-in that occurred on Monday, February 1, 1960 in Greensboro consisted of four freshmen from North Carolina Agricultural and Technical College, including Joseph McNeill, Ezell Blair, Franklin McCain, and David Richmond. Mayer, pg ix - x. The group of four bought school supplies at the Woolworth's in Greensboro. *Id.* at x. They then sat down at the store's segregated lunch counter, and attempted to order coffee and donuts, but the waitress told them, "We don't serve colored here." *Id.* Blair responded that they had been served at another counter, and displayed receipts for the school supplies. *Id.* However, the students never received service, but they remained at the lunch counter until it closed. *Id.* This event started a sit-in movement that impacted the entire country. Its influence was tremendous even though students in Baltimore had previously conducted sit-ins and achieved some success.

Unlike the Baltimore sit-ins, students all throughout the south took part in sit-ins immediately following the Greensboro students' lead. When describing the Greensboro sit-in Michael S. Mayer explained, "What happened in 1960 was not simply a culmination of past protest; it also represented a break with the past and the beginning of

something new." Introduction xi. The Greensboro sit-in started something the nation had never experienced. It "unleashed a tide of protests that swept across the South." *Id.* The day after the four sat-in at Woolworth's, twenty-nine students from North Carolina A&T and Bennett College returned. *Id.* at xi. The students dressed professionally, with the women wearing dresses and the men wearing suits or ROTC uniforms. *Id.* When they were denied service, they remained seated. By Wednesday, the number of protesters increased even more. They sat in sixty-three of the sixty-six seats at Woolworth's lunch counter. *Id.* The sit-in demonstrations grew progressively throughout the week until city officials decided to negotiate. *Id.* at xii.

Over the weekend news of the protests spread to other college campuses. During February, sit-ins occurred in several North Carolina cities,[1] Tennessee, Virginia, Maryland, Kentucky, Alabama, South Carolina, and Florida. *Id.* xii – xiii; Parting the Waters, 274. By the end of March the sit-ins had also spread to Georgia, Texas, Louisiana, and Arkansas. *Id.* at xiv; *Parting the Waters*, 283. The new activists followed Greensboro's example of student control, spontaneity, and the absence of a centralized agency responsible for the students' actions.

The lack of adult presence was a significant distinction present with the Greensboro sit-ins. *Id.* at xxiii. Instead of adult groups taking the lead, which happened in previous years, the students were in control. Considering the spontaneity and lack of planning of the sit-ins, the students probably did not focus on the consequence of their actions. *Parting the Waters*, 272. As students, they likely had fewer concerns about the

[1] Sit-ins occurred in Winston-Salem, Durham, Charlotte, Raleigh, Fayetteville, High Point, Elizabeth City, and Concord.

repercussions of their actions. For instance, the students were less likely to have families or jobs that could be jeopardized due to their participation in sit-ins.

Lacking a plan and tactical goals, the students likely focused solely on the future benefits that their actions might bring. Greensboro brought the encouragement and enthusiasm that such actions put them closer to the integration of food establishments. Furthermore, since the sit-ins were not planned, the students were able to act quickly yet still expect to make a direct impact.

The decision to sit-in at Woolworth's was not organized by a particular organization. Mayer, xxv. Although representatives from NAACP, CORE, and SCLC rushed to cities where there were demonstrations, such organizations did not provide the central planning for the students. *Id.* The students learned about the sit-ins that took place in other cities and decided to conduct their own. *Id.* When such organizations tried to exercise control over the student groups, the students displayed a desire to retain control. *Id.* The adult organizations worked in the background instead. *Parting the Waters*, 273.

Furthermore, the Greensboro sit-ins received a large amount of publicity. *Id.* at 272. Even before the press covered the first Greensboro sit-in, activist organizations like the NAACP and CORE received word. *Id.* at 272 – 73. Such organizations helped the students with organizing their demonstrations and taught nonviolence tactics. *Core and the Black Student Movement*, 103. CORE's presence in several North Carolina cities following the Greensboro sit-in was publicized in North Carolina newspapers, and radio and television broadcasts. *Id.* at 103.

Although student demonstrators participated in the movement for various reasons, there may have been something unique about 1960 that made it the opportune time for students to fight for integration. Those who were college freshman during 1960 were twelve or thirteen years old at the time of the *Brown v. Board of Education* decision. Mayer, xviii. The failure of the court's decision to provide full integration coupled with the shortcomings of the Civil Rights Act of 1957, likely lead to frustration and the resolution that the only option available was direct action taken by ordinary people, not the judiciary or legislature. In addition, the students may have been inspired by the integration efforts made by the nine black high school students in Little Rock, Arkansas. *Id.* at xix.

Moreover, participating in the sit-ins may have been second nature to many of the students considering they tended to be student leaders. Many of the sit-in participants held student government positions at their schools[2]. *Id.* at xxv. This attribute is present in the Deep South and Baltimore sit-ins. Holding such positions may explain why such individuals were eager to promote social change and achieve equality.

While the students in Baltimore likely had similar reasons for conducting sit-ins in their local area, the situation in Baltimore was quite different from other southern states. Baltimore protestors did not experience the harsh treatment and enormous resistance that was present in the Deep South. The Baltimore demonstrations tended to be free of violence and hecklers. On the other hand, protestors in other southern states were met with substantial resistance from the white community, police force, and politicians. According to Palumbos, Baltimore did not experience the "dramatic, highly

[2] This was also true of the sit-ins conducted in Baltimore as they were initially performed by members of Morgan's student government.

visible reaction against the movement because its political leadership and general attitude was far less conservative than in the Deep South. Palumbos, 450. For instance, Nashville demonstrators were attacked with rocks, fists, and lighted cigarettes while conducting sit-ins. *Parting the Waters*, 279. While free of violence, the Baltimore sit-ins were significant because Maryland maintained legalized segregation until the passage of the Public Accommodations Act of 1964. Palumbos, 449. Those who defended segregation made the traditional southern claim that white prejudice prevented integration. Palumbos, 450.

Baltimore sit-ins were also different from the Greensboro-influenced protests because the student activists were not the first in their local community. Efforts for integration were prevalent in Baltimore for quite sometime. The NAACP and the *Afro American* newspaper made significant strides as advocates for social change in Baltimore beginning in the 1930s. Palumbos, 450. By the late 1950s, Baltimore's civil rights movement had four dominating groups including, the Interdenominational Ministerial Alliance (IMA), the local chapter of the Congress of Racial Equality (CORE), the Civic Interest Group (CIG), and the National Association for the Advancement of Colored People (NAACP). Palumbos, 451-52.

The IMA consisted of religious group involvement with the movement. Palumbos, 452. To aid the movement ministers rallied assistance from the congregations of black churches and used the funds to organize their own activism and aid other activist organizations.

CORE was made up of black and white radicals. It was founded in 1942 based on the principles of nonviolent interracial action. Palumbos, 452. The Baltimore CORE

chapter was formed under the impetus of Herbert Kelman, a white pacifist, in January 1953. *Id.* at 453. CORE worked closely with students from Morgan College in tackling the city's segregation practices. However, the adults focused their efforts on integrating downtown stores, while the students focused on the stores located in the Northwood Shopping Center because of its close proximity to campus.

CORE attempted to negotiate with businesses prior to taking direct action. When it found that a business discriminated, CORE first sent letters to the organization. Palumbos, 453. If the letters were not effective, CORE then passed out leaflets to customers discouraging them from supporting the business. Ultimately, CORE conducted sit-ins and picketing at establishments that refused to integrate. Palumbos, 453.

During the 1950s, the NAACP focused on legal and political advancement. *Id.* at 452. It contributed to the sit-in movement by providing legal representation to sit-in demonstrators, and bail for those arrested.

Morgan College students worked closely with CORE in its integration efforts of Baltimore. The students were from Morgan's Student Government's Social Action Committee. Palumbos, 455. The Social Action Committee organized Morgan students and students from other college campuses, including white students from Johns Hopkins University, and Goucher College. Palumbos, 3 and 455; Gass, 55. Eventually, Morgan College found itself in an awkward position because its students' activism threatened the school's state funding. Palumbos, 457. In order to maintain their independence, the students created an organization unaffiliated with Morgan, the Civic Interest Group (CIG) in 1955. Palumbos 457, and Gass, 50.

CIG took the lead in conducting sit-ins in Baltimore. During February 1, 1960, CIG was conducting business as usual. It did not hold a sit-in immediately after hearing about the efforts of the North Carolina A&T students. Gass, 52. Instead, CIG continued its protests at the Northwood Shopping Center on its usual schedule. Palumbos, 465; Gass, 52. Since CIG got its start from Morgan's student government, its protests tended to begin in March when new officers took office.

In addition to possessing a central force that organized its sit-ins, Baltimore's sit-ins were "more considered, organized, and deliberate." Palumbos, 463. They were not the first activists in their community, but were continuing a tradition. Palumbos explains that "the six-week interval between Greensboro and the Northwood demonstrations illustrates the strength and confidence that CIG had built up independently by 1960." Palumbos, 465.

Even though CIG likely would have conducted sit-ins in 1960 even if the Greensboro sit-in did not occur, it was aware of the protests that took place there, and may have even been influenced by them. The *Afro-American* included articles about the sit-ins occurring in the Deep South, including a section called the "Sit-down Roundup" that reported on the week's sit-in events across the country. *Baltimore Afro American*, April 9, 1960. The white press also reported on the sit-ins occurring across the nation. Palumbos, 464. Furthermore, in a sketch of its history and accomplishments, CIG mentions that it was influenced by the movement occurring in the Deep South. According to T. Anthony Gass, the Greensboro sit-in created enthusiasm that resulted in greater student participation in CIG protests and additional support from adults and established civil rights organizations. Gass, 52.

The injunction granted to Hecht-May's Rooftop restaurant threatened to hinder CIG's activism. Hecht-May complained that the sit-ins held at their Northwood restaurants caused a forty-nine percent drop in restaurant business and a thirty-five percent drop in retail sell. The judge granted Hecht-May an injunction that limited the picketers at the Northwood Hecht-May to two. *Baltimore Afro American*, March 29, 1960; Palumbos, 465. CIG overcame this obstacle successfully by turning its efforts to Baltimore's downtown department stores which maintained segregated lunch counters and restaurants. The former problem with the distance of downtown Baltimore from Morgan's campus was resolved because the NAACP provided buses that transported the students. Palumbos, 466.

On March 26, 1960, the students headed downtown targeting the segregated lunch counters and restaurants of Hecht-May, Hutzler's, Stewart's and Hochschild Kohn. Upon arriving downtown, the students divided into four teams, each team going to a different store. The team of students that entered Hochschild Kohn received a wonderful surprise. They were treated well by the waitresses and were served. Following the sit-in, Martin Kohn, manager of the restaurant, stated, "Our conviction is that decent people should be served, and if the community accepts it, and that includes our competition of course, we will continue the policy." *Baltimore-American*, March 27, 1960.

However, the students did not experience immediate success at the remaining department stores. Stewart's responded by closing its restaurant to all. Hecht-May posted detectives at its restaurant entrance to prevent the protesters' entry. Hutzler's allowed the students to sit in its Colonial Dining Room but closed it shortly thereafter. The students remained there for three--four hours without being served. However,

Hutzler's continued serving white customers in its smaller Quixie Dining Room. *Baltimore Sun*, March 27, 1960; *Baltimore Afro-American,* March 29, 1960

The students responded to the stores' resistance with continued protest. The students conducted sit-ins at the remaining three department stores two or three days a week. As a result, the restaurants began shutting down upon receiving a sign that the students were coming. Robert Palumbos, 466. On one occasion, eight students caused all four of Hutzler's dining rooms to be closed. *Id.* The students then picketed at the stores' entrances. *Baltimore Afro American*, April 2, 1960. On April 9, 1960, 30 ministers joined students by picketing the downtown department stores. *Baltimore Afro American*, April 12, 1960.

In order to make their protests more successful, the students urged the public not to patronize department stores that maintain segregated eating facilities. Letters from CIG were read to numerous church congregations urging them to refrain from shopping at businesses that discriminate. *Baltimore Afro-American*, April 9, 1960. In the *Afro American*, CORE declared its support of the students and requested that the public: "1. Discontinue all patronage at the Hecht-May stores, Stewart's and Hutzler's, until these stores are willing to serve all persons regardless of race, [and] 2. Write to the management of each of the stores telling them why the particular course of action is being followed." *Baltimore Afro-American*, April 9, 1960.

After three weeks of demonstrations, the downtown department stores began to experience significant revenue loss. In support of the students' protest customers cancelled accounts and refused to enter the stores. *Got My Mind Set on Freedom*, 209. On April 16, 1960, Albert Hutzler met with Robert Watts and CIG leaders, and informed

them that he had already decided to integrate his restaurants. Hutzler immediately informed Stewart's and Hecht-May that he would integrate and expected them to follow suit. *Id.* Stewart's and Hecht-May followed suit and opened their restaurants to all. *Id.* at 210.

While Hutzler's decision to integrate appears to have been motivated by sincere respect for the efforts of the students, Stewart's and Hecht-May seem to have only considered the financial implications of continued segregation. In discussing his decision to integrate, Hutzler's vice president E.L. Leavey stated,

> "In keeping with our evolutionary policy, we have lifted restriction in restaurants in all of the stores. We hope the situation has been resolved to the satisfaction of all concerned. The students have been able to do what the stores themselves haven't. They have awakened the community's attention to a situation that needed correcting. They should be congratulated for the manner in which they conducted the demonstration. We feel it's good for the community. It was never a question of principle. It was a matter of time. And we think this is the time." *Baltimore Afro American*, April 19, 1960.

On the other hand, Hecht-May's vice president stated, "we thought it was not a one-store matter and as soon as the other stores agreed to the new policy we were ready and did act." *Baltimore Afro American*, April 19, 1960. Stewart's president merely confirmed that it would open its restaurants to all. *Got My Mind Set on Freedom,* 210. Such reactions display that a business' decision to integrate may not be based on a change of heart toward African Americans. Instead, the businesses may only be considering the financial consequences that may result if they do not integrate. Interest in profits explains why the students found it important to employ the principles of nonviolence, which focused on helping others see them as decent human beings, coupled with tactics designed to hurt the restaurants financially. Preventing patronization heavily contributed to the students' success.

After its department store success, CIG sought to integrate additional lunch counters and restaurants located in Baltimore. During late spring 1960, CIG joined CORE in its White Coffee Pot Restaurant demonstrations. Horn, 103. In order to continue the protests during the summer months, CIG recruited high school students. During the summer of 1960, the students also demonstrated at Hooper's Restaurant, Snow White Grill, and White Tower Restaurant.

White Coffee Pot agreed to integrate if its low cost cafeteria competitors followed suit. Horn, 104. The students then began demonstrating at Bickford's, and Thompson's restaurants, and they quickly integrated. Horn 104. In response, the Mondawmin White Coffee Pot reluctantly integrated in June 1961. Horn, 104; *Got My Mind Set on Freedom*, 214.

However, other Baltimore White Coffee Pot Restaurants remained segregated for quite some time. Although White Coffee Pot had a contract with the city to feed its sanitation workers who received vouchers that were only good there, it allowed black workers to receive take-out service only. *Afro American,* March 14, 1961. White Coffee Pot allowed the black employees to purchase food, but required they eat outside of the restaurant. When made aware of the issue, City Highway Engineer G. Victor Walters promised to employ another restaurant. *Id.*

Although the sit-ins and protests that occurred at the downtown department stores resulted in no arrests, the situation changed when students moved to other venues. The demonstrators were usually arrested for trespass or disorderly conduct. Several arrests occurred at Hooper's Restaurant. For instance, Mary Sue Welcome, a sixteen year old member of CIG wrote about her experience behind bars. She and six others were arrested

for trespass during a sit-in conducted at Hooper's on June 30, 1960. *Afro-American,* July 16, 1960. Mary's mother, Verda Welcome, was a member of the Maryland House of Delegates. In Welcome's article, she describes the three hours she spent in jail. According to Welcome, the Pine Street Jail was "old, dilapidated, and ugly." Its cells contained hard benches, and the drinking water came from a pipe in the wash room and everyone had to drink from the same tin cup.

During the summer of 1961, CIG turned its focus to the discrimination occurring on Route 40. Route 40 was the only major highway from New York City to Washington, DC. Several foreign diplomats were refused service at restaurants operating along Route 40. *Baltimore Sun*, July 16, 1961. On June 26, 1961, an ambassador from Chad, Africa was refused service by a restaurant on Route 40 while traveling to Washington, DC to present his credentials to President Kennedy. *Afro American*, July 29, 1961. This was the fifth incident of such nature to occur within six months. *Id.* In response, President John F. Kennedy and Maryland Governor Tawes promised to send letters to the restaurant owners on Route 40 in order to prevent further incidents of discrimination against foreign diplomats. *Id.* Governor Tawes issued a public appeal following the incident asking for the cooperation of restaurant owners. *Id.* President Kennedy and the State Department warned the public that discrimination against foreign diplomats hampers the country's foreign relations program. *Id.*

Draft for Final Paper
Race and the Law Seminar

Kayon K. Allen
Kalle003@umaryland.edu
March 26, 2007
Pages: 12

BEFORE THERE WERE STUDENT ORGANIZED SIT-INS, THERE WERE STUDENT ORGANIZED SIT-DOWNS
1953 to Early 1960
MARYLAND

It is a long-held belief that first student organized sit-in civil-rights demonstration in the United States was held at a Woolworth's lunch-counter in downtown Greensboro, North Carolina, on February 1st, 1960. One need only type "sit-in" into an online search engine to uncover loads of pictures of four North Carolina Agricultural and Technical College students sitting at the Woolworth lunch-counter, that February day. The names of the four students, typically printed below the pictures, are; Ezell A. Blair Jr. (now known as Jibreel Khazan), David Richmond, Joseph McNeil, and Franklin McCain.

Their journey began on the night of January 31st, 1960. While in one of the dormitories the four students planned the sit-in for the following day at the Woolworths in downtown Greensboro. The four received a lot of national press coverage and instantly became famous. Shortly following the news reports, college and high school students began organizing sit-ins throughout the country. That day is engraved in the country's history and the lunch counter the students sat down in front of is now displayed at the Smithsonian Institution, as a reminder of the sit-in civil rights movement. In addition, North Carolina Agricultural and Technical College also erected a statute of the four gentlemen on its campus.

As we know, news is not always correct, there are at times honest mistake, many times because of lack of knowledge or evidence to counter what is believed. The headlines attached to the pictures of those four famous sit-in protests at Woolworth's in North Carolina are a prime example of such an error. Today there is more knowledge and the evidence shows, the first student-organized sit-in actually occurred in Baltimore, Maryland, in 1953. That sit-in was referred to as a sit-down.

Before there were student-organized sit-ins there were student-organized sit-downs, and the students involved were Morgan State College students. The first of these sit-downs occurred at the Northwood branch of Read's Drugstores near the college campus. It was located at the corner of Loch Raven Boulevard and Cold Spring Lane. Students started the protests in of 1953, with assistance from the Baltimore chapter of the Congress of Racial Equality (CORE). CORE was a national organization and was the first organization known to organize a sit-in for the desegregation of public accommodations. That sit-in was in 1942 at a Jack Sprats in Oklahoma. In 1953 through 1954, Morgan students continually protested in at the Read's Drugstores close to the campus. Adult CORE members began by focusing on the downtown Baltimore area.

Read's Drugstore was a locally owned chain at the time the protests began, and had locations throughout the state. The chain remained in Maryland until it was bought-out by Rite Aid Pharmacy in the early 1960s. Typically, drugstores had lunch counters were customers could sit down at the stools stretched along a long counter. Customers would order and eat meals at the counter and Read's Drugstore was no exception. However, just like so many other lunch counters at this time, Read's Drugstore refused to serve Black customers seated at their counter. Indeed, it was not unusual for a sign to be placed on the table stating that Read's held the right to serve whomever they chose, or a sign that more directly stated that the Read's Drugstore did not serve Negroes.

On the other hand, there were some Read's Drugstores that would serve Blacks, though they did not necessarily do so openly. Walter Dean, a former editor of Morgan State College's newspaper and a known sit-in protestor recalls being served at a Read's located on Edmonson Ave., in the early 1950s. Like some other stores, Read's would serve Black customers in Black neighborhoods, though they did not necessarily do so openly.

Why Morgan students and why Read's? The answer lies not only in the time-period, but also in Morgan State College's location. The 1950s was a time filled with much discrimination and segregation; Maryland was not an exception. In _____ in _____, the Supreme Court ruled that segregation between the races was legal, as long as the separation was equal. Many Jim Crow laws enabled the legality of separate accommodations for Blacks and Whites.

In addition, essentially, Blacks were not allowed to eat at White-owned lunch counters. Although at times, there were allowed to purchase food in the designated "Colored" or "Negro" line, this did not mean they would be served when seated. Morgan State College students encumbered various types of discrimination, because of the location of their school. Morgan State College, later renamed Morgan University, was located at the corner of Cold Spring Lane and Hillen Road, surrounded by a predominately White middle-class neighborhood.

Morgan students were transported to the college via a public bus that traveled north on Loch Raven Blvd. to Cold Spring Lane. The students would vacate the bus at this intersection and then walk approximately (How many blocks??? How many feet?) to enter Morgan State's campus. As may be imagined, it was a most uncomfortable travel along Cold Spring Lane, between White-owned houses. The community was neither pleased with the location of the college, nor the fact that groups of Blacks were constantly walking past their property. Through their hostility, the home-owners made it clear that they wanted the Black students to walk as far away from their property as possible. They would not even tolerate the students treading on the sidewalks adjacent to their property. In time, students would eventually resort to walking along an alley way, just to avoid the residents.

Prior to attending classes and upon the completion of the school day, the only off-campus eating establishment available to the students was the Read's Drugstore. However, the management

stated that it would not serve Negroes, and soon the management placed signs on the tables stating the same. Due to the situations, the students organized and began to protest Read's service policy in 1953. Morgan students first started picketing in front of the Drugstores, but not too long after, they began to stage actual sit-ins, which they called sit-downs.

(GO INTO THE CORE BELIEF AND THE BELIEF THE STUDENTS TOOK WITH THEM TO HAVE NON-VIOLENT PROTESTS – HARRASMENT YES – VIOLENCE NO – (SANDS AND THE AFRO))

In May of 1954, CORE claimed partial victory in the downtown area, specifically with the Grant's store, and it is at that time the CORE adults joined the Morgan students in their campaign against Read's Drugstores. Students held weekly sit-ins at the Northwood branch of Read's, usually with thirty or mores students present. CORE adults remained in constant communication with Read's management. In January 1955, Read's formally announced that the stores would end its desegregation policy and begin to serve Blacks. The January 22, 1955 edition of the Baltimore Afro-American announced the Read's victory in an article submitted by Ben Everinghim, Vice Chairman of the Baltimore CORE. Morgan students were elated and their fight continued.

Sit-in Protests Moves to Northwood Shopping Center

The Northwood Shopping Center was completed close to the end of 1954. It was located on Cold Spring Lane between Morgan State and Loch Raven Blvd. and included a theater, department stores such as Hecht-May Company, Price Candy Company's Roof Top Restaurant and Arundel's Ice Cream Company- a popular ice cream chain. The student movement increased in number and when students started protesting Northwood, they could not be ignored. Serious consequences matriculated due to increased student involvement and changes would soon be occurring, not only with regards to Northwood, but to the student movement itself.

Initially, the students involved in the protests worked through the Social Action Committee of the student government, which represented not only the student body, but the Morgan State College itself. The protests soon placed Morgan State in a compromising position with government leaders and local businesses. Morgan State received state funds and support from businesses and hence, pressure from those institutions fell upon Morgan State's President, _____, and he was forced to take action. Morgan's President openly informed the Social Action Committee that Morgan State did not support their actions and mandated that the protests and demonstrations seized. However, behind the seen, the President truly supported the students and helped out in any way possible. The students were supplied paper and the use of the copiers and printers so as to facilitate with the production of protest materials.

Since Morgan State could not openly support the student demonstrations, the students could no longer work through the Social Action Committee. In 1955, Douglas Sands, Student Council president-elect and other student leaders formed the Civic Interest Group (CIG). CIG soon became the name behind many student activists from Morgan State and other colleges, including Goucher College and the Johns Hopkins Graduate Program. CIG went on to conduct campaigns against segregated facilities at Northwood every spring from 1955 until 1960.

The sit-in campaigns involved picketing and sit-ins at Arundel's and the Roof Top Restaurant and picketing in front of the Northwood Theater. As citizens, the students wanted to right to go where other citizens were allowed to go and eat where other citizens were allowed to eat. The students protested and demanded integration throughout Northwood. Some Morgan State Professors were not supportive of the students missing classes to demonstrate, possibly out of fear of losing their jobs. Some professors threatened to fail students for too many unexcused absences, noting that picketing and demonstrating was not an excused absence. However students were

determined and the protests continued. In fact, the students were so determined and passionate about the issue that they even picketed through the Easter holiday.

Partial Victory at Northwood Shopping Center

On March 17th, 1959, a mere five days after the students started their 1959 spring demonstrations at Northwood; they were victorious with desegregating Arundel's Ice Cream. The supervisor of the Arundel's Ice Cream, George F. Kerchner, announced that Arundel's would serve Black customers. Mr. Kerchner noted that they must be paying customers to be seated and served and thus the students could not just "…take up the space that a buying customer could be using." The victory made headlines across the state and was featured in both the March 19th issue of the News-Post and the March 21st issue of the Baltimore Afro-American. (MENTION THE SUPPORT RECEIVED FROM WHITE CUSTOMERS AT THE TIME AND WHAT WAS STATED IN THE HEADLINES)

The Greensboro sit-ins in North Caroline became the famous sit-ins that sparked immediate protests in other cities. However, CIG began their yearly demonstrations at Northwood approximately five years prior to the date of the first Greensboro student organized sit-in, on February 1st, 1960. CIG was overjoyed to see the attention that the Greensboro students were receiving and the increase in protests across the nation. The Greensboro media attention also gave CIG ideas about how to proceed and increase its chances of being effective in protesting the Northwood area.

Greensboro Hits the Media and CIG Changes it's Sit-in Procedures

CIG began organizing their anticipated 1960 protests in February 1960, and they knew that year called for greater measures. The nation had recently been informed about the North Carolina students' actions at the Woolworth lunch counter in downtown Greensboro. CIG was not

disappointed or upset that those students had received such attention for holding the first student-organized sit-ins, although CIG had been holding such demonstrations for years. Instead, CIG became more excited about their forthcoming 1960 protests.

Prior to March 1960, CIG's demonstration procedure involved large picket-lines that made it difficult for potential customers to enter the Roof Top Restaurant, located above Hecht's Co and owned by Price Candy Company. The college students also held sit-ins, in which the students would enter the store, sit in a vacant seat and request to be served. However, the students would leave upon the management's request. Typically, the management would read the trespassing law (Find out more about the actual wording of this law – Dr. Papenfuse mentioned it and it's connection to slavery (????)) Upon the reading of the law, the students would vacate the premises.

The Morgan students and other Maryland college students were excited for the Greensboro students and wanted to mimic the events at Price Candy Co.'s Roof Top Restaurant. The atmosphere of the meetings was filled with excitement and enthusiasm and there was even greater student participation. The students realized that the old method of sit-ins were no longer an effective method to get needed attention. In order to get the results they were aiming for, they would need to be arrested. In 1960 CIG decided that its members and protestors would not just hold sit-ins, but there would be volunteers who would remain seated until arrested.

After Greensboro, the college students decided that in 1960 they would not vacate after the law was read, but they would succumb to being arrested if necessary. Indeed, in the meetings prior to the beginning of the protests that year, college student leaders asked for volunteers who would willingly be arrested. Walter Dean, the editor of Morgan State's newspaper at that time, was one of the volunteers and one of the four who surrender to arresting officers on March 20th, 1960 at the Roof Top Restaurant in Northwood. The more aggressive sit-ins started at the Roof Top Restaurant

in Northwood, on March 15th, 1960. Due to the protests, the Roof Top Restaurant and a nearby Price Candy Co. store lost business at an alarming rate. Both stores filed suit against the protestors, 14 of them named defendants. The suit was filed on March 24th, 1960 in the Circuit Court No. 2 of Baltimore City. The stores requested a court-ordered injunction against the named protestors and any persons acting in concert with them.

The 14 named defendants were; Philip Hezekiah Savage, Herman DuBois Richards, Jr., Manuel Deese, Walter Raleigh Dean, Jr., John Mynard Hite, Bernice Evans, Geraldine Sowell, Ronald Merryweather, Raymon C. Wright, Albert Sangiamo, Lloyd C. Mitchner, Ester W. Redd, Moses Lewis and Louis Jones. Attorney and Baltimore NAACP member Robert B. Watts served as council for the defendants. Attorneys Robert F. Skutch, Jr. and William W. Cahill, Jr. of the large Baltimore law firm Weinberg and Green served as council for the plaintiffs. Judge Joseph Allen was assigned to the civil case and issued the final order and judgment in the matter.

(EXPLAIN THE NAACP'S AID TO THE PROTESTORS – THEY DID NOT CONDONE THE BEHAVIOR – BUT THEY DID POST BILA AND OFFER FREE LEGAL COUNSEL ECT. – ALSO CHURCHES HELPED TO RAISE MONEY – MENTION THAT THE ORGANIZAITONS, LIKE THE NAACP TYPICALLY RECEIVED FUNDS FROM THE CHURCHES – ALSO THE ATTORNEYS TOOK OVER AFTER THE ARREST AND HANDLED EVERYTHIGN – THE PROTESTORS/DEFENDANTS REALLY DID NOT PARTICIPATE IN THE NEGOTIATION OR ANYTHING OF THE LIKE – MENTION WHAT PROFESSOR DEAN DID WITH THE AWARD THE NAACP GEAVE TO HIM SHORTLY AFTER THE ARREST AND HIS EXPLANATION WHY)

Hecht-May Company and Price Candy Co. Sue Sit-in Student Protestors

The Hecht and Price complaint alleged than beginning of March 15th, 1960, the 14 defendants, and others acting in concert with them, rushed into the Roof Top Restaurant and seated themselves at tables marked "Reserved" and at stools on the lunch counter and remained there, even though the management informed them that they would not be served. The complaint further stated that because of the protestors' actions the Restaurant managers were unable to welcome and serve customers and prospective customers that management usually served.

In addition, the plaintiffs charged the defendants with coercing and intimidating prospective customers from entering the Restaurant. Furthermore, the complaint alleged that beginning of March 18th, 1960 and continuing until the complaint was filed on March 24th, 1960, the defendants, and those acting in concert with them, would hold large double picket lines outside the Restaurant during all business hours. The picket lines were composed of up to 50 to 60 students at a time and allegedly prevented many prospective customers from entering the Restaurant. Therefore, the plaintiffs claimed that they were deprived of their lawful right to conduct their business without interference. Hecht-May Co. and Price Candy Co. stated they lost large sums of money from the patronage of the prospective customers. (NOTE THE NEWS HEADLINES THAT SPOKE MORE ABOUT THE NUMBERS OF STUDENTS AND THE DAYS)

The complaint also stated that one of the defendants, Philip Hezekiah Savage caused the Restaurant's cooking staff to abandon the premises on March 19th, 1960. According to the plaintiffs, Mr. Savage pushed his way through the guards at the Restaurant's door, sneaked into the kitchen, although asked to leave, and spoke with the employees in charge of the food and beverage preparation. It is further alleged that Mr. Savage, thru threats, coercion and intimidation, was able to convince the entire kitchen staff to quit their jobs and leave the premises. Hence, the Restaurant

was left with no kitchen help to prepare the foods and beverages customarily served to its customers.

During this time, Hecht-May Co. also was displeased with the protestors. Hecht-May Co maintained a 200-space roof-top parking space adjacent to Price Candy Co.'s Roof Top Restaurant. The department store complained that the defendants, and those acting in concert, were obstructing potential customers from utilizing the parking space. According to the store, the defendants, and those acting in concert with them, utilized the parking lot for their large picket lines and as a picnic ground to feed the protestors.

In addition, Hecht-May Co. stated that the large crowds were very boisterous and constantly yelled and chanted on the roof-top parking lot. As a result, it is alleged that upon observing defendant's behavior, prospective customers left without entering the premises. The Price Candy Co. claimed to have experienced a 49% decline in business at the Roof Top Restaurant, in comparison to comparable dates in the previous year. The Hecht-May Co. store at Northwood claimed to have experienced a 33% decrease in business, also in comparison to comparable dates in the previous year. Both plaintiffs held defendants responsible for the decline in their businesses.

The Hecht-May Co. and the Price Candy Co. also mentioned that four of the defendants had already been arrested, due to the behavior mentioned in the complaint. Defendant John Maynard Height was arrested for assault. The other three defendants arrested were Philip Hezekiah Savage, Herman DuBois Richards, Jr. and Walter Raleigh Dean and they were all arrested for illegal trespass. At the time, trial for all four defendants was pending at the Northeastern District Police Magistrate. The complaint stated that despite the arrests, the defendants were still engaging in the activities mentioned in the complaint, and would continue to do so unless the Court intervened and enjoined them.

The remedy requested was a preliminary injunction enjoining and restraining the defendants, and those acting in concert,

Judge Joseph Allen made his ruling and read the order just one day after the suit was filed, on March 25th, 1960. Judge Allen ordered a temporary injunction against the protestors. (GO INTO THE ACTUAL ORDER – WHAT IT STATES – MAYBE QUOTE FROM PARTS AND EXPLAIN WHAT IS SIGNIFIED)

(GO INTO THE CRIMINAL CASE – FIRST SENT TO NORTHWEASTERN DISTRICT, ENDED UP _____ AND GO INTO THE INFORMATION PROFESSOR DEAN PROVIDED – INCLUDING WHY HE STATES THE PROTEST MEANT SO MUCH TO HIM AND OTHERS WHO GOT ARRETED - THE IDEA OF BEING SERVICE MEN AND HOW THEY WERE TREATED OUTSIDE OF THE COUNTRY AND UPON THEIR RETURN)

(MENTION THAT THE ARRESTS AND CASES WERE THE CATALSYTS FOR BIG DEMONSTRATIONS TROUGHOUT BALTIMORE AND IT WAS THE DATE AFTER THE JUDGE ALLEN ORDER THAT PROTESTORS STARTED PROTESTING THE STORES IN DOWNTOWN BALTIMORE AND THE NAACP WAS MORE ON BOARD WITH THE PROTESTS AT THAT TIME)

(ADD ALL FOOTNOTES MENTIONING SOURCES)

Subj: **1st Draft**
Date: 3/28/2007 7:47:15 A.M. Eastern Daylight Time
From: dayen001@umaryland.edu
To: edp@mdsa.net, lsgibson@aol.com, lgibson@law.umaryland.edu

Good Morning -

I apologize for the delay with submitting my draft. I had meant to update it with additional information, but I have been conducting additional research and culling and organizing what I currently have and have not been able to update it as I had planned. However, I wanted to submit my current draft without any further delay.

While not completely reflected by the draft, I do have a large amount of data on my topic. Furthermore, as I previously stated, I am still conducting research and when all is said and done, I will have information from sources as varied as Pratt Library, the Thurgood Marshall Law Library, the General Assembly's Library, the State Archives, UMCP's library, various Baltimore agencies, multiple interviewees and of course the Internet.

Thus, while difficult to tell from my initial draft, I have every confidence that my final paper will be a complete and thorough history of Maryland's and Baltimore's public accommodations laws. In addition, it will also include information on the environment that these laws were passed in, similar laws in other states and the relationship between the Federal Civil Rights Act of 1964 and the State and city's public accommodations laws. Again, I apologize for the delay with submitting my draft and thank you for your time.

Debo Ayeni
University of Maryland School of Law
University of Maryland, Robert H. Smith School of Business
JD/MBA Candidate, 2007

Debo Ayeni
Race and the Law Seminar
March 2007

Public Accommodations Legislation in Maryland

Salient Figures

Harry Cole was a former Maryland state senator who introduced a public accommodations bill in Maryland's legislature.

Emory Cole was a former member of Maryland's House of Delegates who introduced a public accommodations bill in the General Assembly.

At the request of Mayor Theodore Mckeldin, Baltimore City Council President Thomas D'Alesandro III introduced a public accommodations bill in Baltimore's City Council.

Mayor Theodore McKeldin signed into law Baltimore's public accommodations ordinance in 1964, ordinance # 103.

Governor John Millard Tawes was a Democrat and the 54th Governor of Maryland from 1959 to 1967. He signed into law Maryland's first public accommodations law in 1963 and a second public accommodations law in 1964.

Walter Dixon was first elected to Baltimore's city council in 1955. He represented the city's 4th district. In 1957 he introduced bill #1653. It was a public accommodations bill that would "lawfully open all public places of accommodations and services to all persons, whatever their

race." (Baltimore Sun) It failed to pass in the council, but Mr. Dixon would later introduce a public accommodations bill that did pass and became Baltimore City ordinance #1249.

Murray Abramson was a former Maryland State Delegate. In 1963 introduced the amended Trespass law which allowed Baltimore to pass its public accommodations ordinance.

William C. Rogers was the first director of Maryland's Commission on Interracial Problems and Relations Commission. He served from 1951 to 1963. His Commission fought for equal civil rights for black Marylanders. After Maryland passed its public accommodations bill in 1963 and 1964, the Commission was the agency that was charged with the enforcing those laws.

Parnell Mitchell was the second director of Maryland's Commission on Interracial Problems and Relations Commission. He would later become a United States Congressmen and fight for civil rights as a member of the United States House of Representatives. As was stated earlier, the members of the Maryland Commission on Interracial Problems and Relations fought hard for civil rights for Maryland's black population. It worked with Maryland's municipal governments and private businesses to try to get private businesses to voluntarily treat blacks the same way as whites. It also submitted proposed legislation on public accommodations to the Statehouse. The Commission was created in 1951 by a state statute.

Reverend Douglas Sands was named Executive Secretary of the Maryland Commission on Interracial Problems and Relations. That is the number two position in the Commission and in that role he had a great amount of power and influence. As Executive Secretary of the Maryland

Commission on Interracial Problems and Relations, Rev. Sands was involved in many important events that furthered the cause of racial equality.

For example, starting in 1960, Rev. Sands joined members of the NAACP, Urban League, Ministerial Alliance and other proponents of civil rights legislation in demonstrating and lobbying at Baltimore's City Hall for passage of a public accommodation law. Eventually, the city passed such a law in 1962.

Another time, CORE fought for civil rights on Route 40 under a Freedom Rise plan and after the plan was aborted, student leaders organized and conducted demonstrations in the Baltimore-Annapolis metropolitan areas on five straight weekends. Governor Tawes began to worry that the mass demonstrations would erode support for the State public accommodations bill, and he asked William C. Rogers, Chairman of the Commission on Interracial Problems and Relations to arrange a meeting with protest leaders and officials of the Restaurant Association of Maryland to reconsider its pledge to support Statewide legislation prohibiting discrimination in hotels and restaurants if the demonstrations continued. Rev. Sands was given the task of arranging a meeting between the two sides, so that the possibility of stopping the demonstrations until the General Assembly could pass the bill could be discussed. Ultimately, the 1962 bill didn't pass, but the General Assembly would pass a public accommodations bill the following year in 1963. During 1963, Rev. Sands worked with various advocates of the 1963 bill, in order to help get it passed.

Baltimore City's Public Accommodations Laws

The first public accommodations laws that were introduced in the Council were pushed and authored by Walter Dixon from the city's 4th district. Mr. Dixon introduced ordinance #1653 would lawfully open up all public places of accommodations and services to all persons, whatever their race. It was introduced in 1957. A hearing took place in November 1958. Opponents included hotel, restaurant and movie representatives. After the hearing, in an executive session, the council killed the bill.

As was stated earlier, Baltimore passed its first public accommodations law in 1962, ordinance # 1249. The ordinance was then challenged in the case of Karson's Inn v. Mayor and City of Baltimore. The plaintiffs argued that the ordinance was void because it was contrary to the State's trespass law. The court found for the plaintiffs. Delegate Abramson then introduced his trespass bill, which amended the original trespass law and allowed Baltimore to pass ordinance #103 in February 1964. Ordinance #103 was an even more comprehensive and widespread public accommodations law then the one which had been voided by the court in the Karson's Inn case.

Maryland's State Wide Public Accommodations Laws

A statewide public accommodations bill was introduced in the general assembly during a special session in March of 1962. But it failed to pass.

The following year, another statewide public accommodations was introduced and this time, it did pass the legislature and was voted into law by Governor Tawes. However, a number of

compromises were made to get the bill through the legislature and as a result, it was not a particularly strong bill and only applied to Baltimore City and 11 of Maryland's 23 counties.

The law was later amended and re-enacted on 3/14/64 in order to give it complete statewide application. It was supposed to go into effect on 6/1/64, but petitions were filed calling for a referendum, which if valid, would suspend the operation of the law under Article 16 of the Maryland Constitution. The validity of those petitions was then attacked in the Circuit Court of Baltimore. The court found that the petitions were valid and ordered the referendum to go on the general election ballot for November of 1964. The law survived the referendum and became the public accommodations law of Maryland.

Maryland Political Contribution Loopholes: History, Discussion & Options to tackle the LLC & "Other Business Entity" Ambiguities

A commentary

by

Jeremy D. Tunis
University of Maryland School of Law
Election Law Seminar
Professor Larry Gibson
Final Manuscript Submission: January 9, 2007

I. Introduction

This commentary sets out to define major legislative and legal developments culminating in Maryland's current and flawed election code,[1] with particular emphasis, analysis and discussion of the increasing volume of political contributions made by business entities to Maryland political committees. Primary focus centers on the historical emergence of a significant and deleterious loophole in the current campaign finance statutory framework. This loophole currently allows owners and partners of non-corporate business entities such as limited liability companies (hereafter LLCs), partnerships, limited liability partnerships (hereafter LLPs) real estate trusts and other similar entities to effectively bypass all political contribution limits while donating large and repeated contributions from legally separate but closely affiliated entities often under identical or very similar ownership and control.[2]

Under current Maryland campaign finance law[3], political donors can each give up to $4,000 to an individual candidate or committee and $10,000 to all candidates or committees over a four-year election cycle.[4] All business accounts and LLCs are subject to the same limitations per entity. Therefore, non corporate business or LLC owners can give up to $10,000 over a four-year election cycle in their own names, plus another $10,000 in their company's name. For example, a developer who owns and controls separate LLCs or LLPs can individually contribute $10,000 in denominations up to $4,000 to any number of political campaigns, then can give

---

[1] MD CODE ANN, Art. 33, Election Law Section (2002)

[2] MD.CODE ANN. Art. 33 Sec §101 defines a contribution as the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party or question.

[3] MD. CODE.ANN Election Law Article §13-225-226 (2002) "No contributor may directly or indirectly contribute more than $4,000 to a candidate in any four-year election cycle. Total contributions for a single contributor may not exceed $10,000 in any four-year election cycle. Although no specific definition of "contributor" is provided, the Revisor's Note states: "this section is new language derived without substantive change from the former Art. 33 §13-212(b) defining a contributor as any individual, association, unincorporated association, corporation or other entity.

[4] MD. CODE.ANN Election Law Article §13-226 (2002).

another $10,000 through his first LLC and not have it count against his aggregate or individual limits. Moreover, the developer could repeat this process with her second LLC, third and so on.

This comment will first address the legislative history and regulation of political campaign contributions in Maryland, including identifying the business entity loophole in the context of the emergence of new forms of business entities such as LLCs. This comment then addresses the growing role of business entity contributions in Maryland, particularly the use by business owners of multiple related entities to contribute large sums of money to candidates and committees. Discussion will next focus on recent and unsuccessful legislative attempts to address the loophole and well as identifying potential procedural and enforcement problems of this proposed legislation. Finally, alternative reform options are offered to solve the business entity loophole while also striving to generally improve Maryland's campaign finance law in order to instill continued public confidence and fundamental fairness into the system.

II. Early History of Campaign Finance Regulation in Maryland

Article I, of the Maryland Constitution enjoins the General Assembly to "pass Laws necessary for the preservation of the purity of Elections." [5] Following many other states, the Maryland General Assembly passed the Corrupt Practices Act of 1908 to limit the expenditure of money by candidates for public office, and to minimize the corrupt use of money in politics. [6] While setting no specific individual limits on contributions, the legislation delineated the structure of political campaign entities and barred all corporate contributions.[7]

The Fair Elections Practices Act of 1957[8] formally replaced the Corrupt Practices Act. The FEPA generally applied to all State, County, and Baltimore City elections. In general, the

[5] MD. CONST. art. I, §7.
[6] Enacted by Chapter 22, §172, Laws of Maryland 1908, MD Session Laws, Volume 483, Page 1523.
[7] *Id.*
[8] Maryland Fair Elections Practices Act of 1957, 1957 Md. Laws 739.

law required the appointment of treasurers through a written filing with the appropriate board, imposed recordkeeping and financial reporting duties, limited aggregate political contributions and transfers, prohibited certain solicitations and uses of campaign funds and required identification and retention of campaign materials.[9] Specifically, the law created an aggregate contribution limit of $2,500 per individual, association, unincorporated association, corporation or other entity per election year.[10] A review of the legislative history reveals that the former $1,000 limit that one entity could contribute to each committee was established in 1974.[11] The $1,000 per entity, $2,500 per cycle contribution limit remained in force until 1991.

III. Governor's Commission to Review the Election Laws & H.B 1047

In December 1985, then Maryland Governor Harry Hughes appointed an independent blue ribbon Commission to Review the Election Laws (the "Nilson Commission"); charged with the responsibility of re-examining Maryland's election and campaign finance law and for making reform recommendations to the 1987 Maryland General Assembly. [12] The commission consisted of legislators, party officials, citizen activists and business representatives.[13] It focused its review on Maryland's entire campaign finance regulatory apparatus making numerous recommendations for revising and reforming the State's campaign finance laws.[14]

---

[9] *Id.*
[10] *Id.*
[11] 1974 Md. Laws ch. 290, § 2. Although not stated specifically in the legislative history, this enactment was likely a statutory response to enactment of he Federal Election Campaign Act Amendments of 1974 that, among other things, formally established a $1,000 per person contribution limit. See Federal Election Campaign Act Amendments of 1974 Pub. L. No 93-443, 88 Stat 1263 (1974)
[12] REPORT OF THE GOVERNOR'S COMMISSION TO REVIEW THE ELECTION LAWS (Jan. 15, 1987) [hereinafter GOVERNOR'S COMMISSION REPORT]. Available at Maryland State Law Library, Md. Y3. El 38:2/N/987: Nilson, George A.
[13] 1991 Session Review of the General Assembly of Maryland, Department of Legislative Reference, April 9, 1991.
[14] GOVERNOR'S COMMISSION REPORT

Included in its recommendations were proposals to increase individual contribution limits from $1,000-$,4000, impose limits on transfers between political committees[15], place limits on campaign fundraising by lobbyists, and on fundraising during the legislative session and to improve the general enforcement of election law. The Commission's report provided the basis for comprehensive campaign finance reform legislation first introduced in 1987.[16] While the General Assembly considered and debated numerous bills designed to enact many of the Nilson Commission's recommendations during the 1987, 1988, 1989 and 1990 legislative sessions, none of the proposals successfully passed.

During the 1991 Legislative Session however, the Maryland General Assembly finally enacted major updates to Maryland's campaign finance law, following several of the Commission's recommendations. The updated law was largely embodied in the omnibus House Bill 1047.[17] Major provisions of the legislation included establishing the current four-year cycle for the application of contribution limits and transfers, increasing the contribution[18] limits from $1,000 per candidate per election and $2,500 to all candidates in each election to $4,000 per candidate or committee per election cycle and $10,000 to all candidates per cycle.[19] Furthermore, the bill established a limit of $6,000 on the amount of transfers between political committees[20] and delineated rules for the treatment of loans. Finally, the measure required that

---

[15] Under current law, a transfer is defined as a monetary contribution that is made by one finance entity to another finance entity, other than one made by or to a local political club, See MD.CODE ANN. Art. 33 Sec §101. Under the previous law, any political committee could transfer unlimited contributions to other political committees.

[16] The 1987 legislation consisted of five bills: H.B. 831, 832, 834, 1117, 1118, Md. Gen. Assembly, 393d Sess. (1987).

[17] H.B 1047, Md. Gen. Assembly, 397th Sess. (Md. 1991).

[18] See *Id.*

[19] Floor Report of H.B. 1047, Senate Economic Affairs Committee compiled by the Maryland Department of Legislative Reference (now Department of Legislative Services) (on microfiche)

[20] *Id.* The original H.B. 1047 adopted an $8,000 transfer limit between political committees, but this limit was reduced to $6,000 in the Conference Committee Report. Moreover, the Conference Committee provided for exemptions from the $6,000 transfer limitations between a slate and a member of the slate, transfers between and among state party committees and candidates from the same party.

the names of political committees must reveal the nature of the committee and not be deceptive.[21]

Particularly relevant to this discussion, H.B. 1047 was the first bill to formally establish a statutory framework for how contribution limits should be applied to corporate contributions. The Nilson Commission recommended that a parent corporation and any subsidiary should be considered as one contributor subject to the new contribution limits.[22] This provision, embodied at 26-9(g) of the amended Maryland Code of 1957, Article 33 stated:

> **Maximum contribution by a corporation**: Except as otherwise provided by law, an individual, association, unincorporated association, corporation, or other entity may make contributions in accordance with the limitations on contributions set forth in this section, provided that, for the purpose of determining the maximum amount that a corporation may contribute, a contribution by a corporation and any wholly owned subsidiary of the corporation or 2 or more corporations owned by the same stockholders shall be considered as being made by 1 contributor." [23]

While the history of the language of H.B. 1047 that would eventually became sub-section §26-9(g) is limited, a few clues into possible legislative intentions are apparent by examining committee testimony and communications of particular interested corporations and elected officials.[24]

A) Positions on H.B. 1047 & Outside Commentary

Baltimore Gas & Electric Company contacted the Chairperson of the House Constitutional & Administrative Law Committee on February 27, 1991 to express its opposition

---

[21] *Id.*

[22] GOVERNOR'S COMMISSION REPORT at 62

[23] Code 1957, Art. 33, § 26-9 *Amended* by ch. 617, Acts 1991 §26-9(g). This sub-section, substantively unchanged from the 1991 Acts, was derived in former Article 33 §13-212 and henceforth re-codified under § 13-226 (e) of the Election Law Article re-codified by ch. 291, Acts of 2002 §4. The original statutory language of §26-9 regarding contribution limits stated: it is unlawful for any individual, association, unincorporated association, corporation, or any other entity either directly or indirectly, to contribute any money or thing of value greater than $4,000 to any candidate or political committee or to contribute money in excess of $100 except by check in any 4-year election cycle. Total contributions by a contributor under this subsection shall not exceed $10,000 in any 4-year election cycle.

[24] Legislative Bill File of H.B. 1047 of 1991 on file with the Maryland Department of Legislative Services, Annapolis Maryland.

to the proposed affiliated corporation provision. BG&E argued that the measure disregarded the political and business differences that exist between subsidiary and parent corporations. The company argued that it should be able to contribute to candidates and committees that support its views, which could differ from the parent organization.[25] Likewise, the Maryland Chamber of Commerce submitted similar testimony, but argued more generally that the proposed statutory language would unfairly discriminate against corporations, while allowing other organizations such as labor unions, unincorporated non-profit groups and other non-corporate entities to contribute from affiliates and subsidiaries.[26] Besides the two communications just discussed, no other evidence exists that any other interest group or legislator submitted material on the record regarding this particular provision.

However, in light of the available correspondence, it appears the Maryland General Assembly was fully aware of the potentially limiting effect of the provisions on the ability of corporations to contribute. Additionally, commentary in response to the Nilson Commission's recommendations on corporate contributions discussed how the relationship between the diversification of subsidiary or commonly owned corporations could create concern for potential circumvention of legislatively authorized contribution limits but also opined that limiting subsidiary and common ownership aggregation rules solely to corporations would likely allow other non-corporate entities to diversify and circumvent contribution limits. [27]

For instance, in Maryland Campaign Finance Law: A Proposal for Reform, [28] Collins argues that the Commission's original aggregation proposal (years later embodied in H.B. 1047) did not adequately recognize the diversified interests of subsidiary corporations and was too

---

[25] *Id.*
[26] *Id.*
[27] Carville B. Collins, Case Comment, *Maryland Campaign Finance Law: A Proposal for Reform,* 47 Md. L. Rev 524 (1988).
[28] *Id.* at 552-553

limited in scope to corporations.[29] The comment further contends that an array of other organizations, including labor unions, trade and professional associations, political committees, and a myriad of other interest groups and organizations would be free to diversify therefore creating additional contributing or transferring opportunities outside the legal contribution limits.[30]

Collins concluded by providing an "improved proposal": that two or more commonly owned, managed, organized, or administered entities should not enjoy separate, individual limits and the state should subject it to the individual contribution limits applied to all other entities and individuals.[31] Collins would have delegated to the State Administrative Board of Elections (now known as the State Board of Elections) the responsibility to make determinations of common ownership, management, organization, or administration of entities for purposes of the rule.[32] As will be discussed later, Collins' seventeen-year-old commentary is rather prophetic.

IV. Early Recognition & Identification of the Non-Corporate Entity Loophole

With the exception of Collin's 1988 law review comment identifying the potential shortcomings of §26-9(g)'s corporate aggregation formula,[33] no discernable legislative action took place to study the aggregation loopholes in the immediate aftermath of H.B. 1047. However, in 1993, a Maryland State Senator was apparently curious enough about §26-9(g)'s statutory language to write a letter to the Office of the Attorney General.[34] Senator Janice Piccinini asked for clarification regarding whether 1) the proviso in §26-9(g) applies to the

---

[29] *Id*
[30] *Id.*
[31] *Id.*
[32] 47 Md. L. Rev. 524 at 553
[33] *Id.*
[34] See Letter of Advice dated October 11, 1993, from Jack Schwartz, Chief Counsel, Opinions & Advice, to the Honorable Janice Piccinini, State Senator, Department of Legislative Services, Bill File of H.B. 814 of 1997

contributions of partnerships or limited partnerships[35] and 2) whether corporations with slightly different in ownership (overlapping stockholders) were to be treated as one corporation for purposes of contribution limits.[36]

Responding to the Senator's correspondence, the Chief Counsel for Opinions & Advice [37] commented that the aggregation language in §26-9(g) was applicable only to corporations and not to partnerships or limited partnerships[38] regardless of whether they compromised the same partners.[39] In supporting this interpretation, the Counsel stated in reference to §26-9(g):

> "The General Assembly recognized that not only corporations, but other "entities" such as individuals, associations, unincorporated associates, contribute to political campaigns. However, in the proviso at issue, the General Assembly required aggregation of contributions made by corporations only. Accordingly, the proviso does not apply to entities other than corporations."[40]

However, in a footnote, the letter emphasized that any business entity (including partnerships, associations, etc) must be created for a bona fide business reason unrelated to political contributions. Therefore, any attempt to evade contribution limits by creating entities for the sole purpose of contributing would violate §26-9(d)(1).[41] The Letter of Advice additionally held that similarly owned corporations, even those with significant shareholder overlap, did not trigger the aggregation requirement of the proviso because they were not owned by the exact same stockholders.

---

[35] The reader must remember that Maryland Limited Liability Company Act of 1993, Title 4A of Corporations and Associations, MD CODE. ANN (1993) was very recent and therefore, very few LLCs existed in the state.
[36] See Letter of Advice dated October 11 at 1
[37] Letters of Advice do not constitute an opinion of the Maryland Attorney General.
[38] And by legal extension, Maryland LLCs which are statutorily defined as an unincorporated entity
[39] Letter of Advice dated October 11, 1993 at 1.
[40] *Id.*
[41] 26-9(d)(1) stated in part that "it is unlawful for any individual, association, unincorporated association, corporation or any other entity to **directly or indirectly contribute** any money or thing of value greater than $4,000 to any candidate or committee. " The Letter of Advice likely considers creation of entities solely for the purpose to contribute would violate the proviso's prohibition on indirect contributions. MD. CODE. 1957 Art 33 S 26-9(1991) re-codified at Art. 33 §13-212(b)(1991), now embodied in Election Law Article 33, §13-225-226 (2002)).

Although the Letter of Advice was not an official opinion, it constituted the first of only two known Attorney General Interpretations of 26-9(g) and its presently codified progeny. Several years later, the Letter of Advice letter would emerge in the debate surrounding the General Assembly's attempts to close the loophole. A second Letter of Advice, relying largely on the interpretations of the first, came in 1997. Discussion and analysis of this letter will proceed later. However, a full analysis of legislative reform attempts is not complete without first discussing the enactment of the Maryland Limited Liability Company Act of 1993, the rise of LLC filings in Maryland, and the growing effects of LLCs on contribution activity in Maryland.

V. The Emergence of Limited Liability Companies in Maryland

In late 1992, after several years of study and drafting, the General Assembly adopted the Maryland Limited Liability Company Act.[42] Under the Act, an LLC is an unincorporated form of business entity similar to a general or limited partnership, but possessing a limited liability "shield" protecting owners from liability to the same extent that stockholders of a corporation are insulated. If properly structured, the LLC will be treated as a partnership, not a corporation, for federal, and in Maryland, state income tax purposes.[43] In Maryland, an LLC is formed by filing Articles of Organization with the State Department of Assessments & Taxation.[44] The articles must state the name of the entity, its principal address and the purpose for which it was formed.[45] However, the statute does not require disclosure of any of the LLCs' owners or managers, only stipulating that the entity must list the address of a "resident agent," who may often have little or

[42] Chapter 536, Laws of Maryland 1992 codified at ANN.CODE. MD Corporations & Associations Article ("CA"), §4A-101 et seq.
[43] *Id.*
[44] ANN .CODE. MD Corporations & Associations Article §4A-204
[45] §4A-204 does not require any particular specificity in naming the LLC's purpose. For example, many entities answer this question simply by stating that the purpose of the LLC is "to engage in such lawful activities permitted to limited liability companies by the applicable laws and statutes for such entities of the State of Maryland." Articles of organization of Northern Technology, LLC, Maryland Department of Assessments and Taxation, 12/05/2005

no connection with the LLC, its operations or ownership. Moreover, the LLCs' formal name is not required to offer any indication of who controls or owns it.[46] Therefore, since Maryland law substantively treats LLCs as unincorporated business entities, and taxes them as partnerships, a reasonable legal application of the 1993 Attorney General's Letter of Advice would very likely conclude that LLCs do not constitute corporations for purposes of the 26-9(g) corporate contribution aggregation requirements.[47]

Maryland LLC experts such as prominent attorneys Stuart Levine and Marshall B. Paul (original drafters of the original Maryland LLC Act) have recently stated that Maryland's LLC Act is "among the most opaque in the nation with respect to the identities of the LLC's owners, as there is no requirement that there be a public record of the names of either the owners or actual operators of an LLC."[48] Levine further states that the policy of not requiring public disclosure of LLC owners or operators is identical for stockholders of Maryland corporations and is primarily intended to promote privacy in business dealings.[49] "However, there is nothing in the statute that blocks ownership disclosure where compelling reason exists, for example, discovery in the course of litigation can be used to compel disclosure of an LLC's ownership structure."[50] Theoretically, the state could compel LLC ownership disclosure concerning campaign finance contribution disclosures through reformation of the Election Law Article without requiring any substantive changes to Maryland's laws on corporations and LLCs a change that could discourage business expansion and stimulate business privacy concerns.[51]

---

[46] See Jeff Horseman, "Developers use loophole in campaign donation law" The Capital, September 10, 2006.
[47] MD. CODE. 1957 Art 33 S 26-9(1991) re-codified at Art. 33 §13-212(b)(1991), now embodied in Election Law Article 33, §13-225-226 (2002)
[48] See Stuart Levine, "Tax & Business Law Commentary" http://taxbiz.blogspot.com/2006/09/what-have-i-wrought.html, September 14, 2006.
[49] *Id.*
[50] *Id*
[51] *Id.*

It is important to note that many LLCs are legally created for a plethora of perfectly legitimate business, tax, financial and organizational motivations, most of which are clearly outside the relevant scope of this comment. However, in Maryland, LLCs often represent individual real estate holdings used by investors/developers to manage portfolios of new and existing properties. It is often common for the same group of individuals, or a small variation of the same group, to own and manage numerous LLCs to manage these investments.[52] Thus, politically contributing through an LLC or partnership provides the individual business owner with a substantial degree of legally sanctioned anonymity and contributing power.[53]

Under current law, LLC owners and managers can contribute the maximum $4,000 per entity from each separate LLC or partnership even if the entities are owned, managed, operated and coordinated by the same or substantially similar owners. Furthermore, according to the State Department of Assessments and Taxation, the number of new filings for limited liability companies in Maryland doubled from fiscal year 1999-2004.[54] No scientifically valid evidence exists that this substantial rise in Maryland LLC filings is directly related to anything other than sound tax or business strategy or general economic expansion in the state. However, there is little rational doubt that political contributions from LLCs/LLPs; many operated and managed by the same or similar owners, now constitute a very significant source of fundraising to candidates running for state office in Maryland.[55]

---

[52] See Stuart Levine, "Tax & Business Law Commentary" September 14, 2006.
[53] Gregory M. Duhl, Assistant Professor of Law, Univ. of Tulsa School of Law, *How LLCs Are Being Used To Take Advantage Of Loopholes In Campaign Finance Election Laws,* Unincorporated Business Law Prof Blog (September 16, 2006) located at http://lawprofessors.typepad.com/unincorporated_business/2006/09/how_llcs_are_be.html
[54] Fiscal & Policy Note for Maryland Senate Bill 140/H.B. 585 of 2006, Department of Legislative Services, Maryland General Assembly.
[55] *See for example,* Common Cause Maryland, *The Six Million Dollar Loophole: How Money Moves in Maryland Campaigns Through Limited Liability Companies,* (February 16, 2006) available at www.commoncause.org and The Department of Legislative Services Bill File of SB 140, *see also* Neighbors for a Better Montgomery, *Paying for Montgomery County Elections, A White Paper describing the extremes of financial influence and negative behavior that characterized the 2002 elections in Montgomery County, MD* (August, 30, 2003), available at

VI. Contributions by LLCs and Partnerships in Recent Maryland Elections

The Maryland State Board of Elections, nor any other state government agency specifically reports or tracks political contributions of affiliated or commonly owned LLCs or partnerships. However, all Maryland political committees must report contributions from LLCs in the same manner as they report contributions from individuals, corporations, associations, labor unions or other entities.[56] Committees file contribution reports with the State Board of Elections and these reports are available for public inspection, both at the Board's headquarters as well as online.[57] In addition, statements of organization of LLCs and partnerships are available for public viewing at the Maryland Department of Assessments and Taxation. While the details of the filings vary widely depending on the particular entity, all filings include the entity's principal address, filing date and copies of the LLC or partnership's statement of organization.[58]

In an attempt to illustrate the increased use of affiliated or related LLCs and partnerships to make large contributions in Maryland; several public interest organizations undertook detailed studies of LLC campaign contributions.[59] After completing initial examinations of contribution reports, the organizations proceeded to research the LLC's filings with the State Department of Assessments & Taxation in order to identify common ownership interest and "bundling"

---

www.neighborspac.org, *See also* Legislative Bill File for H.B. 660/S.B. 132 of 2003, H.B. 931/S.B. 165 of 2004, & H.B. 566/S.B. 461 of 2005, Department of Legislative Services.

[56] Election Law Article 33, §13-309 (2002)

[57] See University of Maryland, Baltimore County, *National Center for the Study of Elections*, http://mdelections.umbc.edu/campaign_finance/

[58] See, Maryland Department of Assessments and Taxation database, http://sdatcert3.resiusa.org/ucc-charter/CharterSearch_f.asp

[59] Common Cause Maryland, (February 16, 2006) available at www.commoncause.org and, Neighbors for a Better Montgomery ,available at www.neighborspac.org, *See also* Legislative Bill File for H.B. 660/S.B. 132 of 2003, H.B. 931/S.B. 165 of 2004, & H.B. 566/S.B. 461 of 2005, Department of Legislative Services.

activity.[60] While admittedly unscientific and occasionally based on circumstantial evidence, these studies expose a number of disturbing contribution patterns likely exemplifying how large contributors use LLCs and partnerships to aggregate large contributions.

According to Common Cause Maryland, LLCs and partnerships, often controlled by the same individuals or families, contributed over six million dollars to state candidates during the 2003-2006 election cycle.[61] An example of this "bundling" practice is illustrated by examining the political contribution activity of a high profile businessman and attorney. In January of 2005, his wife and son received state approval to buy Rosecroft Raceway[62] and were influential backers of Maryland Governor Bob Ehrlich's unsuccessful plan to allow slot machine gambling at Maryland racetracks. Common Cause identified 11 separate business entities; all sharing their principle address[63] with the donor's law firm gave a total of $141,725 to candidates and committees since 1999. This sum is in addition to the more than $46,000 in individual contributions given to Ehrlich by the businessman and members of his extended family.[64]

This type of "bundling" contribution activity is by no means limited to Governor Ehrlich or to members of any one political party. For instance, on January 11, 2006, Baltimore Mayor and current Governor Elect Martin O'Malley received $21,000 from six separate LLCs all controlled by a prominent Baltimore area real estate developer. A detailed search of Department of Assessments & Taxations filings database revealed that each LLC that contributed to O'Malley at the January 11 event shared an address with the developer's headquarters in

---

[60] "Bundling" is a colloquial term to describe the practices of wealthy political donors using related non-corporate business entities such as LLCs to make large contributions to a candidate or committee.
[61] Common Cause Maryland, *The Six Million Dollar Loophole: How Money Moves in Maryland Campaigns Through Limited Liability Companies* (February 16, 2006).
[62] At the time Rosecroft Raceway was a potential site for slot machine development. However, legislation authorizing slot machines at racetracks, or anywhere else in the state, failed to pass the General Assembly.
[63] Gleaned from filings on record at the Maryland State Department of Assessments & Taxation
[64] See also, Washington Post Editorial, *Bundling' for Dollars in Maryland'*, February 14, 2005.

Baltimore or alternatively, its Articles of Organization were personally signed by the developer himself or a member of his immediate family.[65]

Aggregations of LLC and partnership contributions are also prevalent in local races, particularly those for county executive. For example, on September 9, 2003, Montgomery County Executive Doug Duncan raised approximately $62,000 on one occasion from at least 11 business entities directly controlled by a major Montgomery County real estate developer.[66] Similarly, on one date in 2005, three Baltimore developers, , partners in a variety of real estate related LLCs, contributed nearly $13,000 to Baltimore County Executive James T. Smith through approximately five LLCs and one limited partnership.[67]

While these statistics are compelling, the challenges of tracking the use of non-corporate entities to make large aggregate contributions to Maryland campaigns is often quite difficult due to the fact that many LLCs, while under the control of the same individuals, may legally have different addresses, resident agents and filing dates, making it difficult to uncover clear affiliations. Therefore, the use of the bundling technique may be even more widespread than currently reported. Moreover, assuming that the owner created each partnership or LLC for a legitimate business purpose under the Maryland LLC Act, all contribution practices described in this section are completely legal under the current statutory framework.

---

[65]Common Cause Maryland, *The Six Million Dollar Loophole: How Money Moves in Maryland Campaigns Through Limited Liability Companies* (February 16, 2006) & author's independent research conducted on the Maryland Department of Assessments & Taxation online database, http://sdatcert3.resiusa.org/ucc-charter/default.asp

[66] Neighbors for a Better Montgomery, *Paying for Montgomery County Elections*, (August, 30, 2003),

[67] Common Cause Maryland, *The Six Million Dollar Loophole: How Money Moves in Maryland Campaigns Through Limited Liability Companies* (February 16, 2006)

VII. Early Legislative Attempts to Close the Non-Corporate Loophole

Since 1997, the Maryland General Assembly considered and ultimately failed to adopt at least eight different[68] though similarly themed legislative proposals to modify the corporate aggregation provisions originally codified at 26-9(g) of Article 33 and currently codified at §13-226(e) of the Election Law Article.[69] The first series of measures proposed treating non-corporate business entities such as LLCs, partnerships and real estate trusts as corporations for purposes of the aggregation requirements of §13-226(e).

These initial proposals, embodied primarily in H.B. 814 of 1997 and H.B. 1144 of 1998, attempted to attribute all campaign contributions made by specified associated entities to a single contributor for purposes of determining the maximum amount of contributions that the entities could donate. Specifically, instead of limiting the aggregation restrictions solely to corporations under 13-226(e), the legislation strived to encapsulate partnerships consisting of the same partners, LLCs consisting of the same members and real estate investment trusts owned by the same shareholders into the aggregation requirements when two or more of these entities make campaign contributions.[70]

Both H.B. 814 of 1997 and the identically worded H.B 1144 of 1998 passed the House of Delegates nearly unanimously.[71] However, in both instances, the legislation failed to advance after initial submission to the Senate Economic and Environmental Affairs Committee.[72] Many of the same interest groups that submitted testimony during the major 1991 campaign finance

---

[68] See, H.B. 814 (1997, 403rd Sess.), H.B. 1144 (1998, 404th Sess.), H.B 950(1999, 404th Sess.), H.B. 660/S.B. 132 (2003, 408th Sess.), H.B. 931/S.B. 165 (2004, 409th Sess.), H.B. 566/S.B. 461 (2005, 410th Sess.), H.B. 585/S.B.140 (2006, 409th Sess.).

[69] Code 1957, Art. 33, § 26-9 *Amended* by ch. 617, Acts 1991 §26-9(g). This sub-section, substantively unchanged and derived in former Article 33 §13-212 and henceforth re-codified under § 13-226 (e) of Chapter 13 Election Law Article(2002)

[70] Legislative Bill File & Fiscal Notes of H.B. 814 of 1997 and H.B. 1144 of 1998, Maryland Department of Legislative Services, available online at http://mlis.state.md.us/.

[71] H.B. 814 of 1991 passed the House by a vote of 137-0 and H.B. 1144 passed by a similarly overwhelming 124-1.

[72] Legislative Bill File & Fiscal Notes of H.B. 814 of 1997 and H.B. 1144 of 1998.

revisions strongly supported the proposed legislation.[73] The bill's supporters argued that the current law's language, by virtue of its specificity to corporations, clearly excluded many other important and frequently utilized business entities such as partnerships, LLCs, and real estate trusts. The groups argued that this exclusion's practical effect largely nullifies the General Assembly's original intent of contribution limits by allowing individuals to make unlimited contributions through individual, albeit often commonly owned or managed entities. As is common for most proposed campaign finance bills, the State Board of Elections took no official position on the legislation.[74]

Opponents of the measure included the Maryland Chamber of Commerce and a lone Howard County Council member.[75] The Chamber argued that the proposed bill would be overly cumbersome to administer because state officials would be required to identify entities with overlapping ownership among the many millions of businesses across the entire country. Secondly, it contended that the bill unfairly restricted business owners' political participation options and placed businesses at an unfair disadvantage relative to other organizations such as labor unions and non-profit groups.[76] Another opponent of the measure, then Howard County Council Member Vernon Gray, sent a letter to Senator Blount in January of 1998 expressing his serious concern that passage of the measure would greatly hinder his ability to raise campaign funds. Gray continued, attributing that his electoral success "had been due in large measure to partnerships, LLCs, etc financially supporting my candidacy."[77] It is unclear whether Gray was

---

[73] These groups included, among others, Common Cause of Maryland, League of Women Voters of Maryland, Americans for Democratic Action and the Civic Federation of America.

[74] Maryland State Administrative Board of Elections(SABEL) Commentary on H.B. 814, March 11, 1998, available at the Maryland Department of Legislative Services.

[75] The list of opponents is gleaned from written testimony properly submitted to the committee and encased in the legislative bill files. It is possible that other individuals and groups presented oral testimony, however this testimony was not available to the author.

[76] See Legislative Bill File for H.B. 814, H.B. 1144 and S.B. 140, Department of Legislative Services

[77] See Legislative Bill File for H.B. 1144.

aware that the measure would not prohibit LLC or partnership contributions, but rather would change the aggregation rules for them. In any event, the Maryland General Assembly did not enact H.B. 814, H.B. 1144 nor other similar measures.

VIII. Further Attorney General Guidance: Affirmation of the LLC Loophole

The 1993 Attorney General Letter of Advice written to former Senator Piccinini [78] first interpreted the types of entities presumably covered by the former §26-9(g) corporate aggregation rules. In 1997, the Attorney General office provided additional guidance on the issue in the form of a Letter of Advice to a State Senator employed as an attorney at the Law Offices of Peter G. Angelos.[79] This letter is important because the Assistant Attorney General wrote it after enactment of the Maryland Limited Liability Company Act and specifically addressed the proviso in the context of LLCs. Specifically, the letter addressed two primary questions, both related to the definition of LLCs and partnerships for purposes of contribution attribution and aggregation:

1) If a limited liability company has the same ownership as a separate corporation, are the two treated as one entity or two entities, each with the ability to make a $10,000 aggregate contribution?
2) If the same individual owns three limited partnerships (each with separate legal identities and different purposes), should each partnership use its own account when contributing or may the partner use funds from his own account and allocate the contribution to the individual partnership?

Regarding the first question, while also referencing the earlier Letter of Advice, Assistant Attorney General Lunden opined that §26-9(g) did not apply and that a corporation and LLC are to be treated as separate entities for purposes of political contribution aggregation. She suggested, "while the Legislature certainly intended to tighten contribution limits by aggregating

[78] Letter of Advice dated October 11, 1993, from Jack Schwartz, Chief Counsel, Opinions & Advice, to the Honorable Janice Piccinini, State Senator, Department of Legislative Services, Bill File of H.B. 814 of 1997

[79] See Letter of Advice dated June 9, 1997 from Mary O. Lunden, Assistant Attorney General, Opinions & Advice, to the Honorable John A. Pica, Esquire. A copy of the letter is on file with the author.

contributions of certain entities, the statute makes clear that the aggregation requirement is applicable only to corporations."[80] In support, Lunden suggested that since LLCs were fairly new entities, statutory created after the original enactment of §26-9(g), the General Assembly could not have envisioned its aggregation provisions to apply to an entity that didn't yet exist nor one created and treated as a separate legal entity.[81] According to the Letter, House Bill 814 of 1997 (discussed *supra*) bolstered this conclusion because it specifically addressed LLCs as business entities separate and distinct from corporations for purposes of contributions. As discussed earlier, that bill failed to pass the General Assembly. Finally, referencing the 1993 Letter of Advice, Lunden cautioned that any legal business entity must be created for a bona fide business purpose unrelated to political contribution limits, and owners may not create new entities for purposes of evading contribution rules.[82]

In response to the second question, the Letter first opined that limited partnerships were also exempt from §26-9(g)'s aggregation requirements. Lunden next dealt with the issue of whether limited partnerships must use its own account when contributing or whether it is permissible for a partner to use his own funds then allocate the contribution to the partnership. She suggested that in order to follow other provisos regulating the flow of funds into committees, the most prudent course of action would be for each limited partnership to execute contributions from separate and distinct accounts.[83] T his interpretation likely bolstered the ability of the State Prosecutor's office to pursue civil and criminal prosecutions against donors who do not properly source contributions, an example of which is provided in the next section.[84] In sum, while the

---

[80] *Id.* at 2.
[81] *Id.*
[82] *Id.*
[83] See Letter of Advice dated June 9, 1997 from Mary O. Lunden at 2.
[84] See State v. Manekin,LLC District Court of Maryland For Anne Arundel County - Civil System, tracking number: 6Z34023107, Civil penalty issued 08/02/2005

Letter was not an official opinion of the Attorney General, it does appear to conclusively hold that LLCs, partnerships, limited partnerships and other similar non-corporate business entities are exempt from the current law's corporate aggregation requirements.

IX. Subsequent Legislative Reform Attempts: Encapsulate Other Business Entities & Change Aggregation Formula

The second and more recent legislative proposals include many similar themes of the first series of attempted reforms, but also mandate that businesses controlled by at least 80% of the same individuals should be treated as a single contribution.[85] Beginning in 2003, Maryland lawmakers once again attempted to solve the corporate aggregation loophole. This legislation, most recently embodied in H.B. 585 & S.B. 140 of 2006,[86] adopted the earlier measures' goals to encapsulate non-corporate entities into §13-226(e)'s definition of corporations for contribution aggregation purposes. The measures attempted to redefine the attribution requirements by including the 80% aggregation rule introduced above. This component served to recognize that many business entities, typically owned by the same or similar groups of people often have small and inconsequential differences in ownership.

Under current law, commonly owned or managed business entities (including corporations defined under §13-226) can make repeated contributions as long as the ownership or partnership structure differed slightly.[87] The proposed legislation, if properly enforced, could effectively prohibit a large portion of the "bundling practices" described earlier in this commentary. With the exception of the 2005 House version[88] which passed the House of Delegates but later failed in committee in the Senate, no version has survived past the committee stage. Moreover, the written testimony submitted for this series of bills was nearly identical to

[85] *See* Legislative Bill File for S.B. 140 (2006, 409th Maryland General Assembly Session)
[86] *See also* H.B. 660/S.B. 132 of 2003, H.B. 931/S.B. 165 of 2004, & H.B. 566/S.B. 461 of 2005.
[87] Fiscal Note of S.B. 140 of 2006, Maryland Department of Legislative Services
[88] Legislative Bill file of H.B. 566 of 2005, http://mlis.state.md.us/2005rs/billfile/hb0566.htm

the material submitted to by the various opponent business interest and supportive community organizations during similar legislative debate occurring during the late 1990s.[89] In likely response to a number of media reports highlighting instances of bundling, many of the bill's sponsors promised to proposal the measure during the 2007 legislative session.[90]

X. Procedural Shortcomings & Enforcement Gaps of Current & Proposed Legislation

This section discusses possible procedural and enforcement shortcomings of the recently proposed campaign finance legislation, most recently embodied in H.B. 585 & S.B. 140.[91] As discussed *supra*, the most recent attempt to amend the current election law failed to advance from committee during 2006 General Assembly session, however an identical measure passed the House in 2005. The Senate Education, Health and Environmental Affairs Committee has never positively reported any bill attempting to change the corporate aggregation limits stipulated in §13-226(e) and its progeny. Although the legislative record is devout of specific detail, several members of the committee and the State Prosecutor have expressed grave doubts regarding the ability of the state to enforce current contribution limits.

The sponsors of the recent campaign finance legislation recently pledged to re-introduce the measure during the 2007 legislative session.[92] The proposed legislation attempts to close current loopholes by formally including partnerships and LLCs in §13-226(e)'s aggregation formula and adding the 80% common business entity ownership requirement. However, the legislation fails to establish any specific procedural or enforcement framework to address a number of very serious gaps that currently plague the campaign contribution laws.

---

[89] See Legislative Bill file of H.B. 566, H.B./S.B. 140 et al, Department of Legislative Services.
[90] see Jeff Horseman, *"Developers use loophole in campaign donation law"* The Capital, September 10, 2006,
[91] H.B. 585/S.B.140 (2006, 409th Sess.).
[92] WBAL TV, I-Team: "Candidates Skirt Campaign Finance Laws" November 2, 2006, http://www.thewbalchannel.com/politics/10228067/detail.html

A) Problem 1: Addressing Ownership v. Control

The Maryland State Prosecutor recently stated that while §13-226(e) currently attempts to address the issue of affiliated corporations by referring to the "owners" of stock, ownership does not necessarily equate to control. Therefore, the legislature's "failure to properly address control versus ownership results in a gap in the existing law making it virtually impossible, to effectively enforce the legislative intent of campaign contribution limits."[93]

According to the State Prosecutor, a prime example of this situation occurred in State v. Manekin, LLC, filed by that office in 2006. [94] Manekin LLC was essentially controlled by a single person, Richard Alter, who oversaw seven legally separate but similarly controlled LLCs all residing at the same location. Although Alter was the principal partner and manager of each entity, the precise partnership makeup was often substantially different.[95] Alter directed several large political contributions to one campaign from Manekin LLC's bank account and informed the campaign that its reports should attribute the donations to the various other Manekin controlled LLCs even though the name 'Manekin LLC' appeared on each check. [96]

The State Prosecutor attempted to charge Alter for criminally violating campaign finance laws, but due to the lack of clarity in the current statute, the office could not proceed and Manekin was instead fined the maximum civil penalty of $5,000.[97] The Prosecutor added that unlike Manekin, many other affiliated LLCs maintain and contribute through separate bank accounts. In those situations, the current statute permits the maximum contribution by each LLC, notwithstanding all of the LLCs may be effectively controlled by the same individuals. However,

---

[93] Robert A. Rohrbaugh, REPORT OF THE MARYLAND STATE PROSECUTOR: FISCAL YEAR 2005, Office of the State Prosecutor (July 1, 2004 – June 30, 2005) http://www.ospmd.org/2005%20annual%20report.htm
[94] See District Court of Maryland For Anne Arundel County - Civil System, tracking number: 6Z34023107,http://casesearch.courts.state.md.us/inquiry/inquiryDetail.jis?caseId=6Z34023107&loc=27&detailLoc=CP issued 08/02/2005
[95] Robert A. Rohrbaugh, REPORT OF THE MARYLAND STATE PROSECUTOR: FISCAL YEAR 2005
[96] *Id.*
[97] *Id.*

H.B. 585 & S.B. 140 appeared to address the State Prosecutor's concerns in the second part, stating that campaign contributions from two or more business entities will be attributed as a single contribution if the entities are "owned or controlled by at least 80% of the same individuals." Nonetheless, the proposal's drafters failed to outline any specific criteria to be used by the State Board of Elections or any other agency to properly define the term "controlled by." The lack of clear definitions and distinctions would likely weaken the ability of the State to enforce these proposals.

B) Problem 2: Determining 'Affiliated' Entities & Enforcing the 80% Ownership Formula

The most recent proposed legislation sets an 80% common ownership/partnership threshold for purposes of aggregating contributions from multiple business entities.[98] However, for a wide variety of tax and businesses strategy purposes, many entities are centrally controlled or managed by one person, but feature any number of different stockholder or partnership compositions that often vary by the individual business. The legislation solely refers to common stockholders but appears to completely ignore the concept of centralized control or management and fails to account for the fact that the ownership/partnership compositions of business entities frequently change. The legislation provides no guidelines regarding whether the proposed aggregation and common ownership restrictions applies at the time of the entity's contribution, during the entire election cycle, or when the contribution is processed by the campaign.

More importantly, the reform proposals do not appear to contemplate how Maryland's current regulatory and enforcement mechanisms will contend with any the proposed changes. As mentioned *supra,* Maryland's LLC, Limited Partnership and Corporations statutes do not require business entities to disclose stockholder or partner names when filing Articles of Incorporation

[98] H.B. 585/S.B.140 (2006, 409th Sess.)

or Statements of Organization.[99] While Common Cause and similar groups have been able to glean limited information regarding possibly affiliated or commonly owned entities, many legal filings contain only name of a resident agent and principle address, often providing no discernable information regarding the entity's ownership or partnership makeup.[100]

Nonetheless, current law does not specifically block legal ownership or partnership disclosures where compelling reasons exist.[101] For instance, discovery in the course of litigation can be used to compel full disclosure of an entity's ownership structure.[102] However, the proposals do not create any specific legal mechanisms for the Maryland State Board of Elections, State Prosecutor's Office or any other governmental agency to mandate ownership disclosure for purposes of enforcing the proposed aggregation and ownership limits. Without such a procedural mandate, the State lacks any reasonable ability to enforce the provisions, short of commencing separate lawsuits and compelling discovery against suspect contributors, a most unlikely, costly and logistically difficult scenario.

Even if future reform legislation properly incorporates processes and procedures to compel business entities to disclose ownership for contribution and aggregation purposes, full enforcement would likely still be difficult to administer due to the myriad of corporate and LLC statutes throughout the country, many differing substantially from Maryland's statutes. [103] Any successful attempt to enforce the aggregation and ownership provisions would require increased

---

[99] Author's telephone interview with Stuart Levine of Fisher and Winner, LLP in Baltimore, MD November 8, 2006. Mr. Levine was a co-author of Maryland's Limited Liability Company Act of 1993 and is a recognized and published expert in Maryland corporate, partnership and limited liability company law.

[100] *Id.*

[101] Stuart Levine, "Tax & Business Law Commentary" http://taxbiz.blogspot.com/2006/09/what-have-i-wrought.html, September 14, 2006.

[102] *Id.*

[103] For example, the Nevada LLC Act allows courts , under certain circumstances, to ignore subpoenas ordering ownership disclosures of Nevada LLC entities.

financial and staffing resources, a definitive challenge given increasingly tight state budgets and the probable lack of tenable political upside.

XI. Additional Options to address the Business Entity Loophole

A) Ban all contributions from LLCs and Partnerships as Separate Entities & adopt a modified New Jersey Campaign Finance Scheme.

The State of New Jersey has enacted a comprehensive campaign finance statutory scheme, several features of which may provide Maryland with some workable options for closing its problematic LLC and contribution attribution loopholes.[104] In brief, New Jersey's law prohibits all non-corporate business entities such as LLCs from making any political contributions in the name of the business entity.[105] Instead, any contribution received from a non-corporate entity is attributed to the individual who signed the check. A second and related aspect of the plan outlines very strict statutory criteria for corporate entity affiliation and aggregation relating to ownership as well as to control.[106] As will be discussed, exact adoption of New Jersey's law is probably not ideal due to the presence of several confusing elements. However, examining the specific parameters of the law and crafting a modified solution could prove very successful.

Regarding contributions from LLCs and partnerships, New Jersey prohibits direct campaign contributions by limited liability companies, limited liability partnerships or joint ventures of any kind.[107] If a check is received from a LLC or partnership, the contribution is

---

[104] *See* N.J. Admin. Code (hereafter NJAC) tit. 19, § 25-11.9, "Contributions from affiliated corporations, associations or labor organizations" Amended by R.2004 d.280, effective July 19, 2004, *see also* NJAC §19:25-11.10 "Partnership contributions prohibited" Amended by R.2000 d.472, effective November 20, 2000 (operative January 1, 2001).
[105] NJAC 19:25-11.10
[106] NJAC 19:25-11.9(c)
[107] NJAC 19:25-11.10.

automatically attributed to the individual member or partner who signs the contribution check.[108] This contribution fully applies against an individuals' contribution and aggregate limits. When a contribution drawn on a LLC account and is signed by an individual other than a member, or if the contributor intends that any portion of a contribution is to be attributed or allocated to a member who has not signed the check, the statute requires the campaign to collect and maintain additional written information. In sum, this information must include 1) written instructions concerning the allocation of the contribution amount to a contributing member, or among members; 2) signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and 3) contributor information for each contributing member.[109] In the absence of these specific and strict reporting and aggregation procedures, New Jersey prohibits all contributions from LLCs, partnerships and other non-corporate entities.

On the subject of corporations, associations and labor unions, New Jersey's scheme mandates extraordinarily specific requirements and definitions for purposes of aggregating contributions from affiliated organizations and subsidiaries. New Jersey conclusively prohibits all campaign contributions from related or affiliated corporations which have a 30% common ownership or when the corporation owns, directly or indirectly more than a 30% interest in the other such corporation. Corporations meeting this criterion are automatically considered affiliates. However, even when corporations do not qualify for the conclusive 30% affiliation rule, the statute provides additional affiliation criteria for the relevant administrative agency to examine when deciding whether a corporation is affiliated for purposes of aggregating campaign contributions:

---

[108] *Id.*
[109] NJAC 19:25-11.10(c)

> ***[Whether] such corporation, association or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations or labor organizations, the source and control of funds used for such contribution and the degree to which the decisions whether to contribute, to what candidate and in what amount are independent decisions.***[110]

These provisos apply to all state political candidates in New Jersey. The Election Law Enforcement Commission (ELEC) is responsible for administering the New Jersey Campaign Contributions and Expenditures Reporting Act.[111] ELEC is a separate organization apart from New Jersey Division of Elections, which is statutorily under the control of the Attorney General's office. However, ELEC Commissioners are appointed by the state's Governor.

The New Jersey framework offers significant potential to help close the two most glaring loopholes in Maryland's campaign finance law, the exemption of LLCs and other non-corporate entities from corporate aggregation rules and the relatively lax statutory definition of affiliated corporations in general. Unlike Maryland's system, New Jersey prohibits LLCs and partnerships from contributing as separate entities and more importantly, mandates direct personal aggregation to individuals who own the entities. As discussed earlier, many LLCs and partnerships contributing large sums to Maryland candidates are often closely held entities composed of relatively few owners.[112]

---

[110] NJAC § 19:25-11.9(a) & (b)

[111] The New Jersey Election Law Enforcement Commission (ELEC) http://www.elec.state.nj.us/publicinformation.htm, monitors the campaign financing of all elections in New Jersey. "Whether the election is for Governor or Mayor, member of the Legislature or a City Council, candidates and campaign organizations are required to file with the Commission contribution and expenditure reports." The Commission also administers the law requiring candidates for the Governorship and Legislature to make public their personal finances prior to election day. Commissioners are appointed by the Governor of New Jersey. The ELEC is an independent department from the New Jersey Division of Elections, under the direction of the New Jersey Attorney General.

[112] Common Cause Maryland, *The Six Million Dollar Loophole: How Money Moves in Maryland Campaigns Through Limited Liability Companies*,

Therefore, if such a law were enacted in Maryland, it is possible that partners and members of closely held non-corporate entities would quickly reach the maximum aggregate contribution limit of $10,000. This effect would bar such individuals from contributing repeatedly through a variety of related business entities. However, under the New Jersey's system, non-corporate entities composed of large numbers of owners or partners could still attribute numerous contributions through all members of the entity. While these donations would be attributed to the particular individual's contribution limits, such a system would undoubtedly allow the owners to use the entity's vast resources (albeit attributed to an owner or partner) to contribute repeatedly. Although such a system would be an improvement over Maryland's current framework, it would still allow creative individuals to bundle large contributions from entities under their control.

An improved reform proposal would ignore New Jersey's total prohibition and somewhat confusing attribution rules for non-corporate entity contribution. Under the modified framework, all LLCs, partnerships and other similar non-corporate entities would be required to meet the fairly exacting standards elucidated in New Jersey's corporate attribution and affiliation rules as referenced in NJAC § 19:25-11.9(b). This plan would direct the Maryland State Board of Elections to enforce highly fact specific statutory guidelines for judging affiliations, using the New Jersey statutory language.

Granted, in order for the potential new system to function properly, the General Assembly must dedicate addition resources to ensure proper ownership disclosure for all business entities as well as compliance from the political committees. Assuming this occurs; the new statutory language would require examination of degrees of control and ownership, sources and control of funds, and finally whether the contributing decision was independent. Applying

this standard would likely significantly curtail the bundling of large numbers of contributions from legally separate but undoubtedly related entities. Based on research discussed herein, it appears a near certainly that a substantial number of LLCs, partnership and corporate entities would not sufficiently pass the new and more exacting standards of scrutiny for judging potentially affiliated and related entities for purposes of attribution.

As discussed earlier, many contributing entities share common addresses, significant owner/partners overlap and highly centralized non-independent political decision-making. Moreover, New Jersey's default 30% ownership and affiliation rule would likely ensnare significant numbers of affiliated entities without the need for any closer scrutiny. Enactment of the proposed measures could likely be effectuated without any overhaul to Maryland's corporate, LLC or partnership statute because ownership disclosure is already allowed where a compelling reason exists such as discovery in the course of litigation.

Consequently, the General Assembly could amend the current election code and formally mandate entity ownership disclosure for purposes of complying with the new campaign finance aggregation provisions. Furthermore, any entity that refuses to disclosure ownership when requested by the State Board of Elections would be barred from making political contributions. In essence, under the proposed reform, a business entity contributing to a Maryland political committee, by virtue of making said contribution, would automatically consent to disclose its ownership if requested by the SBE, regardless of where the entity registered its articles of incorporation or organization.

B) <u>Adopt language of Current Maryland Election Law regarding Affiliated Transferors by applying it to the affiliated corporations language containing the Loophole</u>

If the General Assembly prefers not to look to other states for solutions to the current contribution loophole, an alternative reform would involve simply adapting similar statutory

guidelines from a "nearby" proviso of the current Election Law Article. In particular, §13-227(d) defines affiliation standards for transfers between campaign finance entities.[113] The relevant portions of the statute states:

> (1) All affiliated campaign finance entities are treated as a single entity in determining:
>
> (i) the amount of transfers made by a campaign finance entity; and
>
> (ii) the amount of transfers received by a campaign finance entity.
>
> (2) Campaign finance entities are deemed to be affiliated if they:
>
> (i) are organized and operated in coordination and cooperation with each other; or
>
> (ii) otherwise conduct their operations and make their decisions relating to transfers or other contributions under the control of the same individual or entity.[114]

A fairly straightforward legislative remedy would adapt the above language to a newly revised §13-226(e) (governing affiliated corporations) by substituting the word "transfer" with the term "contribution" then changing "campaign finance entity" to "corporation, partnership, limited liability company, labor union, association, unincorporated association or other similar business entity." Other small adaptations are also made due to the obvious differences between transfers and contributions. Below is the amended version §13-226(e):

> ***(1) All affiliated corporations, non-profit corporations, partnerships, limited liability companies, labor unions, associations, unincorporated associations or other similar entities are treated as a single entity in determining:***
>
> ***(i) the $4,000 per committee and $10,000 aggregate contribution limits made by the entity***
>
> ***(2) Any corporation, partnership, limited liability company, labor union, associations, unincorporated association or other similar entity are deemed to be affiliated if they:***
>
> ***(i) are organized and operated in coordination and cooperation with each other; or***

[113] See Election law Article §13-227. The Election Code defines a transfer as a contribution made by one campaign finance entity to another. A transfer is always money, not in-kind. Campaign finance entities include candidate committees, personal treasurer accounts, political action committees, slates, state or local central committees and Political Action Committees.-

[114] Election Law Article §13-227(d)

(ii) otherwise conduct their operations and make their decisions relating to contributions under the control of the same individual or entity.

This new option includes labor union and non-profits in the aggregation requirements primarily to assuage past concerns from some groups that new campaign finance reform proposals unfairly target the greater business community while providing an unfair advantage to non-profits and labor unions.[115] Including all relevant groups into the new statutory language would attempt to place such entities in the relatively same power position as individual donors, who are not able to bundle large contributions in the same manner as corporate and non-corporate entities and labor unions. Amending §13-226(d) with the more stringent requirements currently governing transfers would be likely to significantly curtail the loophole without having to adopt the more verbose language of the New Jersey framework. However, any new proposal must specifically empower the State Board of Elections and if necessary, the State Prosecutor's Office to closely enforce the provisions through increased monitoring of disclosure reports.

However, the proposed language is not without some minor shortcomings. Unlike the New Jersey scheme, the amended language, while arguably restrictive and clear does not provide a specific list of factors for the State Board of Elections to examine. To remedy any concerns, the General Assembly could adopt a list of factors suggested nearly twenty years ago by Collins, who first identified many of the problems still inherent in the current system in *Maryland Campaign Finance Law: A Proposal for Reform*:

> Reform legislation should outline specific criteria to be used by the [SBE] in determining whether a diversified or branch entity shall be deemed "separate" for purposes of applicability of contribution or transfer limits. Such criteria should include: (1) the nature of the activity conducted by each entity; (2) the geographic location of the activity conducted by each entity; (3) the regulatory scheme, if

[115] See, for example, submitted testimony from the Maryland Chamber of Commerce Legislative Bill File for H.B. 814, H.B. 1144 and S.B. 140, Department of Legislative Services

any, that controls each entity's activity; and (4) all other evidence of differing political, economic, or social interests among the entities.[116]

Collins' list of factors, while arguably not as detailed as those elucidated in the New Jersey statute, would provide the SBE as well as political donors a relatively straightforward approach to follow when deciding the appropriateness of political contributions from affiliated entities. In sum, this proposal addresses the "control v. ownership" problem while introducing other factors to measure relatedness.

C) Ensure Contributing Entities Are Created for Bona Fide Business Reason Unrelated to Political Contributions

Many of the previously discussed studies examining contribution patterns of LLCs and related entities uncovered circumstantial evidence that individuals create entities in order to evade Maryland's campaign contribution limits.[117] In several instances, numerous newly formed entities contributed to fundraising events for high-ranking political offices including Governor.[118] In some cases, an entity first filed its Articles of Organization just ten days before making a large political contribution.[119] Purposefully creating entities to avoid contribution limits was first prohibited by the original wording of §26-9(d) (1) and is still in force today.[120] However, Maryland's current LLC and corporate statutes do not require any particular specificity in defining an entity's purpose. For example, many entities state its purpose as

---

[116] Carville B. Collins, Case Comment, *Maryland Campaign Finance Law: A Proposal for Reform,* 47 Md. L. Rev 524 (1988).

[117] *See* Common Cause Maryland, *The Six Million Dollar Loophole: How Money Moves in Maryland Campaigns Through Limited Liability Companies* (February 16, 2006), *see also* Neighbors for a Better Montgomery, *Paying for Montgomery County Elections, A White Paper describing the extremes of financial influence and negative behavior that characterized the 2002 elections in Montgomery County, MD* (August, 30, 2003), available at www.neighborspac.org

[118] Common Cause Maryland, *The Six Million Dollar Loophole*

[119] *Id.*

[120] 26-9(d)(1) stated "it is unlawful for any individual, association, unincorporated association, corporation or any other entity to **directly or indirectly contribute** any money or thing of value greater than $4,000 to any candidate or committee. " Attorney General considers creation of entities solely for the purpose to contribute would violate the proviso's prohibition on indirect contributions. MD. CODE. 1957 Art 33 S 26-9(1991) re-codified at Art. 33 §13-212(b) (1991), now embodied in Election Law Article 33, §13-225-226 (2002)).

follows: "to engage in such lawful activities permitted to limited liability companies by the applicable laws and statutes for such entities of the State of Maryland."[121]

Naturally, one solution is to require far greater specificity when business entities state its purpose. However, this option would require major changes to the largely successful business statutes, a costly and time-consuming endeavor that could risk harming Maryland's business reputation as well as evoking privacy concerns. In addition, the rule would continue to be very difficult to enforce. Finally, the General Assembly would have no ability to mandate changes to other states' business statutes. Therefore, this proposal would not be practical.

A preferred alternative would mandate a "waiting period" for new entities before allowing them to make political contributions. For example, a rule could be fashioned stating that in order to contribute to a Maryland campaign, a business entity must have filed a valid tax return with the IRS or similar state taxation authority. Under such a rule, it would be highly unlikely that an individual would take the time, not to mention the risk of filing a tax return for a fraudulently created entity. In all likelihood, rectifying the problem of creating potentially sham entities for purposes of contributing would be likely unnecessary if the General Assembly first adopted either of the first two options mentioned in sub part b) & c) discussed above.

D) <u>Ban All Direct Corporate Entity Contributions in Maryland</u>

The U.S. Supreme Court has repeatedly ruled that within certain widely defined parameters, states have significant discretion to enact far-reaching restrictions on political contribution limits for defined non-federal electoral offices.[122] Many states restrict corporations

---

[121] Articles of organization of Northern Technology, LLC, Maryland Department of Assessments and Taxation, 12/05/2005

[122] See Buckley v. Valeo, 424 U.S. 1 (1976) Upholding federal limits on campaign contributions while stating that spending money to influence elections is a form of constitutionally protected free speech. *See also* Nixon v. Shrink Missouri PAC, 528 U.S. 377 (2000), extending Buckley to state government regulation of campaign finance. In an opinion written by Justice Souter, and joined by five other Justices, the Court reaffirmed that limits on contributions are constitutional, and therefore does not constitute an unconstitutional restriction on speech. In upholding an

and labor union political contributions. In fact, twenty-two states completely prohibit corporations and labor union from contributing directly from their general treasuries.[123] In most of these states, corporations are still permitted to sponsor and solicit funds for a political action committee or similarly named device but may neither contribute treasury funds directly to the PAC, require contributions from any officers or employees, nor increase any employee or officer salaries in order to promote contributions to the PAC.[124] While the U.S. Supreme Court has generally upheld states' attempts to regulate contribution limits, federal courts have invalidated statutes that ban all corporate political activity including the formation of PACs as an unconstitutional deprivation of free speech.[125]

Under this option, the General Assembly would ban all corporations, labor unions LLCs and similar entities from contributing directly from their treasuries. In conformity with majority of states with similar provisions, all entities could still make political contributions through a properly registered PAC. The business would also be free to continue to collect voluntary contributions from their officers, employees, agents and contractors in compliance with the current Election Law Article, and donations would be scrutinized for compliance with contribution limits and the current and relatively strict affiliation rules governing transfers between political committees.

---

individual contribution limit of $1050 under Missouri law, Justice Souter wrote, "[T]here is little reason to doubt that sometimes large contributions will work actual corruption of our political system, and no reason to question the existence of a corresponding suspicion among voters."

[123] Information derived from the National Conference of State Legislatures campaign finance information web site http://www.ncsl.org/programs/legman/about/ContribLimits.htm (January 9, 2007). A partial list of states that prohibit direct political contributions from corporate and union treasuries include Colorado, Michigan, Arizona, Iowa, Massachusetts, Montana, Texas & Connecticut.

[124] National Conference of State Legislatures web site.

[125] *See* Kennedy v. Gardner, 1999 WL 814273 (D.N.H.) holding that a state law prohibiting all political contributions by (or on behalf of) corporations was so rigid that "the question becomes whether an outright statutory ban on political contributions by corporate entities . . . can withstand constitutional scrutiny." The court held that the ban was unconstitutional and particularly criticized that corporations would be technically violating the even by establishing political action committees.

This plan would likely curtail the vast majority of bundling activity because all businesses and labor union entities could no longer contribute directly from their treasuries. Instead, they would have to rely on the contributions of employees, officers and contractors, which in turn would be subject to the $4,000 and $10,000 contribution limits as well as the affiliation rules governing transfers. In a closely held business entity with few members, stockholders or employees, it is quite likely that the principals would reach their maximum allowable contribution limit in a relatively short time period, effectively barring the ability to make repeated contributions.

E) Eliminate All Contribution Limits in Maryland

A more radical and unlikely reform to Maryland's campaign finance laws would involve a complete repeal of any limits on political contributions. Just five states, Illinois, New Mexico, Oregon, Utah and Virginia place no limits on contributions, instead favoring a system of highly regulated and timely disclosure.[126] Unlike the current Maryland law, such a plan would guarantee completely equal legal treatment of all political contributors rather than differentiating different contribution rules between various legal concepts such as corporations and LLCs and individuals. As a result, under the current Maryland scheme, corporations and other business entities have far more political power than individual donors, creating a serious issue of fairness and political power. Therefore, until the General Assembly closes the campaign finance loopholes currently causing this imbalance, the limits should be exculpated to provide individual donors the same political contributing opportunities as their business entity brethren.

While this conceptual framework would very likely be strenuously opposed by the General Assembly, some scholars suggest the reasonableness of the view that the current system

[126] For example, see Code of Virginia (hereafter CV) 24.2-901mandating strict parameters to guarantee timely disclosure of all campaign contributions.

presents equal protection and fundamental fairness questions because business entities now have far more opportunities to express their political views than do individual donors. [127] Additionally, in a 2002 survey sponsored by the University of Maryland Center for American Politics and Citizenship, over fifty percent of respondents approved of a theoretical plan to eliminate all contribution limits.[128] While this option is fairly compelling and appears to have some public support, only a tiny minority of states allow donors complete freedom from contribution limits and it's unlikely that Maryland would take any great pains to join them.

XI. Conclusion

This comment strived to analyze the major legislative developments culminating in Maryland's current campaign finance law, with particular focus on the historical and legal emergence of significant and harmful loopholes in the current campaign finance law. During the past 100 years, the General Assembly has occasionally amended its laws regarding political campaign contribution regulations in response to constituent concerns and more generally, to reflect the changing political and societal landscape. The most recent significant overall of campaign contribution laws, embodied in H.B 1047 of 1991, occurred nearly fifteen years ago. In passing H.B. 1047, the General Assembly adopted several of the Nilson Commission's recommendations originally proposed in 1987, nearly twenty years ago.

Encased within the 1991 overhaul and part of the original Nilson Commission recommendations was §26-9(g).[129] This important proviso for the first time outlined specific criteria governing attribution of corporate contributions. The legislative rationale for passing

---

[127] See for example, Author's interview with Professor Kathleen Dachille, University of Maryland School of Law, November 14, 2006

[128] *"Marylanders' Opinions of Campaign Finance and Campaign Finance Reform"* Center for American Politics and Citizenship and University of Maryland, College Park, MD. The telephone survey was conducted between December 9 and December 14, 2002 by Survey Sampling, Inc. of Fairfield, Conn. The survey produced a representative sample of 804 Maryland residents.

[129] The current statute is now embodied at §13-226(e) of the Election Law Article.

§26-9(g) appears to be a clear intent to tighten contribution limits by aggregating contributions of corporations, which at the time were the only prominent form of business enterprise in Maryland. The enactment of laws creating new forms of business entities such as LLCs and LLPs and the subsequent large-scale adoption of these devices has significantly changed the way business entities are structured in Maryland and throughout the country. Because the Maryland State Senate has repeatedly failed to adopt any of the numerous proposals attempting to address the significant use and correspondingly increased political power of these new business forms, the result is an unbalanced and non-transparent campaign finance system.

It is reasonable to conclude that Maryland's current campaign contribution limits unfairly hinder the ability of individual donors to equally participate in the political process. In contrast, the current law effectively allows owners of LLCs and other similar business entities to conduct their political contribution activities largely free of any meaningful contribution limits or regulatory controls originally established to bind political system participants. Therefore, the current system unfairly hinders an individual donor's freedom to financial support candidates and causes, while at the same fully allows business entities such as LLCs, partnerships, corporations and labor unions and by extension the powerful and wealthy individuals who control them nearly unlimited opportunities to affect public policy by contributing huge sums to political candidates and causes. The natural extension of this rationale is that under the current Maryland scheme, corporations, LLCs and other business entities have far more political power than individuals. This unfair imbalance could serve to ultimately weaken public confidence in the entire political system.

Although there will undoubtedly be very few immediate political incentives for those legislators who continue to bravely take the lead by proposing fundamental changes to close the

current loophole, the long-term benefit of positive action will strengthen the overall institutional integrity of Maryland's elected offices and instill increased public confidence in the state's political system. Most loophole closing proposals will have the likely effect of hindering the ability of lawmakers to raise large contributions from a relatively few powerful donors. Naturally, this reality will likely frighten some lawmakers, particularly those that currently benefit from the loophole because it allows them to fund their campaigns without needing to reach out to large numbers of donors. However, this comment urges all Maryland General Assembly members to put personal fundraising efficiency aside and work together during the 2007 legislative session to close the non-corporate business entity loophole once and for all.

Mayumi Sakoh
Race and the Law
Professor Gibson and Dr. Papenfuse
Rough Draft

Pre-1955

In 1939, Morgan State College became a State institution. That year, the state of Maryland purchased the school in response to a state study that determined that Maryland needed to provide more opportunities for its black citizens.[1] At the time, Morgan State was the only accredited institution of higher learning in Maryland for persons of color.[2]

"In many ways the neighborhood surrounding what was Morgan State College in the 1950s was a slice of the American dream, symbolized by hit television shows of the time like *Leave it to Beaver* or *Father Knows Best*."[3] "The community of Northwood in northeast Baltimore had a strong neighborhood association whose covenant explicitly banned Blacks from purchasing homes in the neighborhood."[4] "Northwood Shopping Center, located at Havenwood Road, contained, among other establishments, a Hecht Co. department store, the Northwood Theatre, and an Arundel's Ice Cream Parlor; and, as early as 1953, the students of Moran targeted all three."[5]

1955

Student Action Committee

Picketing of Northwood theater did not gain the attention of the "white newspapers" such as the News-Post, the Evening Sun, and the Sun, until white students joined in the demonstrations in May 1955. In response to a plea from Morgan State students that had been published in the

[1] http://www.morgan.edu/about-msu/history.asp
[2] Clarence Logan letter October 15, 2005.1
[3] Sean Yoes, The Northwood Movement, THE BALTIMORE AFRO-AMERICAN, April 23-25, 2005, at B1.
[4] Sean Yoes, The Northwood Movement, THE BALTIMORE AFRO-AMERICAN, April 23-25, 2005, at B2.
[5] Sean Yoes, The Northwood Movement, THE BALTIMORE AFRO-AMERICAN, April 23-25, 2005, at B2.

Johns Hopkins Newsletter, Hopkins students joined in attempts to integrate Northwood Theater.[6] In "requesting admittance for Negro patrons," Morgan students said "they were trying a nonviolent approach to gain admission to the 'only first-rate theater' in the area where Morgan State College is located.[7] When the students made their initial attempts to gain entrance into the theater, the theater manager displayed a sign which read: "Until the Motion Picture Theater Owners of Maryland, of which this theater is a member, and the courts of Maryland advise otherwise, this theater reserves the exclusive right to restrict its patronage."[8] Although the demonstrations were peaceful, police officers were on the scene at the request of theater officials.[9] "When the students arrived, Mr. Wyatt (the theater manager) closed the ticket window and set up ticket facilities in the inside lobby so that patrons could be screened as they attempted to enter."[10] A rotating line about seven store fronts long persisted peacefully to approach the ticket window and request tickets both in English and sometimes in French, *"Donnez-moi un ticket."*[11]

When William C. Rogers, chairman of the Maryland Commission on Interracial Problems and Relations, promised the Morgan students that the issue of segregating neighborhood movie theaters would be discussed at a future meeting with the Allied Motion Pictures of Maryland, Inc, the students agreed to call off demonstrations at the theater.[12] As Fred Randolph, Chairman of the Social Action Committee, explained, "Our main objective was the Northwood Theatre, but we wouldn't want to stand in the way of seeing the problem settled city wide."[13] This was the second time that students had agreed to call off demonstrations. Previously, Jerome Grant, one of

---

[6] *Hopkins Students Join Theater Ban Protest,* EVENING SUN, May 4, 1955.
[7] *Students Again Picket Theater,* BALTIMORE NEWS-POST, May 4, 1955.
[8] *Hopkins Students Join Theater Ban Protest,* EVENING SUN, May 4, 1955.
[9] *Hopkins Students Join Theater Ban Protest,* EVENING SUN, May 4, 1955.
[10] *Hopkins Students Join Theater Ban Protest,* EVENING SUN, May 4, 1955.
[11] *Student Group Demonstrates Again At Northwood Theater,* BALTIMORE SUN, May 4, 1955.
[12] *Theatre owners seek talk with commission,* BALTIMORE AFRO-AMERICAN, May 7, 1955.
[13] *Theatre owners seek talk with commission,* BALTIMORE AFRO-AMERICAN, May 7, 1955.

the owners of Northwood Theater, had promised to meet with the students "to discuss the jim crow problem."[14] Mr. Grant, however, pulled out of the meeting to due to a "change of heart." The Commission invited the theatre owners to a meeting but the owners "declined to send a representative or an answer to the invitation."[15] Following this failure to negotiation, Morgan and Hopkins students resumed demonstrations at Northwood Theater.[16] When the students arrived at the theater, "they found that the theatre box office had been moved inside the lobby and ushers stood at the doors to admit patrons one by one." [17] The students carried signs, two of which read, "Northwood is a Good Theatre With An Un-American Policy" and "Are The People At Ford's Theatre Different Than those at Northwood?" [18] When the students asked for admission, they were met with such comments by the theater employees such as 'Go to your own theatres,' 'We don't want you in here,' and 'Sue us if you don't like it.'[19] "The majority of the spectators appeared to be in sympathy with the students, with several encouraging them to continue their demonstrations."[20]

According to students who were demonstrating, "uniformed officers indicated by their actions that they were opposed to the actions of the students in trying to end discrimination at the theatre."[21] In addition, one man who identified himself as a police officer called several students, all of 'very light complexion," out of line and asked for their names and addresses.[22]Sherman Merrill, a 26 year old Johns Hopkins graduate student who was the only person arrested during the 1955 demonstrations at Northwood Theater, explained why the police may have done this.

---

[14] *Theatre owners seek talk with commission,* BALTIMORE AFRO-AMERICAN, May 7, 1955.
[15] *Stand-in at theatre resumed by students*, BALTIMORE AFRO-AMERICAN, May 14, 1955.
[16] *Stand-in at theatre resumed by students*, BALTIMORE AFRO-AMERICAN, May 14, 1955.
[17] *Stand-in at theatre resumed by students*, BALTIMORE AFRO-AMERICAN, May 14, 1955.
[18] *Stand-in at theatre resumed by students*, BALTIMORE AFRO-AMERICAN, May 14, 1955.
[19] *Stand-in at theatre resumed by students*, BALTIMORE AFRO-AMERICAN, May 14, 1955.
[20] *Stand-in at theatre resumed by students*, BALTIMORE AFRO-AMERICAN, May 14, 1955.
[21] *Police promise 'neutral' stand,* BALTIMORE AFRO-AMERICAN, May 21, 1955.
[22] *Police promise 'neutral' stand,* BALTIMORE AFRO-AMERICAN, May 21, 1955.

According to Mr. Merrill, the police felt that as long as the students protesting were all African Americans, then the public would not care. If, however, the protestors became integrated, the police were concerned that people would start to pay attention and something would actually come of these demonstrations.[23]

Douglas Sands, who at the time was president-elect of the Morgan Student Council, circulated a letter to residents of the Northwood area asking for cooperation in the campaign to desegregate the theater. [Was it circulated or not???] Part of Mr. Sands' letters states, "Americans who stand shoulder to shoulder on foreign battlefields are afraid to rub shoulders at home. I believe that Baltimore must yield one day to the challenge of democracy and Christianity. Mere admittance to a theatre means far less to us than the perpetuation of a democratic heritage. However, we feel that this beginning will awaken others just as it has stimulated us."[24]

Position of Morgan State College: In a letter to the Afro-American newspaper, Dr. Martin Jenkins stated, "It is our view that Morgan State College as an institution of higher education cannot directly participate in social action movements. Its students and faculty members, however, as individual citizens are free to participate in such actions so long as they stay within the framework of lawful behavior."[25] At this time, Morgan State College had inadequate, dilapidated buildings and a longstanding need for increased State assistance. Therefore, Dr. Jenkins had to make it clear that the school did not actively support the demonstrations.[26]

On May 27, while picketing in front of Northwood Theater, Sherman Merrill was arrested and charged with disorderly conduct and assaulting an officer[27]. According to Mr. Merrill, he was eating dinner with his wife and young daughter at the nearby Rooftop restaurant when he noticed

---

[23] Interview with Mr. Sherman Merrill
[24] *Pickets withdraw at Eden Theatre*, BALTIMORE AFRO-AMERICAN, May 24, 1955.
[25] *Morgan president speaks on theatre demonstrations*, BALTIMORE AFRO-AMERICAN, May 28, 1955.
[26] Letter from Clarence Logan to Michael Olesker, September 14, 2005. 2
[27] *Arrest student in stand-in picketing at Northwood*, BALTIMORE AFRO-AMERICAN, May 31, 1955.

a small group of students demonstrating in front of the theater.[28] He remembers realizing that he wanted to join the group because he felt badly that the group consisted only of African-Americans.[29] He wanted to integrate the group of demonstrators to show people that what these people were protesting 'was not just a black thing.'[30] Despite being half African-American, Mr. Merrill is very light skinned and often mistaken for completely white. Dressed in a coat and tie, Mr. Merrill joined the picket line, not because he was part of any organization or group, but because he had a genuine interest in civil rights and wanted to do the right thing. According to bystanders, while Mr. Merrill was in the picket line, "a plainclothes officer called Mr. Merrill out of the line and asked for his name and address. They also reported that when the youth objected to the officer placing his hands upon him, the arrest was made. As the officer was leading [him] away, bystanders reported hearing such words as 'Communists,' and 'N-----r Lover.'"[31] The police officer, Sergeant Anthony Urban, "said that he noticed that Merrill was the only white person in the picket line and went up to him, badge in hand and stated that 'I want to talk to you.' The officer said Merrill ignored him and kept on walking. Sergeant Urban said he repeated the statement was pushed by Merrill. [Mr. Merrill] was then taken out of the line and arrested. The manager of the theater, John Wyatt, said he heard Merrill tell the detective that 'that tin badge means nothing to me.' Other witnesses said Merrill apparently did not believe the sergeant was a policeman and shouted, 'Get a cop.'"[32] According to Mr. Merrill, while he was in the picket line, two white men in dark suits came out of a nearby bar and grabbed him.[33] They showed him something that looked like a badge and threw him on the ground.[34] He had been trying to move

---

[28] Interview with Mr. Sherman Merrill
[29] Interview with Mr. Sherman Merrill
[30] Interview with Mr. Sherman Merrill
[31] *Arrest student in stand-in picketing at Northwood,* BALTIMORE AFRO-AMERICAN, May 31, 1955.
[32] *Hopkins Student Fined in Theater Picket Case,* EVENING SUN, June 4, 1955.
[33] Interview with Mr. Sherman Merrill
[34] Interview with Mr. Sherman Merrill

his daughter out of harm's way and the officers claimed that he was molesting her.[35] They hauled Mr. Merrill away in an unmarked car. He was terrified because had no idea who these two men were and he had no idea where they were taking him.[36] While one was driving, the other was in the backseat with Mr. Merrill and physically beat him.[37] When they finally pulled into the police station, Mr. Merrill was relieved because he was finally in official hands.[38] At the Northeastern police court, Mr. Merrill was found guilty of disorderly conduct and assaulting and pushing a detective sergeant.[39] Mr. Merrill appealed his case and was acquitted on all counts by Chief Judge Emory H. Niles in Criminal Court.[40] Chief Judge Niles ruled that "plainclothes officers had no business on the scene since 'the police knew that there was tension and uniformed officers should have been there.'"[41] The Chief Judge also noted that "Sergeant Urban had no right to place Mr. Merrill under arrest because the policeman had seen no wrong act committed in his presence."[42] The Chief Judge was, however, critical of the demonstrations. He stated, "The way to promote racial goodwill is not by taking obvious means of creating bad will."[43] He "urged the students to find a better and more effective way to achieve their end."[44]

1956

"As a result of action taken by a social action committee of Northeast Baltimore, the Commissions attempted to bring together representatives of said committee and the management of the Northwood Theater. This social action committee was composed of students attending several colleges in the Northeast Baltimore area who were desirous of

---

[35] Interview with Mr. Sherman Merrill
[36] Interview with Mr. Sherman Merrill
[37] Interview with Mr. Sherman Merrill
[38] Interview with Mr. Sherman Merrill
[39] *Hopkins Student Fined in Theater Picket Case,* EVENING SUN, June 4, 1955.
[40] *Student Acquitted In Picket Case,* Baltimore Sun, June 17, 1955.
[41] *Theatre Pickets Win Victory in Court,* BALTIMORE AFRO-AMERICAN, June 18, 1955.
[42] *Theatre Pickets Win Victory in Court,* BALTIMORE AFRO-AMERICAN, June 18, 1955
[43] *Theatre Pickets Win Victory in Court,* BALTIMORE AFRO-AMERICAN, June 18, 1955
[44] *Theatre Pickets Win Victory in Court,* BALTIMORE AFRO-AMERICAN, June 18, 1955

gaining the right to attend the Northwood Theater. Requests from this group to the management of this theater relative to a change of policy which would permit Negro patrons to attend has been rejected. After attempts to confer on this matter and to bring about a possible change, this committee began to picket the theater. **Several civic groups in the area appealed to the Commissions to look into this situation and make ever effort to bring the groups concerned together in conference. As a result of these requests, the Commissions communicated with Mr. Irving Grant on December 16, 1955, and asked if he and his brother would meet with a committee to discuss this matter. Mr. Grant agreed to such a meeting under one condition-that Dr. Martin D. Jenkins, President of Morgan State College, would be in attendance.**[45] The members of the Commissions could not see any possible reason for the involvement of Morgan's president inasmuch as the social action committee was not a recognized body of Morgan State's campus, and that the makeup of said group involved students from other colleges in the area. Dr. Otto F. Kraushaar, President of Goucher College and a member of the Commission, advised the Commissions that involvement of Dr. Jenkins was totally unnecessary. **As a result of the decision on the part of the Commission to eliminate the consideration of Dr. Jenkins' participation in the conference, further attempts to arrange for a meeting with the owners of the Northwood Theater were unsuccessful.** A series of communications an contacts were made, and on March 19 the following persons met in Chairman William C. Rogers' office to discuss the Northwood theater situation: Mr. Irving Grant, Mr. Joseph Grant, Commissioner Otto F. Kraushaar and two representatives of the social action committee. This conference clearly pointed out **(1) that the Grant brothers feared a loss of business if they admitted Negro patrons; (2) that the**

[45] Previously, John Wyatt, the Northwood Theater manager, had stated that "in view of Morgan's status as a state institution, supported by taxpayers, pressure should be put on the Morgan dean to halt the demonstrations." See *Theatre owners seek talk with commission,* BALTIMORE AFRO-AMERICAN, May 7, 1955.

residents of the Northwood area are opposed to integration, as evidenced in responses from the Northwood Improvement Association and the Hillen Road Improvement Association when they met with the Commissions several months previous to this meeting; (3) that if other theaters in the area would agree to operate on an integrated basis, no particular theater owner would suffer a loss of business. Accordingly, the Commissions directed their Executive Secretary to arrange a conference with owners of multiple theaters [11] in the Northeast Baltimore Areas [Northwood included]. The meeting was rescheduled 3 times. "Unfortunately, only one theater owner, Mr. Fred Perry, Cameo Theater, found it convenient to attend either of these scheduled meetings."

Individual contact was made and it was revealed that three owners are willing to change their policy if the majority of the owners will do likewise. Three owners involving five theaters in this area were definitely opposed to a change of policy at this time. Three owners representing four theaters were unavailable for comment. "In general, those in favor and those opposed felt that a change of policy would result in financial loss to them unless the change was made by all of the owners involved."

In terms of a recommendation, the commission stated that it felt "that a public accommodations act either on a statewide or municipal level should be enacted making discrimination of this kind unlawful. Such would serve to provide the kind of legal support to those theater owners who desire to make policy changes, and would further extend the privileges of using these public accommodations to all citizens."[46]

1956-1963

[46] Annual Report of the Commission on Interracial Problems and Relations to the Governor and General Assembly of Maryland. January, 1957. pgs. 17-18

"During summer 1960, CIG (what had formerly been SAC[47]), at the prompting of Drs. Carl Murphy and Lillie Mae Jackson along with the persuasion of Congressman Adam Clayton Powell, diverted some of its efforts away from demonstrations, and helped spearhead the NACCP sponsored voter registration drive.[48]

Demonstrations occurred every spring[49]

1963

"The theater was the last bastion of exclusion at the shopping center virtually across the stress from [Morgan State College]. It's owners' determined resistance led to the largest and most militant demonstrations in the history of Morgan State's Civic Interest Group."[50]

Leading up to the arrests:

In the early 1960s[51], a group of students invited Reverend Marion Bascom to come to the Morgan Christian Center, located on Morgan's campus but not actually a part of the school, to speak to Morgan students.[52] Having always been involved in civil rights, Reverend Bascom soon became involved in CIG's movement to desegregate various department stores, restaurants, and movie theaters in Baltimore.[53] By 1963, Reverend Bascom was the Chairman for the Civic Interest Adult Assistance Committee.[54] He was a great source of motivation and support for the students. At the time Carolyn Wainwright, then a student at Morgan State College, remembers Reverend Marion Bascom coming to the school and speaking to the students.[55] She recalls him suggesting serious non-violent rallies and telling the students that they would probably have to

---

[47] To avoid possible political repercussions for the State supported black college, CIG was formed. *See* Letter from Clarence Logan to Michael Olesker, September 14, 2005. 2

[48] Clarence Logan letter October 15, 1005. 4

[49] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 23 (1992).

[50] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 137 (1992).

[51] It may have been the late 1950s (Reverend Bascom couldn't remember exactly when it was).

[52] Interview with Reverend Marion Bascom

[53] Interview with Reverend Marion Bascom

[54] Interview with Reverend Marion Bascom

[55] Interview with Carolyn Wainwright.

go to jail.[56] Reverend Bascom remembers speaking to a packed house at the Morgan Christian Center. Recalling what he had heard from Dr. Mordecai Johnson, the first African American President of Howard University, Reverend Bascom encouraged the students to follow in Mahatma Ghandi's footsteps by going to the sea to make salt.[57] Ghandi was the pioneer of *Satyagraha* — the resistance of tyranny through mass civil disobedience, firmly founded upon ahimsa or total non-violence — which led India to independence and inspired movements for civil rights and freedom across the world.[58] In 1930, Ghandi set out on what would become the world-famous Salt March, and break the British imposed law that only the British could manufacture salt.[59] "To enforce the law of the land, the British had to arrest the *satyagrahis* (soldiers of civil disobedience) and Indians courted arrest in millions. There was panic in the administration and Indian freedom struggle finally gathered momentum both inside and outside of India."[60] Similarly, Reverend Bascom urged students to go to Northwood Theater and seek to gain admittance to the theater in a disrepectful, nonviolent, and persistent manner, all the while being prepared to accept whatever consequences, such as being jailed, were to occur.[61] Reverend Bascom notes that "As Ghandi had broken the backbone of untouchability, the students were to break the backbone of discrimination."[62]

According to Dr. August Meier, CIG Student Advisor and professor at Morgan State College, "[o]n February 4, student government and CIG leaders met in Morgan's student government office. In the course of an hour, they decided that mass picketing alone would be ineffectual without accompanying mass arrests, a technique which had been effective in desegregation

---

[56] Interview with Carolyn Wainwright.
[57] Interview with Reverend Marion Bascom
[58] http://en.wikipedia.org/wiki/Mahatma_Gandhi.
[59] http://www.kamat.com/mmgandhi/dandi.htm
[60] http://www.kamat.com/mmgandhi/dandi.htm
[61] Interview with Reverend Marion Bascom
[62] Interview with Reverend Marion Bascom

campaigns in the Deep South. It was decided that the basis for arrests would be the Maryland trespass law, originally enacted in 1878 for farmers to keep hunters off their lands. In recent years, the law has provided the legal method for keeping places of public accommodation segregated. Basically, it states the owner's right to admit only those persons he wants...

The biggest problem facing the demonstration's organizers was creating sufficient interest within the student body to form a mass movement. Several hundred picketers were needed as well as fifty to one hundred volunteers for arrest.

The answer, they decided, was to enlist the most popular elements of the student body for the first arrests-from the president of the student council to Miss Morgan of 1963. This struggle for equal rights was probably the first in history organized along the lines of a pep rally before a football game."[63]

Mass arrests:

The demonstrations were organized. If you could and/or wanted to go to jail, you would line up to purchase a ticket in the lobby.[64] This way you would be trespassing and would be arrested. If you did not want to or could not go to jail, but still wanted to support the cause and draw public attention, you stayed outside the theater and walked the picket line. On Friday, February 15, the first evening of the demonstrations, twenty-six students were arrested when they refused to move from the entrance to the theater after being read the trespass law by the theater manager.[65] The next morning, at their hearing, the students requested jury trials and were released on their own recognizance by Municipal Court Judge Joseph P. Finnerty, who advised the students that it was

[63] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 138 (1992).
[64] Interview with Carolyn Wainwright.
[65] *26 Are Arrested In Theater Case*, THE BALTIMORE SUN, February 16, 1963.

best for them to stick to their studies."[66] They were released to the custody of Dean of Women, Dean Thelma P. Bando and Dr. August Meier.[67]

The demonstrations continued throughout the weekend with the number of arrests for the weekend totaling 68.[68] Those arrested on Saturday were charged with disorderly conduct, with the bail set at $100.[69] The charge read: "Disorderly conduct by tending to cause or provoke a breach of the peace or to disturb the peace and quiet of the community or to corrupt the morals of the people of Balto. City State of MD, on or about Feb. 16, 1963."[70] On Sunday evening, Methodist chaplain Rev. James Davis Andrews was arrested along with the students.[71] "As the theater manager, Aaron B. Seidler, read the group the trespass act, the Rev. Mr. Andrews read Mr. Seidler parts of President Kennedy's message commemorating the centennial of the Emancipation Proclamation."[72]

Inside the jail

While the demonstrations were starting to gain public and even national attention, "the growing strength of the movement was unknown to several hundred students locked in jail. A lack of communication between the ins and the outs, and the unforeseen shock of jail living, especially on the women crowded six and seven to a cell, caused a breakdown in morale, which nearly resulted in the collapse of the demonstration."[73] "The prisoners received no word from CIG

---

[66] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 139 (1992).
[67] See Arrest records
[68] *68 Sit-ins held in theater case*, THE BALTIMORE SUN, February 18, 1963.
[69] *68 Sit-ins held in theater case*, THE BALTIMORE SUN, February 18, 1963.
[70] See Arrest records
[71] *68 Sit-ins held in theater case*, THE BALTIMORE SUN, February 18, 1963.
[72] *68 Sit-ins held in theater case*, THE BALTIMORE SUN, February 18, 1963.
[73] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 140 (1992)

leaders their first afternoon in jail, when the men were herded nude through admission processes and the women were forced to wash their hair with lye soap."[74]

Reactions to the arrests:

On February 18, the fourth day of mass arrests, 150 students were arrested. The police department issued the following statement: "On advice of the attorney general, due to the large scale demonstrations, both charges of disorderly conduct and trespassing will be placed, and it is not necessary to procure warrants."[75] The bail was set at $600 for each student ($100 for trespassing and $500 for disorderly conduct) bringing to total bail to $90,200.[76] In setting this bail, Judge Finnerty stated that he had "implored students and faculty members not to allow things to continue. Five hundred cases make your case no better than one defendant....The time has come when I must do something to conserve the peace. I feel therefore that these defendants should no longer be treated as students or children, but rather as adults."[77] "Leaders of racial advancement organizations and black politicians alleged that the punitively high bail and changes in arrest procedures were the result of collusion involving Chief Judge T. Barton Harrington, Judge Joseph Finnerty, Police Commissioner Bernard J. Schmidt and ranking police officers in consultation with Maryland Attorney General Thomas B. Finan."[78]

According to Clarence Logan, William O'Donnell, Baltimore States Attorney, was reportedly concerned about the possibility of violence at Northwood and likened the Morgan students to Mississippi racists.[79] Mr. O'Donnell was quoted as saying, 'what I'm afraid of is that some people will turn up with pistols and knives.'"[80]

---

[74] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 141 (1992)

[75] *150 Negroes Arrested in Northwood,* THE BALTIMORE SUN, February 19, 1963.

[76] *Northwood Pickets March in Snow, Defy Crackdown,* THE BALTIMORE NEWS-POST, February 19, 1963.

[77] *Morgan Bail Up To $600.* THE EVENING SUN, February 19, 1963.

[78] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 2

[79] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 2

[80] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 2

"City officials, above all, Mayor Phillip Goodman, who was facing a primary election in which his candidacy was strongly contested, felt sufficient pressure to become involved."[81] On February 19, he stated that he "would be willing to sit down with both sides in the Northwood Theater segregation dispute 'in the interest of having this community problem solved without any further embarrassment to anyone.'" [82]

On February 20, Mayor Goodman met with representatives of the theater, CIG, city and state. At this point more than 330 students had been arrested.[83] Students from Johns Hopkins and Goucher College had joined in the demonstrations and were also being arrested.[84] There were so many arrests being made that extra patrol cars were dispatched from other parts of the city.[85] "Theater representatives said they would agree to discuss integrating their business establishment in five weeks time if the demonstrations were called off immediately. The offer was turned down, and that evening seventy four more students were arrested while a picket line of 500 students and several professors marched under the glare of television camera lights in front of the theater. The picket line was large enough to draw crowds of shoppers containing many Negroes who cheered the demonstration. Newsmen walking though the crowd heard observers say 'We've got to stand up for our rights,' or 'If you want something, you've got to fight for it.' Some brought coffee to the marchers. A few put their parcels down in the middle of the oval of picketers and joined the line. A type of demonstration usually avoided by Baltimore's public had become contagious."[86]

At "the conciliation meeting in Mayor Goodman's office when Morgan College president Martin D. Jenkins said the only solution to the matter would be the integration of the theater and the

---

[81] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 137 (1992).
[82] *Morgan Bail Up To $600.* THE EVENING SUN, February 19, 1963.
[83] *Mayor, Theater Case Figures Confer*, THE EVENING SUN, February 20, 1963.
[84] *100 Arrested in Northwood Theater Row*, BALTIMORE SUN, February 20, 1963.
[85] 74 Held In Northwood Row Meeting Held With Mayor, BALTIMORE SUN, February 21, 1963.
[86] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 140 (1992).

withdrawal of charges against his students. He went on to say that if the theater was not integrated promptly, "there will be 2,400 students in jail by Monday morning."[87] "Mayor Goodman is reported to have told those present at the meeting that the demonstration was not only embarrassing the city, but reactivating his ulcers as well. The meeting served to show the CIG its own strength. In rejecting a new compromise calling for the release of the students and a five week cooling-off period before negotiations with theater representatives, the importance of the overcrowding in the city jail became apparent."[88] Meanwhile, CIG sent telegrams to U.S.Attorney General Robert Kennedy calling on him to intercede in the arrests, to Governor Tawes complaining about the pretrial conference between municipal judges and policemen, and to the State Attorney General Thomas Finan protesting the high bail set for the demonstrators.[89] "The mayor now found himself faced with an ugly time limit. The CIG was stronger than ever and seemingly unwilling to compromise. The theater management was under fire from surrounding businesses who, being integrated themselves, saw bigotry turning regular customers to other shopping areas."[90]

Officials became so concerned that legislation was created to prevent anything like this from ever happening again. "There were two legislative proposals aimed at restraining students' rights to peacefully protest. State Senator John L. Sanford, Jr. (Democrat, Worcester County) introduced a resolution deploring anti-discrimination demonstrations by college students...State Senator Robert T. Dean (Democrat, Queen Anne's County) introduced legislation (Senate Bill 357) to expel students convicted of trespass violations. The proposed legislation, if passed,

---

[87] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 142 (1992).
[88] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 142 (1992).
[89] *Mayor, Theater Case Figures Confer*, THE EVENING SUN, February 20, 1963.
[90] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 142 (1992).

would have also applied to private colleges and universities such as Hopkins and Goucher that received state aid. Institutions failing to expel such students would forfeit their right to public funds."[91] According to the Baltimore News Post, "the resolution deplored 'the practice of mass assemblies to coerce private property owners to do business with certain individuals.'"[92]

The "national spotlight was thrust upon Baltimore. Much of the country watched while hundreds of college kids were hauled off and thrown into jail. And like other Southern cities directly impacted by the civil rights movement, part of the strategy was to 'shame their oppressors'-in this case, the White owners of the Northwood Theatre-into desegregating."[93] As Clarence Logan, Chairman of the Civic Interest Group at the time, noted, "In just six consecutive days, Morgan students accomplished the victory that had alluded them in eight years of periodic demonstrations, through the use of civil disobedience and their mass refusal to accept bail."[94]

"The influx of student prisoners at the jail gave it a population of 1,450. This was the second highest on record, topped only by 1,673 prisoners in 1961. Because of the overcrowding, prisoners were sleeping on cots in corridors and dormitories and four and five to a cell."[95]

Dr. Jenkins

Initially, Jenkins was not supportive of the demonstrators. On Sunday, February 17, Dr. Jenkins informed CIG's adult adviser that he would be dismissed if the governor asked the Dr. Jenkins to fire him.[96] The next day, according to Dr. August Meier, "the Morgan administration suggested that students involved in the demonstration might be subject to disciplinary action on campus."[97]

---

[91] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 2
[92] *Movie Gets Bomb Threat, Mass Arrests Continue*, BALTIMORE NEWS POST, February 21, 1963.
[93] Sean Yoes, The Northwood Movement, THE BALTIMORE AFRO-AMERICAN, May 7-13, 2005, at B2.
[94] Sean Yoes, The Northwood Movement, THE BALTIMORE AFRO-AMERICAN, May 7-13, 2005, at B2.
[95] Northwood Movie Row Ends, BALTIMORE NEWS-POST, February 21, 1963.
[96] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 141 (1992).
[97] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 141 (1992).

Dr. Meier believes that Dr. Jenkins was nervous because the school's budget was about to come before the legislature.[98] It was not until the Thursday meeting with the Mayor, that Dr. Jenkins openly supported the demonstrators.

Integration of Northwood Theater

On February 21, Mayor Goodman made the following statement: "Northwood Theater Corp. has arrived at a peaceful, orderly solution to the theater's situation by way of integration if the acts of trespass and mass protest demonstrations immediately cease. As soon as this good faith is proven by the demonstrators, we will admit all law-abiding persons the following day."[99]

Judge Reuben Oppenheimer of the Criminal Court, following a meeting with William O'Donnell, agreed to reduced the bail.[100] "However, Judge Anselm Sodaro, after a discussion with Robert Watts and John Hargrove, both attorneys for the students, ordered the elimination of all bail and release of the demonstrators on their own recognizance from City Jail." [101] George Collins, who at the time was a reporter with the Baltimore Afro-American newspaper, remembers being called by the parents of the incarcerated students to put in the newspaper that if the students were not out of jail by the evening, the jails would have to make room for thousands of parents.[102]

The Aftermath

On February 27, the charges against the students were thrown out by the grand jury.[103]

The theater closed shortly after the integration [need exact date]. According to George Collins, the patronage of the theater fell off because once the theater was integrated, the white families in

---

[98] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 145 (1992).
[99] *Northwood Movie Row Ends*, BALTIMORE NEWS POST, February 21, 1963.
[100] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 3
[101] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 3
[102] Interview with George Collins
[103] *Morgan Students Triumph as 8-Year Rebellion Ends*, THE BALTIMORE AFRO AMERICAN, March 2, 1963.

the neighborhood were running out of the city to the suburbs and the African Americans didn't really want to frequent a place that had not wanted them before.[104]

What was the significance of the Northwood Theater demonstrations and integration?
"The only incident of civil disobedience in the State of Maryland where civil rights protestors virtually refused en mass to accept bail and remained incarcerated until the facility desegregated occurred during the Northwood Theater demonstrations." [105] "In 6 days, some 1,500 people picketed the theater and 413 were arrested."[106] As Reverend Marion Bascom notes, "The Northwood project was essentially a movement of students. The students are often greatly overlooked. The students, as I recall, were instrumental."[107]

"The demonstrations' significance lies not only on the lowering of a racial barrier, but also in indications that the process of integration could be expedited by disrupting civil authority and the normal operations of the city's police, court, and penal facilities."[108]

What I still need to research:

- Trial documents for Sherman Merrill
- Want more facts about funds raised for bail
- Jenkins' role-was he a hero or not? I discussed this with Mr. Logan and he sent me some more information on this topic
- Information on the legislation that Dean and Sanford introduced
- I will try to interview Regina Bruce Wright, a woman who was arrested and was in one of the photographs. Mr. Logan thinks she would be willing to talk with me.

I still need to add:

- Information from interview with Reverend Sands
- Information from interview with Clarence Logan

---

[104] Interview with George Collins
[105] Letter from Clarence Logan to Frederick Rasmussen, March 17, 2003. 4
[106] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 137 (1992).
[107] Interview with Reverend Marion Bascom
[108] AUGUST MEIER, A WHITE SCHOLAR AND THE BLACK COMMUNITY, 1945-1965: ESSAYS AND REFLECTIONS 137 (1992).

Draft for Final Paper
Race and the Law Seminar

Kayon K. Allen
Kalle003@umaryland.edu
April 9, 2007
Pages: 12

BEFORE THERE WERE STUDENT ORGANIZED SIT-INS, THERE WERE STUDENT ORGANIZED SIT-DOWNS
1953 to Early 1960
MARYLAND

It is a long-held belief that first student organized sit-in civil-rights demonstration in the United States was held at a Woolworth's lunch-counter in downtown Greensboro, North Carolina, on February 1st, 1960. One need only type "sit-in" into an online search engine to uncover loads of pictures of four North Carolina Agricultural and Technical College students sitting at the Woolworth lunch-counter, that February day. The names of the four students, typically printed below the pictures, are; Ezell A. Blair Jr. (now known as Jibreel Khazan), David Richmond, Joseph McNeil, and Franklin McCain. [1]

Their journey began on the night of January 31st, 1960. While in one of the dormitories the four students planned the sit-in for the following day at the Woolworths in downtown Greensboro. The four received a lot of national press coverage and instantly became famous. (On-line Citation) Shortly following the news reports, college and high school students began organizing sit-ins throughout the country. That day is engraved in the country's history and the lunch counter the students sat down in front of is now displayed at the Smithsonian Institution, as a reminder of the sit-in civil rights movement. In addition, according to North Carolina Agricultural and Technical College's website, a statute of the four gentlemen was erected on its campus in remembrance of their contribution to the civil right movement.

As we know, news is not always correct, there are at times honest mistake, many times because of lack of knowledge or evidence to counter what is believed. The headlines attached to the pictures of those four famous sit-in protests at Woolworth's in North Carolina are a prime example of such an error. Today there is more knowledge and the evidence shows, there was a prior student-

[1] A few sources attached in Appendix

organized sit-in, which occurred in Baltimore, Maryland, in 1953.[2] That sit-in, and those that closely proceeded, was referred to as a sit-down.[3]

Before there were student-organized sit-ins there were student-organized sit-downs, and the students involved were Morgan State College students. According to pass Morgan students, Walter Dean and Dough Sands, the first of these sit-downs occurred at the Northwood branch of Read's Drugstores near the college campus. It was located at the corner of Loch Raven Boulevard and Cold Spring Lane.[4] Students started the protests in of 1953, with assistance from the Baltimore chapter of the Congress of Racial Equality (CORE).[5] CORE was a national organization and was the first organization known to organize a sit-in for the desegregation of public accommodations.[6] That sit-in was in 1942 at a Jack Sprats in Oklahoma. In 1953 through 1954, Morgan students continually protested in at the Read's Drugstores close to the campus. Adult CORE members began by focusing on the downtown Baltimore area.

Read's Drugstore was a locally owned chain at the time the protests began, and had locations throughout the state. [7] According to Wikipedia, http://en.wikipedia.org/wiki/Rite_Aid, and the chain remained in Maryland until it was bought-out by Rite Aid Pharmacy, in the late 1970s/ early 1980s. Rite Aid's acquisition is also noted in, *Lake Shore Investors v. Rite Aid Corporation*, 461 A.2d 725, 55 Md.App. 171 (Md. App., 1983) and 67 Md.App. 743, 509 A.2d 727 (Md. App., 1985). Typically, drugstores had lunch counters were customers could sit down at the stools

---

[2] Reverend Dough Sand's stated this information at his March 28th, 2007 interview, at the University of Maryland School of Law. Reverend Dough Sands was a freshman at Morgan State College at that time. He was very active with the protests for integration at Read's.

[3] Professor Walter Dean's March 22nd, 2007 interview at the Baltimore Community College and Reverend Dough Sand's March 28th, 2007 interview

[4] Although neither Enoch Pratt nor the Maryland State Archive has a record of the exact location, students at the time, including Walter Dean and Dough Sand's attest to the Read's being located at this corner.

[5] Gass, T. Anthony, "The Baltimore NAACP during the Civil Rights Movement, 1958-1963." Masters Thesis, Morgan University, 2001.

[6] Gass Thesis and CORE website, www.core-online.org

[7] Baltimore 1956 City Directory, copy at Maryland State Archives and (site with pictures of the various Read's)

stretched along a long counter. Customers would order and eat meals at the counter and Read's Drugstore was no exception. However, as stated by Reverend Sands, like so many other lunch counters at this time, Read's Drugstore refused to serve Black customers seated at their counter. Indeed, it was not unusual for a sign to be placed on the table stating that Read's held the right to serve whomever they chose, or a sign that more directly stated that the Read's Drugstore did not serve Negroes.

On the other hand, there were some Read's Drugstores that would serve Blacks, though they did not necessarily do so openly. Walter Dean, a former editor of Morgan State College's newspaper and a known sit-in protestor recalls being served at a Read's located on Edmonson Ave., in the early 1950s. Similar to other stores with lunch counters, Read's would serve Black customers in Black neighborhoods, though they did not necessarily do so openly.

Why Morgan students and why Read's? The answer lies not only in the time-period, but also in Morgan State College's location. The 1950s was a time filled with much discrimination and segregation; Maryland was not an exception. In *Plessey v. Ferguson*, 163 U.S. 537 (S.Ct. 1896), the Supreme Court ruled that segregation between the races was legal, as long as the separation was equal. Many Jim Crow laws enabled the legality of separate accommodations for Blacks and Whites.

In addition, essentially, Blacks were not allowed to eat at White-owned lunch counters. Although at times, there were allowed to purchase food in the designated "Colored" or "Negro" line, this did not mean they would be served when seated.[8] Morgan State College students encumbered various types of discrimination, because of the location of their school.[9] Morgan State

[8] (Review News articles and ask girl in glass who had the info if necessary)
[9] As stated by Reverend Sands and Professor Dean

College, later renamed Morgan University, was located at the corner of Cold Spring Lane and Hillen Road, surrounded by a predominately White middle-class neighborhood.[10]

Morgan students were transported to the college via a public bus that traveled north on Loch Raven Blvd. to Cold Spring Lane.[11] The students would vacate the bus at this intersection and then walk approximately 3 blocks to enter Morgan State's campus. As may be imagined, it was a most uncomfortable travel along Cold Spring Lane, between White-owned houses. The community was neither pleased with the location of the college, nor the fact that groups of Blacks were constantly walking past their property. Through their hostility, the home-owners made it clear that they wanted the Black students to walk as far away from their property as possible. They would not even tolerate the students treading on the sidewalks adjacent to their property.[12] In time, students would eventually resort to walking along an alley way, just to avoid the residents.[13]

Prior to attending classes and upon the completion of the school day, the only off-campus eating establishment available to the students was the Read's Drugstore.[14] However, the management stated that it would not serve Negroes, and soon the management placed signs on the tables stating the same.[15] Due to the situation, the students organized and began to protest Read's service policy in 1953.[16] Morgan students first started picketing in front of the Drugstores, but not too long after, they began to stage actual sit-ins, which they called sit-downs. CORE's original sit-ins were called sit-downs[17] and the CORE Morgan students adopted that name.

---

[10] Interviews and
[11] Sands March, 2005 interview and Dean 2007 interview
[12] Id
[13] Dean 2007 interview
[14] Sands March 2005 and March 2007 interview
[15] Id
[16] Id and Gass 2001 thesis, 47.

[17] Meier, August and Rudwick, Elliot, "CORE A study in the Civil Rights Movement."

Throughout the protests, the Morgan students followed the CORE philosophy of non-violent protests for equality.[18] Upon its formation in 1942, CORE members adopted the Gandhian non-violent approach faithfully. The members studied and debated Gandhi's philosophy and method and concluded that it was the best method to exercise in their struggle against racism.[19] CORE believed in, "... the importance of behaving without malice and in a 'spirit of good will and creative reconciliation' submitting to assault without retaliating...." Meier, August and Rudwick, Elliott, p. 8. The Morgan students followed suit and some, including Reverend Sands and Professor Dean, noted that harassment was okay, but violence was not. However, as will later be discussed, the Baltimore NAACP did not condone or support the student's harassment towards businesses that upheld racist policies. [20]

In May of 1954, CORE claimed partial victory in the downtown area, specifically with the Grant's store, and it is at that time the CORE adults joined the Morgan students in their campaign against Read's Drugstores.[21] Students held weekly sit-ins at the Northwood branch of Read's, usually with thirty or mores students present. CORE adults remained in constant communication with Read's management. In January 1955, Read's formally announced that the stores would end its desegregation policy and begin to serve Blacks. The January 22, 1955 edition of the Baltimore Afro-American announced the Read's victory in an article submitted by Ben Everinghim, Vice Chairman of the Baltimore CORE.[22] Morgan students were elated and their fight continued.

---

[18] CORE Website, Gass 2001 thesis, _____, and news headlines from 1955 through 1960
[19] Meier's and Rudwick's, "CORE A Study in the Civil Rights Movement."
[20] Reverend Sand's March 2005 and March 2007 interview; Professor Dean's March 2007 interview
[21] Gass 2001 Thesis and _____
[22] Copy of article in Appendix

Sit-in Protests Moves to Northwood Shopping Center

The Northwood Shopping Center was completed close to the end of 1954.[23] It was located on Cold Spring Lane between Morgan State and Loch Raven Blvd. and included a theater, department stores such as Hecht-May Company, Price Candy Company's Roof Top Restaurant and Arundel's Ice Cream Company- a popular ice cream chain. The student movement increased in number and when students started protesting Northwood, they could not be ignored. Serious consequences matriculated due to increased student involvement and changes would soon be occurring, not only with regards to Northwood, but to the student movement itself.

Initially, the students involved in the protests worked through the Social Action Committee of the student government, which represented not only the student body, but the Morgan State College itself. The protests soon placed Morgan State in a compromising position with government leaders and local businesses. Morgan State received state funds and support from businesses and hence, pressure from those institutions fell upon Morgan State's President Martin Jenkins, and he was forced to take action. Morgan's President openly informed the Social Action Committee that Morgan State did not support their actions and mandated that the protests and demonstrations seized. However, behind the seen, the President truly supported the students and helped out in any way possible. The students were supplied paper and the use of the copiers and printers so as to facilitate with the production of protest materials.

Since Morgan State could not openly support the student demonstrations, the students could no longer work through the Social Action Committee. In 1955, Douglas Sands, Student Council president-elect and other student leaders formed the Civic Interest Group (CIG). CIG soon became the name behind many student activists from Morgan State and other colleges, including Goucher College and the Johns Hopkins Graduate Program. CIG went on to conduct campaigns against

[23] uuu

segregated facilities at Northwood every spring from 1955 until 1960. To further alleviate any potential problems Morgan might encounter with the community, CIG had most, if not all of their meetings at the Morgan State University Christian Center.[24] The Center was located on campus; however, it was privately-owned.[25]

The sit-in campaigns involved picketing and sit-ins at Arundel's and the Roof Top Restaurant and picketing in front of the Northwood Theater. As citizens, the students wanted to right to go where other citizens were allowed to go and eat where other citizens were allowed to eat. The students protested and demanded integration throughout Northwood. Some Morgan State Professors were not supportive of the students missing classes to demonstrate, possibly out of fear of losing their jobs. Some professors threatened to fail students for too many unexcused absences, noting that picketing and demonstrating was not an excused absence. However students were determined and the protests continued. In fact, the students were so determined and passionate about the issue that they even picketed through the Easter holiday.

Partial Victory at Northwood Shopping Center

On March 17th, 1959, a mere five days after the students started their 1959 spring demonstrations at Northwood; they were victorious with desegregating Arundel's Ice Cream.[26] The supervisor of the Arundel's Ice Cream, George F. Kerchner, announced that Arundel's would serve Black customers.[27] Mr. Kerchner noted that they must be paying customers to be seated and served and thus the students could not just "...take up the space that a buying customer could be using." The victory made headlines across the state and was featured in both the March 19th issue of the News-Post and the March 21st issue of the Baltimore Afro-American.

---

[24] Reverend Sands March 2007 interview
[25] Id and Morgan University website
[26] xxx
[27] Id

The Afro-American article further mentioned the support that was received from Arundel's customers. Quoting Afro-American article, "The students received congratulations from several white patrons in the paces where they demonstrated for their peaceful protests against what one of the patrons called "shameful" exclusion." Indeed, there were was a lot of support offered from Whites as well, including White students from Johns Hopkins graduate program and Goucher College.[28] Some police displayed their disgust for the student's victory. The March 21st, 1950 Baltimore Afro-American further noted that, "One student said a policeman chastised another blond youth who bought a soft drink for one of the students." Nevertheless, the Morgan students were elated with their victory and continued their protests against the Northwood Theater and the Roof Top Restaurant.

The Greensboro sit-ins in North Caroline became the famous sit-ins that sparked immediate protests in other cities.[29] However, CIG began their yearly demonstrations at Northwood approximately five years prior to the date of the first Greensboro student organized sit-in, on February 1st, 1960. CIG was overjoyed to see the attention that the Greensboro students were receiving and the increase in protests across the nation.[30] The Greensboro media attention also gave CIG ideas about how to proceed and increase its chances of being effective in protesting the Northwood area.

Greensboro Hits the Media and CIG Changes it's Sit-in Procedures

CIG began organizing their anticipated 1960 protests in February 1960, and they knew that year called for greater measures. The nation had recently been informed about the North Carolina students' actions at the Woolworth lunch counter in downtown Greensboro. CIG was not disappointed or upset that those students had received such attention for holding the first student-

[28] Reverend Sands and Professor Dean March, 2007 interviews
[29] (Articles and Gass)
[30] Professor Dean and Reverend Sands March, 2007 interviews

organized sit-ins, although CIG had been holding such demonstrations for years. Instead, CIG became more excited about their forthcoming 1960 protests.[31]

Prior to March 1960, CIG's demonstration procedure involved large picket-lines that made it difficult for potential customers to enter the Roof Top Restaurant, located above Hecht's Co and owned by Price Candy Company.[32] The college students also held sit-ins, in which the students would enter the store, sit in a vacant seat and request to be served. However, the students would leave upon request. Typically, an officer would read the trespassing law to each student, and then asked if the student understood. After the student acknowledged that he or she did understand, the student would leave and likely return to the Morgan campus. This was very time-consuming for both the officers and the management and the students were pleased with the discomfort they were caused.

The trespassing law was originally created during the time of slavery, in order to make it more difficult for slaves to escape.[33] It is codified as Section 577 of Art. 27 of the Annotated Code of MD (1957). The code stated that is was a misdemeanor to "enter upon or cross over the land, premises or private property of any person or persons in this State after having been duly notified by the owner or his agent not to do so." (Get full quote from library and list) Upon the reading of the law, the students would vacate the premises.

In addition, in their earlier protests at Northwood, the Morgan students would protest by first sending in students who could "pass" to be seated and served. "Pass" means that the students who entered and were served where African American, but appeared by those who were unaware to be Caucasian. After those students were seated and served, other students who were also African-American and who looked African-American tried to enter. When they were denied access or

---

[31] Id
[32] Id.
[33] (Dr. Papenfuse – research this)

instructed to leave, they pointed out that there counterparts who looked Caucasian, but were African-American were seated and eating. At that point those students were also instructed to leave.

The Morgan students and other Maryland college students were excited for the Greensboro students and wanted to mimic the events at Price Candy Co.'s Roof Top Restaurant. The atmosphere of the meetings was filled with excitement and enthusiasm and there was even greater student participation.[34] The students realized that the old method of sit-ins were no longer an effective method to get needed attention. In order to get the results they were aiming for, they would need to be arrested. In 1960 CIG decided that its members and protestors would not just hold sit-ins, but there would be volunteers who would remain seated until arrested.[35]

After Greensboro, the college students decided that in 1960 they would not vacate after the law was read, but they would succumb to being arrested if necessary. Indeed, in the meetings prior to the beginning of the protests that year, college student leaders asked for volunteers who would willingly be arrested.[36] Walter Dean, the editor of Morgan State's newspaper at that time, was one of the volunteers and one of the four who surrender to arresting officers on March 20th, 1960 at the Roof Top Restaurant in Northwood.[37] The more aggressive sit-ins started at the Roof Top Restaurant in Northwood, on March 15th, 1960. Due to the protests, the Roof Top Restaurant and a nearby Price Candy Co. store lost business at an alarming rate.[38] Both stores filed suit against the protestors, 14 of them named defendants. The suit was filed on March 24th, 1960 in the Circuit Court No. 2 of Baltimore City.[39] The stores requested a court-ordered injunction against the named protestors and any persons acting in concert with them.

---

[34] Reverend Sands March 2007 interview and Professor Dean March 2007 interview
[35] Id. Both Reverend Sands and Professor Dean were members of CIG at this time.
[36] Id.
[37] Professor Dean March 2007 interview
[38] Baltimore Circuit Court No. 2, 3/24/60 Civil Complaint (Attached in Appendix)
[39] Id.

The 14 named defendants were; Philip Hezekiah Savage, Herman DuBois Richards, Jr., Manuel Deese, Walter Raleigh Dean, Jr., John Mynard Hite, Bernice Evans, Geraldine Sowell, Ronald Merryweather, Raymon C. Wright, Albert Sangiamo, Lloyd C. Mitchner, Ester W. Redd, Moses Lewis and Louis Jones. Attorney and Baltimore NAACP member Robert B. Watts served as council for the defendants.[40] Attorneys Robert F. Skutch, Jr. and William W. Cahill, Jr. of the large Baltimore law firm Weinberg and Green served as council for the plaintiffs. Judge Joseph Allen was assigned to the civil case and issued the final order and judgment in the matter.[41]

By this time, the National Association for the Advancement of Colored People (NAACP) was a well-known national civil rights organization that had chapters across the United States. One chapter in Maryland was the Baltimore chapter. Although the NAACP has always fought for justice and equality for African-Americans, the organization did not support the student's protests and sit-ins.[42] On the other hand, the NAACP did offer the protestors free legal counsel and bail, when groups of student protestors were arrested.[43] The NAACP's assistance was evident in the Civil Action suit against the fourteen defendants mentioned above, as well as when four students were arrested for their sit-in protests at the Roof Top Restaurant.[44]

Hecht-May Company and Price Candy Co. Sue Sit-in Student Protestors

The Hecht and Price complaint alleged than beginning of March 15th, 1960, the 14 named defendants, and others acting in concert with them, rushed into the Roof Top Restaurant and seated themselves at tables marked "Reserved" and at stools on the lunch counter and remained there, even though the management informed them that they would not be served. The complaint further stated

---

[40] Id. 9
[41] Id. 7
[42] Reverend Sands March 2007 interview, Professor Dean March 2007 interview and Gass 2001 thesis
[43] (LOCATE)
[44] 3/24/60 civil complaint and 3/20/60 criminal suit

that because of the protestors' actions the Restaurant managers were unable to welcome and serve customers and prospective customers that management usually served.

In addition, the plaintiffs charged the defendants with coercing and intimidating prospective customers from entering the Restaurant. Furthermore, the complaint alleged that beginning of March 18th, 1960 and continuing until the complaint was filed on March 24th, 1960, the defendants, and those acting in concert with them, would hold large double picket lines outside the Restaurant during all business hours. The picket lines were composed of up to 50 to 60 students at a time and allegedly prevented many prospective customers from entering the Restaurant. Therefore, the plaintiffs claimed that they were deprived of their lawful right to conduct their business without interference. Hecht-May Co. and Price Candy Co. stated they lost large sums of money from the patronage of the prospective customers. (NOTE THE NEWS HEADLINES THAT SPOKE MORE ABOUT THE NUMBERS OF STUDENTS AND THE DAYS)

The complaint also stated that one of the defendants, Philip Hezekiah Savage caused the Restaurant's cooking staff to abandon the premises on March 19th, 1960. According to the plaintiffs, Mr. Savage pushed his way through the guards at the Restaurant's door, sneaked into the kitchen, although asked to leave, and spoke with the employees in charge of the food and beverage preparation. It is further alleged that Mr. Savage, thru threats, coercion and intimidation, was able to convince the entire kitchen staff to quit their jobs and leave the premises. Hence, the Restaurant was left with no kitchen help to prepare the foods and beverages customarily served to its customers.

During this time, Hecht-May Co. also was displeased with the protestors. Hecht-May Co maintained a 200-space roof-top parking space adjacent to Price Candy Co.'s Roof Top Restaurant. The department store complained that the defendants, and those acting in concert, were obstructing

potential customers from utilizing the parking space. According to the store, the defendants, and those acting in concert with them, utilized the parking lot for their large picket lines and as a picnic ground to feed the protestors.

In addition, Hecht-May Co. stated that the large crowds were very boisterous and constantly yelled and chanted on the roof-top parking lot. As a result, it is alleged that upon observing defendant's behavior, prospective customers left without entering the premises. The Price Candy Co. claimed to have experienced a 49% decline in business at the Roof Top Restaurant, in comparison to comparable dates in the previous year. The Hecht-May Co. store at Northwood claimed to have experienced a 33% decrease in business, also in comparison to comparable dates in the previous year. Both plaintiffs held defendants responsible for the decline in their businesses.

The Hecht-May Co. and the Price Candy Co. also mentioned that four of the defendants had already been arrested, due to the behavior mentioned in the complaint. Defendant John Maynard Height was arrested for assault. The other three defendants arrested were Philip Hezekiah Savage, Herman DuBois Richards, Jr. and Walter Raleigh Dean and they were all arrested for illegal trespass. At the time, trial for all four defendants was pending at the Northeastern District Police Magistrate. The complaint stated that despite the arrests, the defendants were still engaging in the activities mentioned in the complaint, and would continue to do so unless the Court intervened and enjoined them.

The remedy requested was a preliminary injunction enjoining and restraining the defendants, and those acting in concert,

Judge Joseph Allen made his ruling and read the order just one day after the suit was filed, on March 25th, 1960. Judge Allen ordered a temporary injunction against the protestors. (GO INTO

THE ACTUAL ORDER – WHAT IT STATES – MAYBE QUOTE FROM PARTS AND EXPLAIN WHAT IS SIGNIFIED)

The NAACP's assistance was also offered and accepted when four protestors, _____, _____, _____ and Walter Dean were arrested for their non-violent sit-in protests at the Roof Top Restaurant in Northwood. The arrest occurred on March 20, 1960. According to the records, the four men were charged with trespassing, under the Section 577, Article 27, of the Annotated Code of MD (1957).[45] Robert Watts, an NAACP member and an attorney who constantly represented African Americans in civil rights disputes, served as counsel to the four men.[46]

During this time, bail was usually raised by donations made to the adult civil rights organizations such as the NAACP, and churches that also supported such organizations.[47] In his March 2007 interview, Walter Dean, now a professor at the Baltimore City Community College, recalled that the NAACP attorneys, such as Mr. Watts, would take over the entire case and there was nothing more the students needed to do. The attorneys would post bail, communicate with the opposing parties and the court and reach a settlement, all without the student protestor's input. Although the students were thankful for this type of assistance, some still were affected by the fact that the NAACP did not support, or at least not openly, the students non-violent protests. Professor Dean also recalled receiving an award from the NAACP shortly after his arresting incident, and immediately after receiving it, he destroyed it in front of those present.

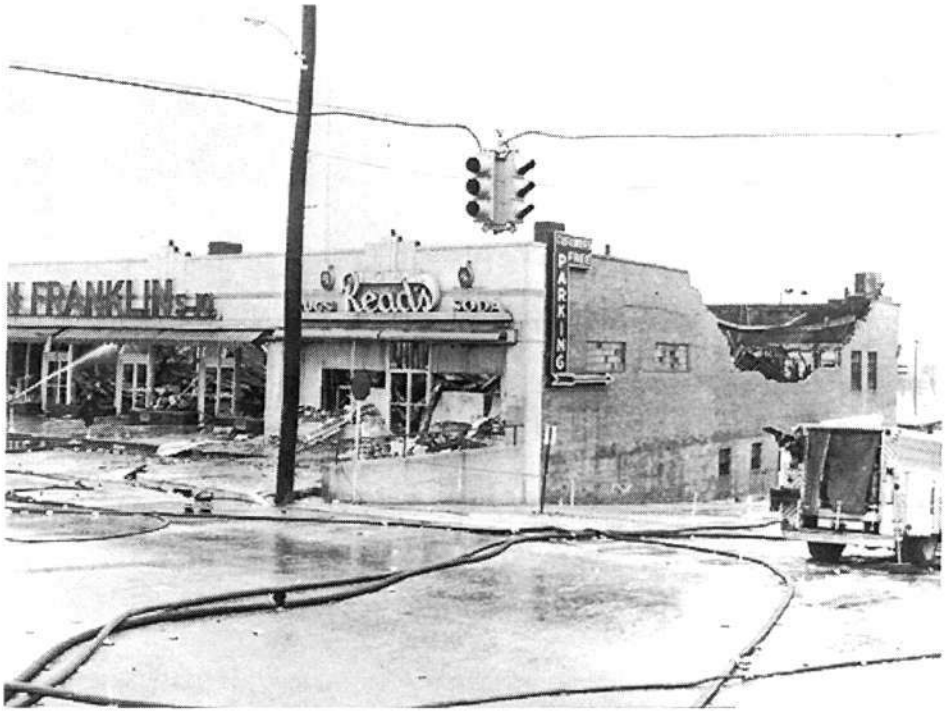
(GO INTO THE CRIMINAL CASE – FIRST SENT TO NORTHWEASTERN DISTRICT, ENDED UP _____ AND GO INTO THE INFORMATION PROFESSOR DEAN

[45] Court Documents attached in appendix
[46] Locate article that mentioned Robert Watts, and Professor Dean March 2007 interview
[47] Find thesis or book where you located this

PROVIDED – INCLUDING WHY HE STATES THE PROTEST MEANT SO MUCH TO HIM AND OTHERS WHO GOT ARRETED - THE IDEA OF BEING SERVICE MEN AND HOW THEY WERE TREATED OUTSIDE OF THE COUNTRY AND UPON THEIR RETURN)

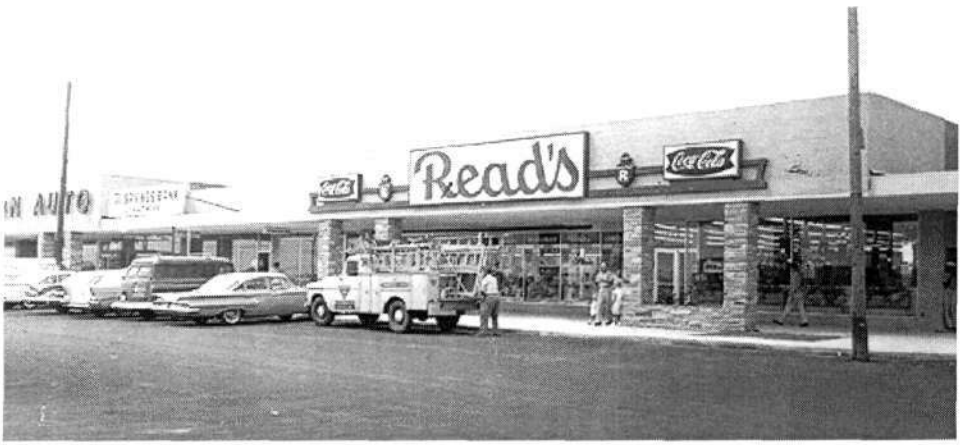
(MENTION THAT THE ARRESTS AND CASES WERE THE CATALSYTS FOR BIG DEMONSTRATIONS TROUGHOUT BALTIMORE AND IT WAS THE DATE AFTER THE JUDGE ALLEN ORDER THAT PROTESTORS STARTED PROTESTING THE STORES IN DOWNTOWN BALTIMORE AND THE NAACP WAS MORE ON BOARD WITH THE PROTESTS AT THAT TIME)

(ADD ALL FOOTNOTES MENTIONING SOURCES)



Read's on Easter Ave. in Essex

Picture taken from (you have the site written down on a paper in the pink holder)



Read's in the Merritt Park Shopping Center, Dundalk (1960)


1854 - 1954
Reads
DRUG STORES