BEFORE THERE WERE STUDENT-ORGANIZED SIT-INS, THERE WERE STUDENT-ORGANIZED SIT-DOWNS 1953 TO EARLY 1960 MARYLAND

Race and the Law Seminar Research Paper

April 26, 2007

Submitted by: Kayon K. Allen
Professors: Mr. Larry Gibson and Dr. Edward C. Papenfuse

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.[1] 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. [2] It was believed that those students were the fist to find injustice with the racial policies that so many restaurants enforced against African-Americans; that they were the first to voice there frustrations against the proposition that laws and Constitutional rights protected such business owners.[3]

The North Carolina students' 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

---

[1] Several websites, print-outs provided under Exhibits
[2] Id.
[3] Meier, August, "A White Scholar and the Black Community 1945-1965 New Currents in the Civil Rights Movement" p. 167

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-organized sit-in, which occurred in Baltimore, Maryland, in 1953.[4] That sit-in, and those that closely proceeded, was referred to as a sit-down.[5]

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.[6] Students started the protests in of 1953, with assistance from the Baltimore chapter of the Congress of Racial Equality (CORE).[7] CORE was a national organization and was the first organization known to organize a sit-in for the desegregation of public accommodations.[8] That sit-in was in 1942 at a Jack Sprats in Oklahoma. In 1953 through 1954, Morgan students

---

[4] Reverend Douglas Sand's stated this information at his March 28th, 2007 interview (March, 2007 interview), at the University of Maryland School of Law. Reverend Sands was a freshman at Morgan State College at that time. He was very active with the protests for integration at Read's, as well as the protests that were later held at Northwood.

[5] Stated by Professor Walter Dean in his March 22nd, 2007 interview (March, 2007 interview) at the Baltimore Community College. Professor Dean was the Editor or Morgan's Newspaper at the time the Northwood protests started. This was also taken from Reverend Sand's March , 2007 interview

[6] 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.

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

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

continually protested in at the Read's Drugstores close to the campus.[9] 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. [10] 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*, 55 Md.App. 171, 461 A.2d 727 (Md. App., 1983); and 67 Md.App. 743, 509 A.2d 728 (Md. App., 1985). 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, 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.[11] 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 in the time-period, the activists in Morgan State College students and Morgan's location. The 1950s was a time filled with much discrimination and segregation;

[9] Palumbos, Robert M. "Student Involvement in Baltimore Civil Rights Movement, 1953-1963, p. 450 and 454
[10] Baltimore 1956 City Directory, copy at Maryland State Archives and (site with pictures of the various Read's)
[11] Dean March, 2007 interview

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. As *Plessey* acknowledged, many Jim Crow laws enabled the legality of separate accommodations for African-Americans and Caucasians. *Id.*

Furthermore, the Morgan students were accustomed to advocating for change. On Wednesday, March 26, 1947, 600 Morgan students marched at Annapolis and pleaded the Governor lane to grant the educational funds Morgan State College so desperately needed.[12] Morgan students demanded equality; after all, the per capita amount spent on Morgan students was $370 less than what was spend on students in other State institutions.[13] Before Morgan students fought for equality with regards to public establishments, such a lunch counters, Morgan students fought for equality in their publicly-funded education.

Also, in December, 1947, 32 Morgan students and two faculty members joined the NAACP pickets in a mass demonstration at Ford's theatre.[14] Later, 40 students and professors pledged to devote one hour one night a week to the picket line against the segregated seating policy of the theatre.[15] In the early demonstrations leading up to the late 1950s, it does not appear that the students' ultimate goal was to change or bring about State laws. The main focus at that time was to end the segregation policies that so many public facilities upheld.

Some even believed that the sit-ins were a more effective way of fighting, compared to fighting for legislative change. Ralph McGill, a man who advocated for the deliberate processes of law to effect an equalitarian society was even quoted as saying, "The sit-ins were, without question, productive of the most changes....No argument in a court of law could have dramatized the

---

[12] Afro-American, March 29, 1947, "600 Morgan Students March on Capitol to demand Needed Funds for Education."
[13] Id.
[14] December 20, 1947 Afro-American, "32 From Morgan College Join Theatre Picket Line."
[15] Id.

immorality and irrationality of such a custom as did the sit-ins....The sit-ins reached far out into the back country."[16] After several years of protesting, history reveals that the focus changed to bringing about change through laws, such as the public accommodations act proposals and final enrolled law in 1964[17], as well as the arguments presented in later cases, such as *Bell v. Maryland*, 378 U.S. 226 (S.Ct. 1964).

Essentially, African-Americans were not allowed to eat at Caucasian-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.[18] Morgan State College students encumbered various types of discrimination, including being deprived from entering and being served inside public facilities with lunch counters, in part because of the location of their school.[19] Morgan State College, later renamed Morgan University, was located at the corner of Cold Spring Lane and Hillen Road, surrounded by a predominately Caucasian middle-class neighborhood.[20]

Morgan students were transported to the college via a public bus that traveled north on Loch Raven Blvd. to Cold Spring Lane.[21] 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 Caucasian-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.[22] Through their hostility, the home-owners made it clear that

---

[16] Zinn, Howard, "SNCC Student Nonviolent Coordinating Committee, The New Abolitionist." Pages 27-28.
[17] The open accommodations law of 1964 was passed just prior to the 1964 Civil Rights Act, Maryland Online Encyclopedia, "Segregation in Public Accomodations in Maryland" http://www.mdoe.org/segregationpublicacc.html#.html , also view Exhibits relating to the Maryland Commission on Interracial Problems and Relations as well as Legislative documents
[18] Dean March, 2007 interview
[19] As stated by Reverend Sands and Professor Dean
[20] Sands March, 2005 and March 2007 interviews and Dean March 2007 interview
[21] Sands March, 2005 interview (Conducted by Professor Larry Gibson of the University of Maryland School of Law- unfortunately, those tapes are no longer in existence, as of April, 2007) and Dean 2007 interview
[22] Dean and Sands March, 2007 interviews

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.[23] In time, students would eventually resort to walking along an alley way, just to avoid the residents.[24]

Read's and Kresge's

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.[25] However, the management stated that it would not serve Negroes, and soon the management placed signs on the tables stating the same.[26] Legally, business owners, even those opened to the public had more freedom at that time, especially since there Constitutional rights of prospective customers, such as those of the African-American students, were not being openly debated in the General Assembly or in the Courts, yet. Due to the situation, the students organized and began to protest Read's service policy in 1953.[27] 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[28] and the CORE Morgan students adopted that name.

While the Morgan students tried to bring change around their area in 1953, the CORE adult members were targeting the lunch counters in downtown Baltimore.[29] The first store to publicly change their policy was Kresge's.[30] The change occurred after the CORE members wrote a letter of protest, which reached the national management office in Detroit.[31] The management's response

---

[23] Id
[24] Dean March, 2007 interview
[25] Sands March, 2005 and March, 2007 interview
[26] Id
[27] Id and Gass 2001 thesis, 47.
[28] Meier, August and Rudwick, Elliot, "CORE a study in the Civil Rights Movement."
[29] Gass, 2001 thesis, p. 48; and "Enterprising Emporiums The Jewish Department Stores of Downtown Baltimore" by the Jewish Museum, p. 18.
[30] Gass 2001 thesis, p. 48.
[31] Id.

was that Kresge's would serve them, and when CORE returned, they were indeed served.[32] This made Kresge's the first integrated lunch counter in Baltimore.[33] After this victory, CORE used the Kresge's letter to persuade other downtown eating establishments to integrate.[34] Stores such a Woolworth, Grant's and McCroy's soon integrated, although, the latter two were a bit more resistant and were subjected to sit-in protests by the adult CORE members.[35]

Throughout the protests, the Morgan students followed the CORE philosophy of non-violent protests for equality.[36] 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.[37] 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 Douglas Sands and Professor Walter Dean, noted that harassment was okay, but violence was not. However, as will later be discussed, the Baltimore NAACP did not initially condone or support the student's harassment towards businesses that upheld racist policies. [38]

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.[39] 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

---

[32] Id.
[33] Id.
[34] Id.
[35] Id.
[36] CORE's website, www.core-online.org, Gass 2001 thesis and news headlines from 1955 through 1960
[37] Meier, August and Rudwick, Elliott, "CORE A Study in the Civil Rights Movement." P. 12
[38] Sand's March 2005 and March 2007 interviews; Dean's March 2007 interview
[39] Gass 2001 thesis, p. 48

with Read's management.[40] 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.[41]

Morgan students were elated with their Read's Drug Store victory and their fight continued. However, Morgan students never waited for a victorious outcome before moving on to the next location. They knew the policies were unjust and would have to be abolished at some point; therefore, the focus was not to stay at one location until justice was served.[42] By the time this posting appeared in the Baltimore Afro-American, the students were assessing the next eating establishment to target.[43]

Sit-in Protests Moves to Northwood Shopping Center

The Northwood Shopping Center was, and still is, located on Cold Spring Lane between Morgan State and Loch Raven Blvd. In 1955 it 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.[44] The student movement increased in number[45] 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.

---

[40] Id.
[41] Copy of article in Appendix
[42] Dean and Sands March 2007 interviews
[43] Sands March 2007 interview
[44] The various newspapers clipping in the attached exhibits list the various places the students were targeting in the 1950s.
[45] Dean March 2007 interview

Morgan students were also dedicated to the fight, because the places they were protesting were the only recreational places close enough to them.[46] One Morgan freshman, Miss Joyce Mitchell, stated, "One reason the campus students want these places opened to them is because they're the only pace in the neighborhood for any sort of recreation."[47] The students would have to drive to establishments that were likely to serve African-Americans, and many students did not have cars.[48] In addition, even those who did have cars would have to undergo such hostility from the community members when driving through the area.[49] Some would even through bottles at the students' cars.[50]

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. As mentioned, Morgan did not receive adequate funding from the state, but what Morgan did receive, it could not risk loosing.[51] As discussed in the news paper articles covering Morgan's March 1947 march, Morgan did not receive adequate funding.[52]

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.[53] However, behind the seen, the President truly supported the students and helped out in any way possible. The

---

[46] Dean and Sands March 2007 interviews.
[47] "Sit-Down Wins" Baltimore Afro-American, March 21, 1959.
[48] Sands March 2007 interview
[49] Id.
[50] Id.
[51] This goes back to the March 26, 1947 Morgan Student March, along with information gained from Reverend Sands and Professor Dean March, 2007 interviews.
[52] The Baltimore Afro-American, March 29, 1947, "600 Morgan Students March on Capitol"
[53] Sands and Dean March, 2007 interviews

students were supplied paper and the use of the copiers and printers so as to facilitate with the production of protest materials. If Morgan had taken a stand to support the student, the community could also have complained that since the University was a publicly funded institution, it was as if the State was also supporting the students' action. Such an interpretation could have been seen as the government having too much control over businesses and an abuse of power.

On the other side, the fact that some individuals who influenced the government owned segregated business, such as the Price family, could have been why some were reluctant to get involved.[54] A.B. Price was a Baltimore City Council member and two of his three sons later owned the segregated theme park, Gwynn Oak Park, Maryland.[55] Reverend Sands, who later became Secretary to the Maryland Commission on Interracial Problems and Relations, acknowledged that law-makers were influenced by the affluent members of their district, which included business owners.

When Morgan State decided not openly support the student demonstrations due to the compromising situation with local government and businesses, the students could no longer work through the Social Action Committee. In 1955, Reverend Sands, Student Council President-elect and other student leaders formed the Civic Interest Group (CIG).[56] CIG soon became the name behind many student activists from Morgan State and other colleges, including Goucher College and the Johns Hopkins Graduate Program.[57] CIG went on to conduct campaigns against 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

[54] "Arthur B. Price, 72, Ex-Council Head, Dies." *The Baltimore Sun*, 10 December 1957; Death Notice. *The Baltimore Sun*, 12 December 1957.
[55] Id.
[56] Gass, 2001 thesis p. 50 and Sands March, 2007 interview
[57] Id.

at the Morgan State University Christian Center.[58] The Center was located on campus; however, it was privately-owned.[59]

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.[60] 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.[61] 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.[62] Some professors threatened to fail students for too many unexcused absences, noting that picketing and demonstrating was not an excused absence.[63] 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.[64]

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.[65] The supervisor of the Arundel's Ice Cream, George F. Kerchner, announced that Arundel's would serve Black customers.[66] 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."[67] The victory made headlines across the state and was featured in both the March 19th issue of the

---

[58] Sands March, 2007 interview
[59] Id and Morgan University website
[60] As depicted in newspaper clippings of that time period and Sands and Dean March, 2007 interviews
[61] Dean March, 2007 interview
[62] Id.
[63] Id.
[64] "Easter no holiday on picket line" Baltimore Afro-American, March 28, 1959.
[65] "Integration Movement Sets Northwood Goal" News-Post, March 19, 1959; "Sit-Down Wins" Baltimore Afro-American, March 21, 1959.
[66] Id
[67] "Sit-Down Wins" Baltimore Afro-American, March 21, 1959

News-Post and the March 21st issue of the Baltimore Afro-American. In deed, it only took the 5 day of protests that spring for Arundel's to end its racist policy.[68]

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 Caucasian patrons in the paces where they demonstrated for their peaceful protests against what one of the patrons called "shameful" exclusion."[69] Indeed, there were was a lot of support offered from Caucasians as well, including Caucasian students from Johns Hopkins graduate program and Goucher College.[70] 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."[71] 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.[72] 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.[73] The Greensboro media attention also gave CIG ideas about how to proceed and increase its chances of being effective in protesting the Northwood area.[74]

---

[68] Palumbos, p. 463
[69] Id.
[70] Sands and Dean March, 2007 interviews
[71] "Sit-Downs" Baltimore Afro-American, March 21, 1959
[72] (Articles and Gass)
[73] Dean and Sands March, 2007 interviews
[74] Dean March 2007 interview

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.[75] 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.[76]

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.[77] 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.[78] Typically, an officer would read the trespassing law to each student, and then asked if the student understood.[79] After the student acknowledged that he or she did understand, the student would leave and likely return to the Morgan campus.[80]

Indeed, sometimes students would return in a different outfit and were unrecognizable by the officers and the management.[81] Since the students were not recognized as being there earlier, the police had to go through the process of reading the law to each student and ask if they understood. This was very time-consuming for both the officers and the management and according to Reverend Sands, and the students were pleased with the discomfort they caused.

---

[75] Dean March 2007 interview
[76] Id
[77] Id.
[78] Sands March, 2007 interview
[79] Id.
[80] Id.
[81] Id.

Trespassing laws were originally created during the time of slavery, in order to make it more difficult for slaves to escape.[82] Therefore, there has always been some animosity against them, which completely erupted during the Civil Rights Period of the early 1960s. In 1957, the trespassing law that was used on the protestors was Section 577 of Art. 27 of the Annotated Code of MD (1957). The code stated the following:

> "Any person * * * who shall enter upon or cross over the land, premises or private property of any person * * * after having been duly notified by the owner or his agent not to do so shall be deemed guilty of a misdemeanor * * * provided * * * (however) that nothing in this section shall be construed to include within its provisions the entry upon or crossing over any land when such entry or crossing is done under a bona fide claim of right or ownership of said land, it being the intention of this section only to prohibit any wanton trespass upon the private land of others."[83]

Upon the reading of the trespassing law, the students would vacate the premises. However, as mentioned, sometimes, they would return dressed differently. Reverend Sands remembered times when he would approach the Roof Top Restaurant in his ROTC uniform, and after he was read the trespassing law and left, he would return later in a different outfit, unrecognized.

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.[84] "Pass" refers to students who looked Caucasian, entered the restaurant and were served, but they were truly African American. After those students were seated and served, other students who were also African-American and who looked African-American tried to enter.[85] When they were denied access or 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 premises.

---

[82] Dr. Papenfuse from the Maryland State Archives
[83] *Griffin v. Maryland*, 378 U.S. 130 (S.Ct. 1964)
[84] Dean March 2007 interview
[85] Dean March 2007 interview

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.[86] The atmosphere of the meetings was filled with excitement and enthusiasm and there was even greater student participation.[87] 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 break the trespassing law, which protected the businesses, and 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.[88]

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.[89] Indeed, in the meetings prior to the beginning of the protests that year, college student leaders asked for volunteers who would willingly be arrested.[90] 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.[91]

The more aggressive sit-ins started at the Roof Top Restaurant in Northwood, on March 15th, 1960. Due to the protests, the May Department Store and the Roof Top Restaurant, located above the May Department Store and owned by Price Candy Co. store[92], lost business at an alarming rate.[93] Both facilities filed suit against the protestors, 14 of them named defendants. The

---

[86] Id and Sands March 2007 interview
[87] Id.
[88] Id. Both Reverend Sands and Professor Dean were members of CIG at this time.
[89] Professor Dean March 2007 interview and Reverend Sands 2007 interview
[90] Id.
[91] Professor Dean March 2007 interview
[92] Some news papers reported that the Roof Top Restaurant was owned by the Hecths/ the May Department Store, but it was really owned by the Price Candy Co., as stated in the Complaint. The Complaint goes on to state it was a Delaware Corp.
[93] Baltimore Circuit Court No. 2, 3/24/60 Civil Complaint (Civil Complaint)

suit was filed on March 24th, 1960 in the Circuit Court No. 2 of Baltimore City.[94] The stores requested a court-ordered injunction against the named protestors and any persons acting in concert with them.[95]

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.[96] 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.[97]

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.[98] On the other hand, the NAACP did offer the protestors free legal counsel and bail, when groups of student protestors were arrested.[99] 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.[100] Attorney Robert Bernard Watts,

---

[94] Id.
[95] The Complaint
[96] Id. 9
[97] Id. 7
[98] Reverend Sands March 2007 interview, Professor Dean March 2007 interview and Gass 2001 thesis
[99] (LOCATE)
[100] 3/24/60 civil complaint and 3/20/60 criminal suit – criminal papers listed in exhibits

Sr., who later became Judge Robert B. Watts, of the Supreme Bench of Baltimore City – the predecessor of the circuit Court - served as council to various protestors.[101]

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.[102] 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.[103]

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.[104] 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.

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.[105] According to the Plaintiffs, Mr. Savage pushed his way through the guards at the Restaurant's door, sneaked into the

[101] Judge Robert Bernard Watts, Sr.'s obituary, October 12, 1998. Judge Watts passed away on October 8, 1998 .
[102] Ands march 2007 interview and Dean's March 2007 interview
[103] Civil Complaint, p.
[104] Id
[105] Civil Complaint, p.

kitchen, although asked to leave, and spoke with the employees in charge of the food and beverage preparation.[106] 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.[107] Hence, the Restaurant was left with no kitchen help to prepare the foods and beverages customarily served to its customers.[108]

During this time, Hecht-May Co. also was displeased with the protestors.[109] Hecht-May Co maintained a 200-space roof-top parking space adjacent to Price Candy Co.'s Roof Top Restaurant.[110] 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.[111]

In addition, Hecht-May Co. stated that the large crowds were very boisterous and constantly yelled and chanted on the roof-top parking lot.[112] As a result, it is alleged that upon observing defendant's behavior, prospective customers left without entering the premises.[113] 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.[114] 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.[115] Both plaintiffs held defendants responsible for the decline in their businesses.

---

[106] Id
[107] Civil Complaint
[108] Id.
[109] Id
[110] Id.
[111] Id. and Reverend Sands' March 2007 interview
[112] Civil Complaint, p. 8
[113] Id.
[114] Id. and Palumbos, p. 465
[115] Id.

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.[116] 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, to later be made a permanent injunction, enjoining and restraining the defendants, and those acting in concert from; 1) picketing the Plaintiffs' places of business; 2) making threats or committing any acts whatsoever which would in any way tend to coerce; 3) impeding any persons from free uninhibited entrance into the Plaintiffs' businesses.[117] During this time, business owners strongly felt that they had a right to control and regulate their public facility, due to their ownership. It was viewed similar to if one owned a car or a house; they could decide who was allowed in. The protestors were arguing that once a facility is made public, then it must be opening to serving all the public, or at the very least, service cannot be limited solely due to an inherit and unchangeable characteristic such as race.

Judge Joseph Allen made his ruling and read the order just one day after the suit was filed, on March 25th, 1960.[118] Judge Allen ordered a temporary injunction against the protestors. Within the thirty years prior to Judge Allen's decision, there were several cases brought to the courts regarding racial discrimination, one of the most known one being *Brown vs. Board of Education*, 347 U.S. 483 (S.Ct. 1954). State and Federal racial discrimination was stated to be unjust and

[116] Civil Complaint, p. 8 and arresting records of all four – listed in exhibits.
[117] Civil Complain, p. 10
[118] Order of Court, dated 3/25/1960 (this was the first of three orders)

Plessey, 163 U.S. 537 (S.Ct. 1896) was overturned, because it was decided that separate but equal would never really truly exist, because equality could not happen given the division. However, during the late 1950s and very early 1960s, the ongoing belief was that the government still could not legally impose desegregation on privately-owned facilities.

The final decision in this case and the criminal case that ensued shows the possibility that courts were already conscious about over-reaching in their decisions by possibly stepping on any Constitutional rights on either side – the business owners or the protestors who wanted to be served. The order apparently sought to reach a compromise between the parties; clearly Mr. Watts presented a strong argument against the charges. Perhaps the arguments stated were ones lined with the First Amendment - Freedom of Speech, or the Fourteenth Amendment – Equal Protection Clause, which stated that all citizens must be treated equally.

Then again, at this time, the Fourteenth Amendment may have been interpreted to applying to State action, and a court order siding in favor of the business would not have been viewed as state action at that time. This is apparent, since in a case such as this, Judge Allen did make a ruling on the issue and the decision allowed for the businesses to maintain and assert their racial policies. But perhaps just having an argument regarding the protestors' Constitutional right was enough to have Judge Allen make a ruling that did not abolish the protestors' behavior completely. Mr. Watts could also have used arguments that would be made in later cases against the trespassing laws in conjunction with the dispute as to whether or not there was a right to public accommodation (for which Maryland passed a law in 1963), such as the arguments later stated in *Bell*,378 U.S. 226 (S.Ct. 1964). Unfortunately, due to the fact that the protestors, such as Mr. Dean, were not made a part of the legal decisions and Judge Watts has passed[119], that information is unavailable.

[119] Judge Robert Bernard Watts, Sr.'s obituary is located in the exhibits.

The order stated that Judge Allen requested Robert B. Watts, the attorney for the defendants to attend a hearing in his chambers, and Mr. Watts attended and rendered an en banc decision.[120] None of the Defendants were requested to attend and they were not there for the hearing at which Judge Allen viewed the evidence presented b the Plaintiffs and rendered his final decision.[121] Mr. Dean stated that it was typical for the protestors not to be involved in the legal disputes and in fact, they did not play a role in how this were resolved; everything was placed into the lawyers' hands. On March 25, 1960, Judge Allen ordered a temporary injunction against the defendants. The order stated that the defendants were enjoined for a period of ten (10) days from the date of the order from:

> "... (a) maintaining more than two pickets at any one time at or near the entrance to the Roof Top Restaurant in the Northwood Shopping Center, more particularly described I the Bill of Complaint [at the Roof Top Restaurant], or on the parking lot adjacent thereto, (b) maintaining more than two pickets at any one time at or near the entrance to the May Department Stores Company located on the mall, or within a radius of one hundred feet thereof, in the Northwood Shopping Center, more particularly described in the Bill of Complaint, and (c) interfering, by physical contact, by gesture, or by oral threats or intimidation, with any person entering or leaving the buildings at Northwood Shopping Center occupied by the Plaintiffs, Price Candy Company and The May Department Stores Company.
>
> (2) That the Defendants, and each of them, shall have the right to move for the dissolution or modification of this Order on not more than two (2) days' notice from the date of service of a copy of this Order, and that this Order shall expire within ten (10) days from the date hereof unless within that time for good cause shown, it is extended for a like period or unless he Defendants consent that it may be extended for a longer period.
>
> (3) That copies of the Bill of Complaint and this Order shall be served on the Defendants, by service on Robert B. Watts, Esquire, their counsel, with his consent.
>
> (4) That Defendants show cause on or before the 4th day of April 1960, why the permanent injunction and other relief should not be granted as prayed, provided a copy of this Motion and Order be served on the Defendants on or before the 28th day of March, 1960."

As stated in the complaint, Circuit Court No. 2, Case No. 36762.A.

---

[120] Order of the Court, dated 3/25/1960

[121] Id. and Dean March 2007 interview

After the 10 days passed, the defendants, through their attorney, consented to extending the temporary order. The order was extended 2 more times and ultimately the charges where dropped and a settlement was reached.[122] In exchange for the plaintiffs dropping the charges, the Defendants promised that they would seize their activities described in the Complaint.[123]

The NAACP's assistance was also offered and accepted when four protestors, Walter Raleigh Dean, Jr., Manuel Deese, Herman Dubois Richards, Jr. and Phillip Hezekiah Savage, were arrested for their non-violent sit-in protests at the Roof Top Restaurant in Northwood.[124] The arrest occurred on March 20, 1960.[125] According to the records, the four men were charged with trespassing, under the Section 577, Article 27, of the Annotated Code of MD (1957).[126] Attorney Robert B. Watts served as counsel to the four men.[127] The witnesses listed were; Sgt. McKew, Off. Boram, Off. Fadrowski, Off. Hppman, Mr. Joseph DaSchbach, Mr. Alfred Greenfeld, Mr. Marshall Myer, Mr. J. Howard Aulbach, Mr. Arnold Bronfin, and Mr. William Cahill, Jr..[128] As mentioned, Mr. William Cahill, Jr. was one of the attorneys who represented the Hecht-May Co. and the Price Candy Co. in the civil suit.

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.[129] In his March 2007 interview, Professor Walter Dean, a professor at the Baltimore City Community College, recalled that the NAACP attorneys, such as Mr. Watts, would take over the entire case and

[122] Order of the Court dated 4/1/1960 and 4/8/1960 and Joint Petition and Order of Court dated 4/22/1960
[123] Joint Petition and Order of the Court dated 4/22/1960
[124] Criminal Papers, attached as an exhibit
[125] Id.
[126] Court Documents attached in appendix
[127] Professor Dean March 2007 interview and indictment bill
[128] Indictment Bill
[129] Gass 2001 thesis

there was nothing more the students needed to do. With regards to Professor Dean's 1960 arrest, he never spent a night in prison, because bail was readily posted for all four defendants.[130]

The attorneys would post bail, communicate with the opposing parties and the court and reach a settlement, all without the student protestor's input.[131] 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.

The criminal suit against the 4 defendants was first sent to the Northeastern District.[132] However, the case was remanded to the Criminal Court of Baltimore City.[133] The defendants were arrested on March 20, 1960, and they were released the same day. All four were charged with, "Trespassing by unlawfully entering upon premises Hecht's May Co. Roof Top Restaurant owned by the May Department Stores after having duly been notified owners agent not to do so."[134] All four also were charged a $100 fine and on the charging documents, they all prayed for a jury trial.[135]

Bail was set and paid for both Walter Dean and Philip Savage. The other two defendants did not need to post bail.[136] Since all four defendants has the same charges placed against them; so it is uncertain as to why bail only had to be set for two. In his March, 2007 interview, Professor Dean explained that he was unaware about the bail, since the lawyers took over and handled everything after groups of protestors were arrested. When shown the bail bond, Professor Dean explained that was the first time he had seen it. Mr. Walter Dean's bail was set at $305.00 and Mr. Phillip Savages

---

[130] Dean March 2007 interview
[131] Professor Dean March 2007 interview and Reverend Sands March 2007 interview
[132] Civil Complaint, p. 8
[133] Criminal Papers, attached as exhibits
[134] Charging Docs, included in exhibits. Note that the charge contradicts the Civil Complaint p. 2 , which was filed by the Hecht-May Co. and the Price Candy Co. and states that the Price Candy Co. owns the Roof Top Restaurant.
[135] Id.
[136] Bail Bonds, included in exhibits

was set at $102.00.[137] They were also all 18 years or older, though Walter Dean, then 25 years and Phillip Savage, then 27 years, were the oldest of the four. Manuel Deese was 18 years and Herman Richards was 20 years.[138]

The dates for both the civil suit and the criminal suit overlapped and perhaps the fact that they were both occurring at the same time impacted the final decision in both suits. There was a settlement reached in the civil suit, and there was never a trial in the criminal suit.[139] Bellow is a chart explaining the dates in both cases[140]:

Date	Occurrence
March 15, 1960	The student protestors begin their new protesting techniques and the four volunteers to be arrested have been chosen; Walter Dean, the editor of Morgan's newspaper.
March 20, 1960	Four protestors are arrested for trespassing at the Roof Top Restaurant. The Roof Top is owned and operated by Price Candy Store and is located above the Hecht-May Co. department store. Other protestors continue protesting.
March 24, 1960	The complaint is filed against defendants by plaintiffs Hecht-May Co. and Price Candy Store.
March 25, 1960	Attorney Robert Watts admits service on behalf of the defendants. Judge Joseph Allen, judge in the civil suit, renders his decision which involves a temporary restraining order on the defendants.
March 26, 1960	Charging documents, including request for jury trials, fines assessed and summons to appear before court when summoned and documents are signed.

[137] Bail Bond exhibits
[138] Indictment Bill
[139] It is unclear what happened in the criminal suit that made it come to an end. There was never a trail, as indicated by the criminal papers and Mr. Dean in his March, 2007 interview. Mr. Dean stated that he too is unsure as to what occurred, because attorney Robert Watts handled all the legal issues.
[140] Chart is compiled from information presented in the Civil Complaint, Civil Documents and Criminal Papers; such as bail bonds and the indictment bill. Both case documents are provided as exhibits.

March 28, 1960	Charging documents, including list of witnesses are filed. Witness Joseph Dashbach summoned to appear before the Grand Jury Room, Criminal Court of Baltimore on March 30, 1960.
April 1, 1960	Defendants consent to extending original March 25, 1960 Court order, through their attorney, Robert B. Watts. It is extended another 10 days, starting April 4, 1960 and to and including April 14, 1960.
April 8, 1960	Defendants consent to extension of the original March 25, 1960 civil suit Court order.
April 13, 1960	Four defendants in the Criminal Suit appear before the court for their indictment – charges are read and their pleas are set. Attorney Robert Watts states that their pleas are not guilty. The extended temporary court includes April 14, 1960 through April 24, 1960.
April 22, 1960	Joint Petition filed with the court in the civil suit case to dismiss the complaint without prejudice. The petition disclosed that attorney Watts has assured the plaintiffs and their counsel that the defendants' activities described in the complaint will seize.

The student-organized sit-downs and arrests which followed were the catalyst for the enormous demonstrations throughout Baltimore.[141] On March 26, 1960, one day after Judge Allen had given his order for a temporary injunction, the Morgan students, and others from CIG and CORE started holding large protests in Baltimore, targeting stores such as Hutzlers and Hecht-May Co.[142] In addition, Ms. Joan Scott, Senator Lisa Gladdens' aid (2007) and Reverend Sands both recall that when the protests grew in Baltimore, even high-school students joined. Maryland eventually passed a public accommodations law to actually be enforced, and by 1964 the Civil Rights Act came into effect. As students, such as Reverend Sands, predicted, change began to occur

[141] Dean March 2007 interview
[142] (This was stated in an article or news clipping that I have been unable to relocate)

and the old racial policies were no longer enforceable. Without the dedication and hard efforts of the protestors and their movement that would become known as the civil Rights Movement, the way laws and rights are interpreted today could be dramatically different.

"The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy." Martin Luther King, Jr.. Thank you to all the Morgan Students, the students from other universities and high school students who later joined in, along with the adult CORE members, the churches and ministers who gave their support and the NAACP for taking on the challenge.

Exhibits

List of Exhibits

Exhibit No.	Document(s)
1	March, 1947 articles on Morgan Students' March to Annapolis
2	Late 1947 to early 1948 articles on Morgan Students' involvement with Ford Theatre
3	Articles on adult CORE's victory in downtown Baltimore
4	Articles on Morgan University's victory with Read's Drug Store
5	Pictures of Read's Drug Stores across Maryland
6	*Lake Shore Investors v. Rite Aid. Corp.*, 461 A.2d 725 (1983)
7	*Lake Shore Investors v. Rite Aid Corp.*, 509 A.2d 727 (1983)
8	*Plessey v. Ferguson*, 16 S.Ct. 1138 (1896)
9	*Bell v. Maryland*, 84 S.Ct. 1814 (1964)
10	Maryland Commission on Interracial Problems and Relations 1955 and 1957 documents and Citizens Committee for Civil Rights Legislation 1958 document
11	Articles on protests at Northwood and victory with Arundel's Ice Cream
12	Article on Morgan students picketing over Easter
13	Attorney, then Judge, Robert Watts statement in the Sun on Hecht Co. policy
14	Articles on March 1960 protests at Northwood
15	Articles on the Northwood Sit-in arrests
16	Civil Complaint docket
17	Civil Complaint, *the May Department Co. v. Phillip H. Savage*
18	1st Order of Court in Civil Complaint, dated 3/25/1960
19	Exhibits to 1st Order of Court in Civil Complaint
20	2nd Order of Court (extension) in Civil Complaint, dated 4/1/1960
21	3rd Order of Court (2nd extension) in Civil Complaint, dated 4/8/1960

22.....Joint Petition and Order of Court (4th and final order) in Civil Complaint, dated 4/22/1960
23.....Articles after Judge's ruling in Civil Complaint, March, 1960
24.....Criminal Docket for criminal claim and papers
25.....Indictment papers
26.....State's Attorney charging document
27.....Arraignment hearing, dated 4/13/1960
28.....Herman DuBois Richards, Jr. criminal papers
29.....Manuel Deese criminal papers
30.....Walter Raleigh Dean, Jr. criminal papers
31.....Phillip H. Savage criminal papers
32.....Arraignment papers in criminal suit
33.....Witness papers
34.....Joseph Dachbach, witness, summons
35.....Articles posted on criminal suit
36.....Judge Robert Bernard Watts, Sr. Obituary
37.....Articles on sit-ins, "Dynamics of Student Sit-Ins" provided by Mr. Clarence Logan
38.....Typed notes from March 21, 2007 interview with Professor Walter Dean
39.....Typed notes from March 28, 2007 interview with Reverend Douglas Sands
40.....Experts from T. Anthony Gass 2001 thesis, "The Baltimore NAACP during The Civil Rights Movement, 1958-1963."
41.....The Sun article, "Arthur B. Price, 72, Ex-Council Head, Dies." 12/10/1957
42.....Articles on the protest move to downtown Baltimore

Exhibit 1

Afro-American
March 29, 1947

600 Morgan Students March on Capitol to Demand Needed Funds for Education

Delegates Hold Hour-Long Conference With Governor Lane; Appeal Fruitless

Armed with facts, figures and placards emphasizing the urgent need for additional building facilities at Morgan State College, some 600 students descended on Annapolis, Wednesday, and pleaded their cause before Governor Lane and members of the State Legislature.

The most impressive part of the mass demonstration was the five-block line of march to the capitol, where the students congregated on the front steps.

There, they sang "Fair Morgan," the college's alma mater, while their placard, reading "We Want an Equal Education," swayed in the blustery wind.

Climax of the demonstration was an hour-long conference between Governor Lane and a committee of four students.

During the conference, it was pointed out to the Governor that inadequate facilities, insufficient personnel and limited equipment at Morgan renders it unable to accommodate its 1,377 students at even minimum standards.

Governor Lane listened sympathetically, but said, in effect, that his hands were tied, because even with passage of the sales tax, the State will have difficulty in meeting appropriations already proposed for the next biennium.

Makes No Commitments

Then he said bluntly, "If I give Morgan immediately all the money and projects for which it now asks, I must do the same thing for other institutions throughout the State, and that just can't be done."

He then admitted that he could no say if, or when, Morgan could to brought up to standard during his administration.

He added, however, "I realize that this does not paint a perfect or desirable picture, but I hope that during the next two years, building costs will adjust themselves, so that additional improvements can be made."

Denying that he made "arbitrary" cuts in the budget requests for any State institutions, Governor Lane said he regretted the slashes which he found necessary.

(Continued on Page 3, Col. 1)

600 Morgan Students March on Capitol

(Continued from Page 1)

He asserted he felt that the $866,123 allotted to Morgan State, though $135,370 short of the amount requested, was fair, in comparison with the money granted other institutions.

He failed, howevre, to answer the suggestion that since the State cannot afford to maintain Morgan State according to standards, it do away with the institution and throw open the University of Maryland to students of both races.

Substandard Conditions

The substandard conditions which were pointed out to the Governor as prevailing at Morgan were:

Morgan is the only Class A college in America without a gymnasium, although it has 900 students taking health and physical education and 206 majoring on the subject;

Morgan is the only State educational institution without a scholarship fund;

Students must use a renovated stable which seats only 300 persons for assembly meetings;

Condemned Building Used

Some classes are being held in Washington Hall, a condemned building;

Morgan has the lowest-paid faculty in the State, although the faculty members rate higher than those of any other institution, except Hopkins University, in the percentage of Ph.D. and M.A. degrees;

Some 700 potential students had to be turned down this year because of lack of facilities;

Lack of dormitory accomodations force 400 students to live in private homes in the city;

Per Capita Fund Inequality

The per capita amount spent on Morgan students is only $304, but is $674 at other State institutions;

The library reading room, inadequately lighted and in need of paint, seats only 112 students.

The Governor was reminded that the Federal Government's proposal to set up temporary facilities including eight classrooms, a laboratory and an infirmary, is being held up.

Told that this was so because the State must provide a supplementary $30,000, Governor Lane said, "I am struggling to scrape the barrel for that money."

The student delegation summarized its statement of property needs by declaring that 24 buildings and improvement projects are immediately necessary at Morgan.

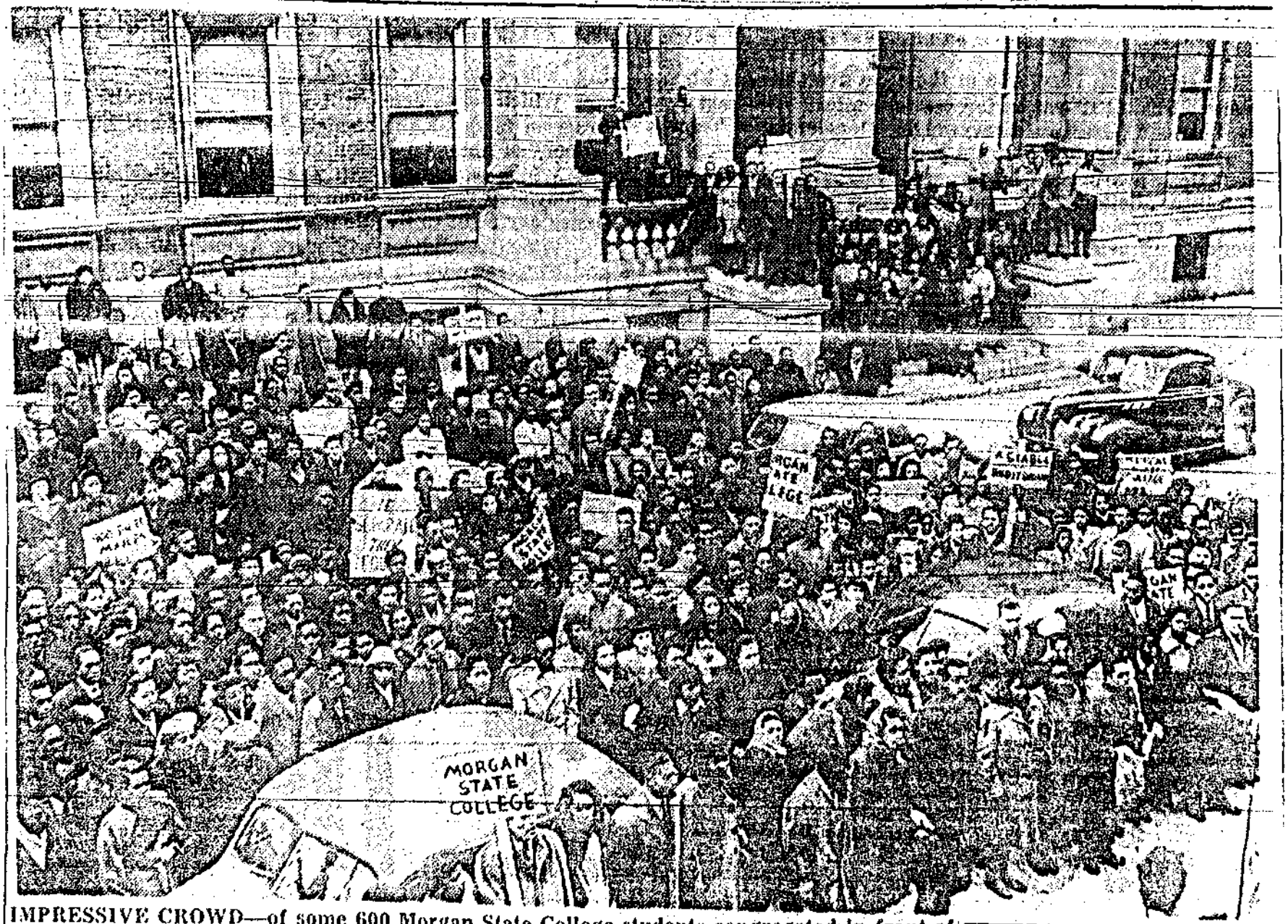
To this the Governor replied that the $1,491,000 requested in a bond bill for a dormitory, dining hall, classroom building, service tunnels, laboratory equipment, dormitory furnishings and attendant needs was the best that could be hoped for now.

The committee which saw the Governor included Frank Boston, Clarence Blount, Paul Hutchinson and Melvin Cade.

They were accompanied by J. Bernard Carrick, a member of the House of Delegates, and Henry Carp, a candidate for the City Council, who represented white institutions and helped make the appeal for buildings and funds.

After the conference, the students said they were still dissatisfied, and would continue followup appeals until they are granted the 24 projects which are their essential minimum needs.

Another committee, in the meantime, held a similar conference with Sen Daniel Ellison. Groundwork for both of these meetings was laid earlier in the morning, with a delegation appearing before the Senate Ways and Means Committee.



IMPRESSIVE CROWD—of some 600 Morgan State College students congregated in front of the State House at Annapolis Wednesday and sang the school song before a committee went in to see Governor Lane about facilities needed to bring Morgan up to standard of other State educational institutions. Placards read "If Separate, Then Equal."

Operation Annapolis Creditable

The Morgan student March on Annapolis, Wednesday, was well-planned, well-organized, well-behaved and well-executed, although it was quite informal.

Most noticeable were the repeated pep talks given the students by their leaders.

Delivered in that typical Morgan do-or-die spirit, these were designed to impress the students with the importance of their mission, so that they could better impress the State officials.

500 on Hand at 9:30

Early Wednesday morning students began gathering in Spencer Hall and the library building, where the pep talks began with organizational re-checks. The number of students had grown to nearly 500 by 9:30 a.m., when eight buses drew up on the campus.

As the students entered the buses and the various private cars which made the trip, their names were recorded to be checked against a list turned in to the registrar which will determine who would be excused for taking part in the demonstration and who was just plain AWOL from classes.

Classes were supposed to be in session, but one teacher reported that only five students showed up.

Remain on Guard

During the trip, the students relaxed. Some smoked and read magazines and the daily papers. Others studied the statistics on which they based their appeal for funds. Some girls discussed dresses, dates and Easter plans.

At one point, one of the leaders demanded attention for another pep talk which ran like this: "We expect to find Governor Lane in a good mood today inasmuch as the sales tax was passed last night.

"I want you to study your sheet of statistics well so that we can drill these figures into his head and make him realize how much we need these improvements."

Pep Talks Continue

Arriving in Annapolis, the 600 students swarmed all over the facilities of the USO and the nearby Elks' Home on Northwest St., which served as organization headquarters.

There they broke up into small discussion groups and working committees, and the individual pep talks were repeated. In the meantime, one delegation set off to see the Senate Ways and Means Committee.

The march to the Capitol, and the appointment with the Governor were set for 1 p.m., so students who were not otherwise engaged, descended 400-strong on the Alsop Restaurant.

Drain on Restaurant

Under such unexpected heavy patronage, the service sagged. It took all of 45 minutes to place an order, and another hour to get served.

But while waiting patiently, the students played the juke box, hit the jackpot frequently in the slot machine, and left filled with hot dogs, hamburgers, cokes and milk.

By that time, it was 1 p.m., and the students lined up by two's for the march which was quite impressive. They carried signs reading:

"A Stable for an Auditorium," "If Separate, Then Equal," "We Want an Equal Education," "We Want a First-Rate Education," and "900 Physical Education Majors —No Gym."

Observe Assembly in Action

Their mass congregation on the capitol steps as they sang the Morgan hymn attracted the attention of many office workers in neighboring buildings and that of many passers-by.

As delegations were again organized for meetings with the Governor and Senator Ellison, the majority of the students filed into the galleries of the State house to sit in on those sessions.

Students due credit for the success of the demonstration include:

Frank Boston, Melvin H. Cade, Jerome Harrison, Martha Coffee, Mary Coffee, Wilbert Walker, Hilda Perry, Edith Howard, Clarence Bount, Wesley Codrington, Hilda Perry, Preston Hurtt, Calvin Wesley, Henry Robinson, Carstell Stewart, Preston Hurtt, Philip Kane;

Frank Ellis, Paul Hutchinson, Lloyd Davis, Cathryn Croxton, Glascoe Catlin, Evelyn Hicks, Charlotte Dawson, Daniel Lyle, Roy Bates, John Bond, L. Carrington, Elmer McDonald, George Bland, and Willard Jones.

Afro-American
March 29, 1947

Exhibit 2

Afro-American
December 20, 1947

32 From Morgan College Join Theatre Picket Line

Students Respond to Appeal Voiced Last Week by Leader in Discrimination Fight

Undaunted by a drenching downpour of rain Monday, 30 Morgan State College students and two faculty members joined NAACP pickets in a mass demonstration at Ford's theatre.

Also on the picket line was Bayard Rustin, race relations secretary of the Fellowship of Reconciliation, NYC, who made the appeal when he spoke at a Morgan assembly meeting this week.

In response, 40 students and professors pledged to devote one hour one night a week to the picket line which is a protest against the segregated seating policy of the theatre.

Picket Line Effective

Making an effective and impressive picture with their umbrellas, the pickets extended for half a block Monday discouraging many patrons from attending the performance of "I Remember Mama."

Also in line with the students were the Rev. Howard Cornish, director of the Morgan Christian Center Maceo Howard, NAACP executive board member; and Carl Hyde, a student of Antioch College, Ohio.

Dan P. Atwood is chairman of the NAACP picket committee and the pickets have not missed a demonstration at each performance at the theatre since February.

Their slogan for the Christmas season is "Peace on Earth Means Democracy at Home. It Begins at Ford's Theatre."

Morgan Volunteers Listed

The volunteers from Morgan are:

The Rev. Levi Miller Jr. and Dr. George Spaulding, faculty members, William Charles, Phillip Hall, Winfield Creekmur, Scholfield Lawson, Travis W. Vauls, George R. Liggins, William G. Contee Jr., Jimmy Robinson, Melville W. Pugh Jr., Sterlyn B. Carroll, Elmer E. McDonald, John Perry, William E. Adams, Lawrence Carter, William T. Clarke, James Murray, Charles W. Thomas Jr.;

John J. Griswold Jr., Rufus Spruiella, Melvin Bassett, John Leo Jones, Doward Patterson, Earl Williams, Moses T. Williams, Charles Harper, Joseph Gregg, David Johnson Jr., Roy Bates, James B. Clark, Leslie B. Wood, Prinnice Ferguson, Charles King, Howard Duvall II, Robert Dickerson, James G. Gibbs, Larrie Valentine, Leotis Clyburn, Jarius Shoats, Henry Williams, and Clifton Gatewood.

Afro-American
February 24, 1948
Pages 1 & 2

Police Arrest 2 Morgan Students for Picketing

Two Morgan State College students, arrested Friday night for obstructing free passage while picketing Ford's Theatre were dismissed the following day as the director was warned to conduct the picket line properly in the future.

The students taken into custody were Fleming James, 20, of 1106 W. Fayette St., and Frank Favdents, arrested Friday night for erly, 18, of 1513 McCulloh St. They were charged with violating picket privileges by deliberately stopping the line and thrusting their protest signs into the faces of patrons seeking to enter the theatre.

Both youths as well as Daniel

(Continued on Page 2, Col. 3)

Police Arrest Student Pickets

(Continued From Page 1)

P. Atwood, who has charge of the pickets, denied the accusation.

In dismissing the case, Magistrate Preston A. Pairo said he believed that the boys were guilty, but he did not want to inflict any criminal record against them.

He told Mr. Atwood: "As long as you're in charge of the picket line, I am going to hold you directly responsible for seeing that order is maintained and that the line is conducted properly."

Every Show Picketed

Since Feb. 17, 1947, each performance at Ford's has been picketed, under NAACP sponsorship, in protest against the theatre's jim-crow seating arrangement.

Police were called Friday night by John Little, the theatre manager, who complained that there were so many pickets walking so close together, it was difficult for patrons to enter the showhouse.

Benny Benjamin, proprietor of a tavern next door, complained that the line extended across his pavement, discouraging customers and giving the impression that his business was being picketed.

Seek to Limit Pickets

Police said that with warnings to Mr. Atwood, these violations were corrected, but that the two youths arrested refused to cooperate. They were represented by Calvin Douglass and Ernest Perkins, NAACP attorneys.

Mr. Atwood said that 33 pickets were on duty that night. Magistrate Pairo told him 10 or 12 would be enough to serve the purpose and not cause any congestion.

Afro-American
November 20, 1948

Charles Boyer Agrees With Theatre Pickets

Knowledge that Charles Boyer, the movie actor, would not have appeared at the theatre had he known in time about its segregation policy lent confidence to these persons who joined the NAACP picket line this week at Ford's Theatre, where Mr. Boyer is being starred in "Red Gloves," a play about freedom from dictatorship. In center is Melvin Cade, polemarch for the Kappa Fraternity chapter at Morgan State College, which is providing pickets nightly.

yard Rustin, Mrs. Bowen Jackson, and Mrs. Earl Williams picket Ford's Theatre in Baltimore, 1948. *Courtesy, Library of Congress.*

Exhibit 3

Afro-American
May 9, 1953

Stores Relax Segregated Eating Policy

Everyone Is Now Welcome At Stores In Downtown Area

A little known civil rights organization has quietly succeeded in persuading two large downtown department stores to relax color bars at their lunch counters.

As a result, colored persons are now eating just as other citizens in Woolworth's Department store, 223 W. Lexington st., and Kresge's Department store Park ave. and Lexington st.

The sudden change in policy was wrought because of hard, behind-the-scenes work of the Committee on Racial Equality, commonly dubbed CORE.

This organization, inter-racial in both character and intent worked on segregated eating facilities in the downtown area for several months before attaining any success.

Two months ago a letter was written to the national offices of the Kresge's department store chain asking for a clarification of the chain's discriminatory policies.

Contrary To Policy

An answer was received, shortly afterwards, bluntly stating that Kresge's had a policy of serving everyone. A copy of this communication was forwarded to the local store management.

A few days later, Woolworth's informed CORE of its change in policy.

At each lunch counter, dishes ranging from complete, meat-and-two-vegetable meals; to toast and tea can be purchased. Both counters are more than a block long—running the length of each store.

Although the policy has not previously been widely announced, an inspection of both stores at lunch time, Thursday, disclosed several colored persons were eating at both lunch counters.

In no instance was there any marked puzzlement, or resentment registered by the white patrons.

CORE is a non-political organization which recognizes no creed except that of complete anti-segregation.

Refrain From Violence

A philosophy of non-violence is strictly adhered to, and in all cases a complete, impartial in-

(Continued on Page 2)

—Stores

vestigation is initiated before any action is taken to abolish any practice deemed discriminatory.

The local group of CORE is composed of labor representatives, Morgan College staff members and members of the student body, Hopkins University staff members and members of the student body, and other interested citizens.

At present Professor Eugene Stanley, Morgan, is heading a committee selected to crack discriminatory eating policies in a lunchroom in a Kresge's store located in Northwood—near Morgan State College.

The chairman of the local group is Ben Everinghim, Dr. Earl Jackson and Mrs. Mary Schollsberg, vice - chairmans, Mrs. Bertha Johnson, corresponding secretary, Mrs. Adah Jenkins, recording secretary, and Mrs. Lillian Watson, secretary-treasurer.

Also see August Meier & Elliott Rudwick, CORE A Study in the Civil Rights Movement, p. 57; Vernon Horn, Master's Thesis, Integrating Baltimore-Protest and Accommodation 1945-1963, chapter 3 (University of Maryland, McKeldin Library)

NOTE: Committee on Racial Equality was changed to Congress of Racial Equality (CORE).

An Editorial in the Pittsburgh Courier, November 7, 1953

THE GOOD WORK OF CORE

Not enough credit has been given to the Congress of Racial Equality and its affiliates for the good work done in various parts of the country to eradicate the pernicious practice of racial discrimination in public places and conveyances.

CORE, as it is called, does not send out press releases very often nor does it waste time name-calling or holding monster mass meetings -- but it gets results, which are what count.

It depends upon non-violent non-cooperation, in the Gandhian manner, carried on by a small group of determined and dedicated persons of various colors and backgrounds.

There was the case in Baltimore where Negroes were refused service at the lunch counter in a Kresge store near Morgan College, and where the store manager maintained that the color bar had to continue for "business reasons."

CORE members and Morgan students "tested" the store last spring and were refused service, whereupon the organization contacted company headquarters in Detroit, which brought results.

Today Negroes are not only being served in that store, but in the Kresge and Woolworth stores downtown, and their sitdown waits will soon get results in Grant's, what with from twelve to thirty demonstrators of both "races" entering, taking seats and demanding service.

The Chicago and Evanston, Ill., CORE were instrumental in causing Marshall Field's department store to abandon its discriminatory practice and begin hiring Negroes.

Cincinnati's Coney Island does not admit Negroes, so CORE got busy and distributed illustrated leaflets in fifty stores showing a prominent Negro minister being refused admittance; newspapers, radio and television stations were telephoned urging them to cease advertising the resort; an honor roll was initiated listing churches and organizations refusing to sponsor any outings at the park, and then the NAACP cooperated by initiating legal cases against the place.

This illustrates the CORE methods which in a surprising number of cases have been successful in the past.

Recently CORE initiated a successful campaign in

more

Pittsburgh to open the Diamond Roller Rink to Negroes, and it is now driving against bias in the theatres of St. Louis.

This campaign has been going on for years and has got results in dozens of places throughout the country.

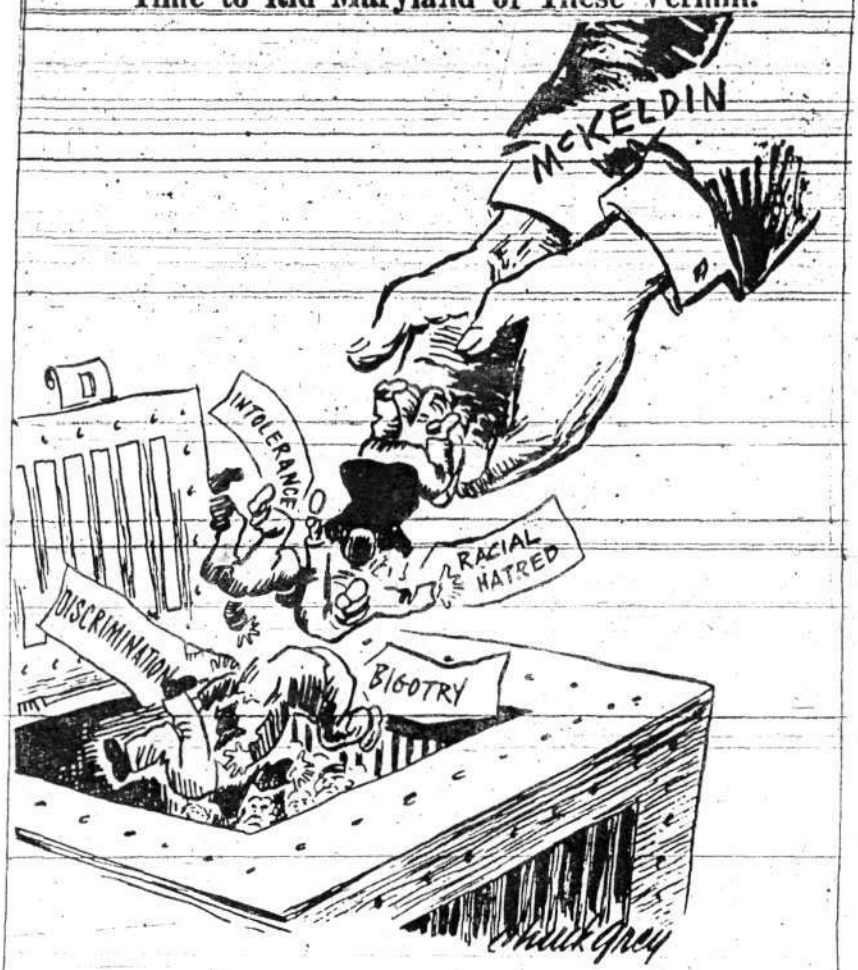
It takes courage for these people to go into places where they are not wanted and embarrass management until given consideration; and if there were more active CORE organizations, the results would be even greater than they have been.

We think such an organization deserves praise and cooperation.

######

Exhibit 4

Time to Rid Maryland of These Vermin!



Speak Your Piece

Contributors to this department must sign their names and addresses to their letters if they wish them published. The AFRO will withhold publication of names if requested to do so by the writer.

Police pay-offs

Dear AFRO:

While Mr. Sodaro is investigating the alleged voting irregularities in the Fourth District, let him look also for evidences of pay-offs among those policemen tied up with the numbers business.

Our Supreme Bench has extremely capable judges who sometimes dish out long prison terms, but it's funny they can't find the police who are taking money to protect numbers barons.

Is it worse to write numbers or for a policeman to collect protection money?

WILBUR ANDERSON

Gifts to magistrates

Dear AFRO:

You reported recently that Magistrate E. Everett Lane had received an expensive gift from the police department.

Everybody knows that in the majority of cases the police are arraigned on one side and those arrested on the other.

At best, it is difficult for any Magistrate to keep the scales of justice evenly balanced.

If I were a police court Magistrate, I would take no gifts from either side.

(Mrs.) ZENITH THOMAS

Morgan students

Dear AFRO:

May I bring to the attention of your readers the fact that the Morgan State College Student Social Action Committee played a very important part in the recently successful effort to bring about the integration of all the eating facilities of the Read's stores.

It is quite possible that without their fine and courageous work this happy development might have been further delayed for a considerable time.

These students deserve a standing ovation from the entire community. They should be encouraged in every way to continue their efforts to make democracy work.

BEN EVERINGHIM
Vice Chairman
Baltimore Committee
On Racial Equality

Civil Defense

Dear AFRO:

I well appreciate the feelings that you expressed in your editorial of January 1, in relation to the Committee of News-Media Representatives that met recently with the staff of this agency.

"Your cooperation has always been so helpful in the past that I wanted to reassure you that your paper was not overlooked when the invitations were mailed out."

This committee, its composition, purposes, and organization, grew out of last summer's meeting with the governor, which was attended, as you know, by your Howard H. Murphy.

In trying to get a working committee established, it is obviously impossible to have every publication media in the state represented and we were trying to cover the state, not just the Baltimore a

I fear that there are probably many publications with very big circulations who were not individually represented but we were simply trying to have as few people as possible who could represent all the various types, such as dailies, weeklies, news services and broadcast stations.

Last summer's meeting was designed to get together publishers of the bulk of the newspapers in this state. The more recent meeting was designed to get a working committee going of as few individuals as possible who could adequately represent the various types of media, completely regardless of their reading or listening audience.

I am sure that you did not mean to imply that this was a "little studied discourtesy" on the part of this agency or the committee. We shall continue to solicit your help and support, as well as that of all other news-media in the very difficult problem of assuring complete and full public information in the event of a Civil Defense emergency.

I have always endeavored to assure to the best of my ability that Maryland's Civil Defense program is applied equally to and for all of its citizens, since it is a problem that vitally concerns each and everyone of us.

So long as Governor McKeldin, his Advisory Council, or I have anything to do with Civil Defense there will never be any difference in the activities based on any factors of race, sex, color or creed.

SHERLEY EWING
Director, Maryland
Civil Defense

Letter from Ben Everinghim, Vice Chairman, Baltimore Committee On Racial Equality, to the Editor of the Baltimore Afro-American newspaper extolling the very important part played by Morgan State College Students' Social Action Committee (predecessor to CIG)in bringing about the desegregation of all the eating facilities of the Read's stores (Baltimore Afro-American, dated January 22, 1955).see enlargement on next page.

Also see Vernon Horn's Masters thesis, "Integrating Baltimore-Protest and Accommodation, 1945-1963" Chapter 3, "The Beginning of the Student Movement." (McKeldin Library, University of Maryland)

Baltimore Afro-American
January 22, 1955

Morgan students

Dear AFRO:

May I bring to the attention of your readers the fact that the Morgan State College Student Social Action Committee played a very important part in the recently successful effort to bring about the integration of all the eating facilities of the Read's stores.

It is quite possible that without their fine and courageous work this happy development might have been further delayed for a considerable time.

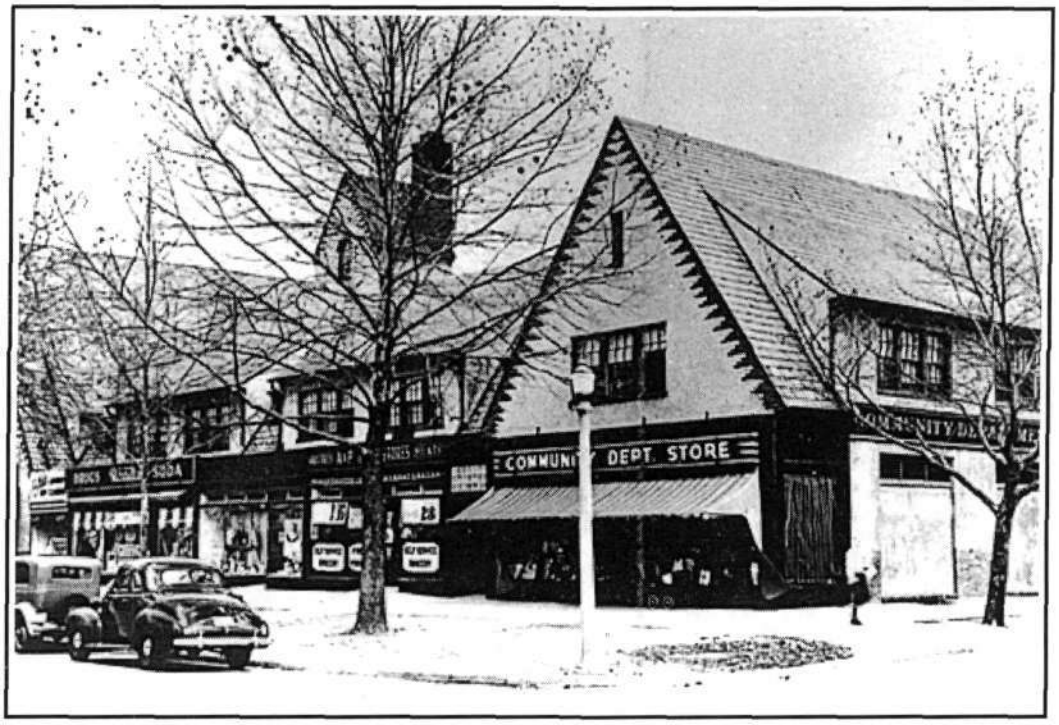
These students deserve a standing ovation from the entire community. They should be encouraged in every way to continue their efforts to make democracy work.

BEN EVERINGHIM
Vice Chairman
Baltimore Committee
On Racial Equality

See Vernon Horn's Masters thesis, "Integrating Baltimore-Protest and Accommodation, 1945-1963" Chapter 3, "The Beginning of the Student Movement."

Exhibit 5

Baltimore County Legacy Web



TOPIC: Streetscapes - Dundalk

Dundalk Shipping Place in the 1930's. Photo shows the Community Dept. Store on the corner with the A & P food store and Read's Drug Store to its left. Seen also are period cars and one boy pedestrian on the corner.

Date: **1930s**
Photographer: **unknown**
Source: **Dundalk - Patapsco Neck Historical Society**
(The digitized image of this photograph has been edited to improve its appearance.)

*Please reference this number for inquiries about ordering prints**: **5491141**

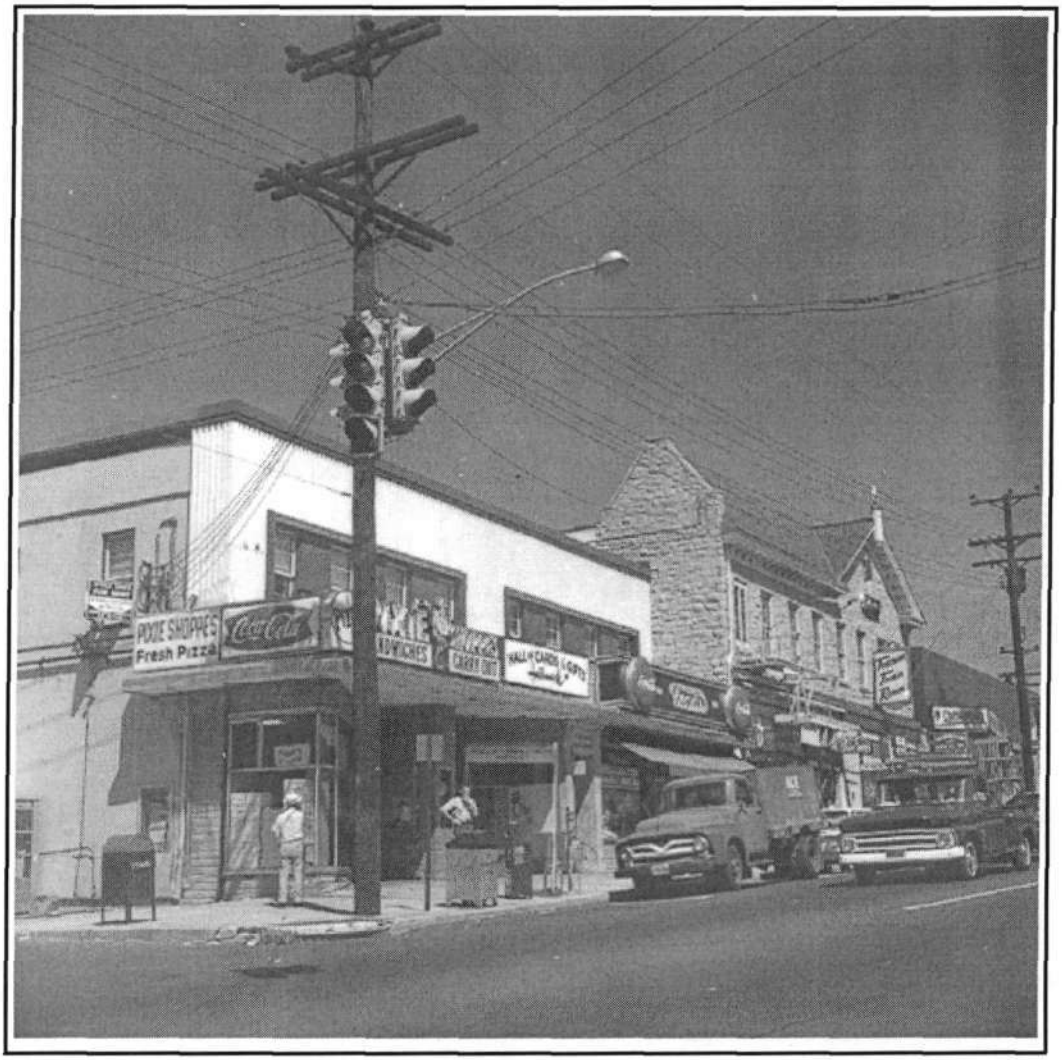
* For some photographs, prints may not be available.

Go to Legacy Web Search / Home
Baltimore County History Page
Landmarks Preservation Commission
Back to BCPL Home Page

Take the **Baltimore County History Quiz**.

Baltimore County Public Library, Towson Maryland USA
Feedback (Please provide reference number.)

Baltimore County Legacy Web



TOPIC: Streetscapes - Towson

A view of the west side of the 500 block of York Road in Towson showing the Pixie Pizza Shoppe at 501, the Read's Drug Store at 503, the Independent Order of Odd Fellows Building, and the Chesapeake Furniture at 519.

Date: **c. 1965**
Photographer: **David Turner**
Source: **unknown**
(The digitized image of this photograph has been edited to improve its appearance.)

Please reference this number for inquiries about ordering prints*: **6927184**

* For some photographs, prints may not be available.

Go to Legacy Web Search / Home
Baltimore County History Page
Landmarks Preservation Commission
Back to BCPL Home Page

Take the **Baltimore County History Quiz**.

Baltimore County Public Library, Towson Maryland USA
Feedback (Please provide reference number.)

Baltimore County Legacy Web

TOPIC: Fairs, Festivals, Parades - Towson

The Towson 4th of July Parade, 1954. Shows the Reads Drug Store float outside of the International Order of Odd Fellows building in the 500 block of York Road in an east to west view.

Date: **1954**
Photographer: **unknown**
Source: **E & H Lins**
(The digitized image of this photograph has been edited to improve its appearance.)

Please reference this number for inquiries about ordering prints*: **1746012**

* For some photographs, prints may not be available.

Go to Legacy Web Search / Home
Baltimore County History Page
Landmarks Preservation Commission
Back to BCPL Home Page

Take the **Baltimore County History Quiz**.

Baltimore County Public Library, Towson Maryland USA
Feedback (Please provide reference number.)

Exhibit 6

Lake Shore Investors v. Rite Aid Corp.
Md.App.,1983.

Court of Special Appeals of Maryland.
LAKE SHORE INVESTORS
v.
RITE AID CORPORATION et al.
No. 1494.

June 14, 1983.

Vendor of shopping center brought action against prospective lessee for interference with contractual relationship. The Court of Common Pleas, Baltimore City, David Ross, J., denied prospective lessee's motion for summary judgment, and prospective lessee appealed. The Court of Special Appeals, Gilbert, C.J., held that: (1) evidence of prospective lessee's actions supported finding that it deliberately and willfully interfered with vendor's contractual relationship with prospective purchaser, and that such interference was purposely done in order to injure vendor; (2) based on such evidence, if jury were to find any amount of compensatory damages, it might assess punitive damages in such sum as would dissuade future acts of interference by tort-feasor; (3) trial court erred in limiting evidence of damages to "benefit of bargain," and should have permitted vendor to prove such damages as would reasonably flow from the tortious contractual interference; (4) vendor did not waive issue of correct theory of damages by declining judge's invitation to submit evidence under "benefit of bargain" theory; and (5) prospective lessee's lack of binding lease with vendor precluded its claimed defense of justification of protecting its lease.

Reversed in part, affirmed in part, and remanded.

West Headnotes

[1] Damages 115 ⇐ 30

115 Damages
115III Grounds and Subjects of Compensatory Damages
115III(A) Direct or Remote, Contingent, or Prospective Consequences or Losses
115III(A)1 In General
115k30 k. Elements of Compensation in General. Most Cited Cases

Damages 115 ⇐ 42

115 Damages
115III Grounds and Subjects of Compensatory Damages
115III(A) Direct or Remote, Contingent, or Prospective Consequences or Losses
115III(A)1 In General
115k41 Expenses
115k42 k. In General. Most Cited Cases

Damages 115 ⇐ 57.37

115 Damages
115III Grounds and Subjects of Compensatory Damages
115III(A) Direct or Remote, Contingent, or Prospective Consequences or Losses
115III(A)2 Mental Suffering and

Emotional Distress
115k57.36 Injury to Property or Property Rights
115k57.37 k. In General. Most Cited Cases
(Formerly 115k49.10)

Damages 115 ⇐ 89(1)

115 Damages
115V Exemplary Damages
115k88 Injuries for Which Exemplary Damages May Be Awarded
115k89 In General
115k89(1) k. In General. Most Cited Cases
Damages in cases of interference with contractual relationships should be awarded on basis of intentional tort method, which permits recovery for unforeseen expenses, mental suffering and damage to reputation, in addition to punitive damages.

[2] Vendor and Purchaser 400 ⇐ 330

400 Vendor and Purchaser
400VI Remedies of Vendor
400VI(C) Actions for Damages
400k330 k. Damages. Most Cited Cases
Damages in case of breach of contract by party to contract to purchase real estate are measured by difference between contract price and fair market value at time of breach.

[3] Contracts 95 ⇐ 312(1)

95 Contracts
95V Performance or Breach
95k312 Acts or Omissions Constituting Breach in General
95k312(1) k. In General. Most Cited Cases
Interference with contractual right of another is a tort, not breach of contract.

[4] Contracts 95 ⇐ 188

95 Contracts
95II Construction and Operation
95II(B) Parties
95k188 k. Duties and Liabilities of Third Persons. Most Cited Cases
A contract can impose obligation only upon those who are parties to it; third persons, however, are under duty not to interfere with performance of the contract by parties to it without lawful justification.

[5] Torts 379 ⇐ 212

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)1 In General
379k212 k. Contracts. Most Cited Cases
(Formerly 379k12)
Tort of interference with contractual relationship does not grow out of the contract but is separate and apart.

[6] Torts 379 ⇐ 212

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)1 In General
379k212 k. Contracts. Most Cited Cases
(Formerly 379k12)
To show tort of "interference with contractual relationship," it is necessary to show that contract exists between two or more parties and that defendant wrongfully, without justification, interfered with that contract so as to bring about breach to detriment of one or more parties thereto.

[7] Torts 379 ⇐ 219

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)1 In General
379k219 k. Injury and Causation. Most Cited Cases
(Formerly 379k26(2))
In tort of interference with contractual relationship, injured party is not limited in his or its proof of damages to those arising directly from breach occasioned by the interference; it is the successful interference that is the tort, not breach of the contract, and latter is but proof of the former.

[8] Torts 379 ⇐ 263

379 Torts

379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)4 Evidence
379k260 Weight and Sufficiency
379k263 k. Contracts in General. Most Cited Cases
(Formerly 379k27)
In vendor's action against prospective lessee for interference with contractual relationship, evidence of prospective lessee's actions was sufficient to support finding that it deliberately and willfully interfered with vendor's contractual relationship with prospective purchaser, and that such interference was purposely done in order to injure vendor.

[9] Damages 115 ⇐ 91.5(3)

115 Damages
115V Exemplary Damages
115k91.5 Grounds for Exemplary Damages
115k91.5(3) k. Particular Cases in General. Most Cited Cases
(Formerly 115k91(1))
In vendor's action against prospective lessee for interference with contractual relationship, based on evidence that prospective lessee deliberately and willfully interfered with vendor's contractual relationship with prospective purchaser, and that such interference was purposely done in order to injure vendor, if jury were to find any amount of compensatory damages, it might assess punitive damages in such sum as would dissuade future acts of interference by the tort-feasor.

[10] Damages 115 ⇐ 165

115 Damages
115IX Evidence
115k164 Admissibility
115k165 k. In General. Most Cited Cases
In vendor's action against prospective lessee for interference with contractual relationship, trial court erred in limiting evidence of damages to "benefit of bargain"; vendor should have been permitted to prove such damages as would reasonably flow from tortious contractual interference by prospective lessee.

[11] Appeal and Error 30 ⇐ 154(3)

30 Appeal and Error
30IV Right of Review
30IV(B) Estoppel, Waiver, or Agreements Affecting Right
30k154 Recognition of or Acquiescence in Decision
30k154(3) k. Proceeding with Trial or Submission to New Trial. Most Cited Cases
In vendor's action against prospective lessee for interference with contractual relationship, that vendor proffered evidence of damages stemming from contractual interference and declined judge's invitation to submit evidence under improper "benefit of bargain" theory, thus subjecting itself to entry of directed verdict, did not result in waiver on appeal of issue of proper measure of damages; had vendor gone forward and introduced damages under "benefit of bargain" theory, trial court might have determined that it had waived any other theory.

[12] Landlord and Tenant 233 ⇐ 24(1)

233 Landlord and Tenant
233II Leases and Agreements in General
233II(A) Requisites and Validity
233k24 Form and Contents of Lease and Validity in General
233k24(1) k. In General. Most Cited Cases
Where prospective lessor and prospective lessee entered lease subject to agreement to certain plans and specifications for construction of store, and such plans and specifications were not decided upon, essential element of lease was missing, and there was no binding lease.

[13] Torts 379 ⇐ 243

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)2 Particular Cases
379k243 k. Landlord and Tenant. Most Cited Cases
(Formerly 379k12)
In vendor's action against prospective lessee for interference with contractual relationship, fact that prospective lessee had no binding lease with vendor precluded its claimed defense of justification of protecting its lease.

****726 *172** Shale D. Stiller and Robert B. Levin, Baltimore, with whom were Frank, Bernstein,

Conaway & Goldman, Baltimore, on the brief, for appellant.
Stephen K. Fedder, Baltimore, with whom were Marvin J. Land, Judith C. Levinson and Weinberg & Green, Baltimore, on the brief, for appellees.

Argued before GILBERT, C.J., and WILNER and GETTY, JJ.
GILBERT, Chief Judge.
For the last seventy-five years it has been clear that one who wrongfully interferes with the contractual rights of another is liable to the injured party in an action of tort. *Knickerbocker Ice Co. v. Gardiner Dairy Co.*, 107 Md. 556, 69 A. 405 (1908).FN1 What is not so clear is by what standard damages arising from that interference are to be measured. ***173** We are called upon in this case to decide whether these damages are in contract or in tort.

FN1. *See Sumwalt Ice and Coal Co. v. Knickerbocker Ice Co.*, 114 Md. 403, 80 A. 48 (1911); *Cumberland Glass Manufacturing Co. v. DeWitt*, 120 Md. 381, 87 A. 927 (1913); *Goldman v. Harford Road Building Association*, 150 Md. 677, 133 A. 843 (1926); *Stannard v. McCool*, 198 Md. 609, 84 A.2d 862 (1951); *Damazo v. Wahby*, 259 Md. 627, 270 A.2d 814 (1970); *Daugherty v. Kessler*, 264 Md. 281, 286 A.2d 95 (1972). *See also Angle v. Chicago S.P., M. & O. R. Co.*, 151 U.S. 1, 14 S.Ct. 240, 38 L.Ed. 55 (1894).

The Facts

Lake Shore Investors (LSI), a limited partnership, was formed for the purpose of acquiring lands in the Lake Shore area of Anne Arundel County and erecting and operating a shopping center to be known as ****727** Lake Shore Plaza. A fifteen acre tract was purchased by LSI in 1975 for $509,000. Settlement, however, did not occur until two years later. In 1978, LSI acquired an additional fifteen acre tract at an auction sale for a bid of $100,000. That property was located across the road from the first obtained parcel. The original fifteen acres were described as being "flatter and better suited for development, while the second tract was hilly and marshy." After the acquisition of the second tract, LSI began to develop the first parcel as a shopping center, and in furtherance of that goal it entered into a lease with Safeway Supermarket Company. Safeway, we are told, was to be an "anchor tenant." LSI also negotiated with Read's, Inc., the predecessor of Rite Aid Corporation. It was proposed that Read's would lease 12,000 square feet of space next to the Safeway. Such a "Lease" between Read's and LSI was signed, but it was subject to agreement on certain plans and specifications for construction of the store. No agreement as to these plans and specifications was apparently ever reached.

Rite Aid, in April, 1977, entered upon the scene as successor to Read's. At that time John Schmitt, a Rite Aid executive, informed LSI that Rite Aid did not want to lease 12,000 square feet but would lease 8,000 square feet. That figure was subsequently reduced by Rite Aid to 6,000 square feet. When that proposal was rejected, Rite Aid countered with the proposition that it lease the 12,000 square feet, but that it be allowed to sublease 6,000 square feet from that space. LSI rejected the Rite Aid suggestion. LSI, however, offered Rite Aid 6,000 square feet of space at the opposite end ***174** of the shopping center, but Rite Aid insisted on being next door to the Safeway. According to the testimony produced by LSI, Rite Aid and LSI severed negotiations and went their "different ways." No further contact was had between Rite Aid and LSI for some two years, until January, 1979.

During the interim, LSI entered into a lease for approximately 17,000 square feet with Drug Fair, Inc. That transaction was reported in a trade journal. In January, 1979, Robert E. Statkiewicz, a partner in LSI, encountered John Schmitt at a shopping center seminar in New Orleans. A "red-faced" Schmitt allegedly told Statkiewicz that he, Schmitt, was very upset over LSI's leasing space to Drug Fair in Lake Shore Plaza. Schmitt allegedly said that Randy White, another LSI partner who was the person who attempted to negotiate the lease with Rite Aid, was "going to be sorry." According to Statkiewicz, Schmitt said that, "we'll fix him."

Charles Slane of Rite Aid wrote to LSI in March, 1979, advising that he had read an article in a trade publication in which it was reported that LSI planned a ground breaking in the Spring of 1979. Slane threatened litigation unless LSI agreed to build Rite Aid a store in the shopping center. LSI responded that no lease existed between it and Rite Aid.

Finding itself short of funds required to finish the

project, LSI, on August 31, 1979, agreed to sell the entire thirty acre property to BTR Realty, Inc. (BTR), for $900,000 cash. Additionally, BTR agreed to purchase a $66,000 certificate of deposit that LSI had pledged to New York Life Insurance Company as a "commitment fee" on the mortgage that New York Life was to carry on the property. BTR's counsel learned of the Slane letter written in March, 1979, on behalf of Rite Aid in which it threatened litigation. BTR insisted upon a clause in its purchase agreement with LSI to the effect that BTR could withdraw from that agreement if LSI could not furnish BTR with a written release from Rite Aid. Obviously, BTR was not interested in purchasing litigation.

Drug Fair's corporate counsel, Robert N. Weinstock, was contacted by Franklin Brown of Rite Aid. Brown allegedly *175 told Weinstock in an "intimidating" tone of voice that Drug Fair could either yield its lease or be in the same shopping center with Rite Aid. Brown, according to Weinstock, said that Drug Fair's plan to be the **728 only drug store in the shopping center "was not about to happen." In reply to telephone calls from BTR's lawyer, Brown remained insistent that Rite Aid had a valid lease with LSI.

The upshot of Rite Aid's refusal to release BTR and LSI from any claim against the property resulted in BTR's withdrawal from its agreement with LSI.

LSI, in November, 1979, sued Rite Aid Corporation and Rite Aid of Maryland, Inc. (Rite Aid), in the Circuit Court for Baltimore City FN2 for unlawful interference in LSI's contractual relationship with BTR. LSI asserted that it was entitled to $25,000,000 in damages.

FN2. The suit was originally filed in the Court of Common Pleas. As a result of a constitutional amendment, all of the courts of the "Supreme Bench of Baltimore City" became consolidated into the current Circuit Court for Baltimore City.

While the suit was pending, LSI sold the original tract to St. John/Litty for $840,650, but LSI retained ownership of the secondly acquired fifteen acre parcel.

At trial LSI claimed "out of pocket" damages, accounting from October 1, 1979, as follows:

"OUT-OF-POCKET DAMAGES

Interest expenses on mortgages and loans which would have been paid in full at BTR settlement *	$293,351.50
Real Estate Taxes and County Assessments against the property since 10/2/79	23,560.40
Insurance on the property since 10/2/79	816.95
Architectural, engineering, leasing and management expenses on the property since 10/2/79	44,360.96
TOTAL OUT-OF-POCKET DAMAGES	$362,089.81

FN* does not include mortgage interest expense and real estate taxes since 4/1/82"

*176 The trial judge refused to admit evidence of "out-of-pocket damages," ruling instead that the measure of damages was the contractual "benefit of the bargain rule." The judge defined "benefit of the bargain" to mean the difference between the fair market value of the property at the time of Rite Aid's interference with the BTR contract and the contractual price of $900,000.

LSI calculated its loss under the "benefit of bargain" rule in the following manner:

"LOSS ON SALE OF PROPERTY

Total consideration on BTR contract	$966,000
Less sellers' settlement expenses	6,325
Net proceeds on BTR sale $959,675	
Total consideration on St. John/Litty contract *	850,000
Less sellers' settlement expenses	9,350
Net proceeds on St. John/Litty	

```
        840,650
Difference on two contracts
        $119,025
Less unsold land
        100,000
Net Loss
        $ 19,025
```

FN* does not include mortgage interest expense and real estate taxes since 4/1/82 which are responsibility of St. John/Litty under the terms of their contract.

*177 Those damages, however, were never introduced into evidence.

Prior to trial Rite Aid sought summary judgment on the ground that it had a valid lease with LSI. The latter filed a cross-motion for similar relief. Rite Aid has appealed the denial of its motion.

The Issues

I. Are damages in an unlawful interference with contract cases measured by tort or contract precepts?

II. Did the appellant waive its appeal in failing to submit evidence under the trial judge's "benefit of bargain" damage theory?

III. Did the trial court err in denying Rite Aid's motion for summary judgment and in granting LSI's similar motion.

I.

Interference with Contractual Relationship

The tort of interference with contractual relations was first recognized in this State **729 in *Knickerbocker Ice Co. v. Gardiner Dairy Co., supra.* The Court of Appeals said, 107 Md. at 569, 69 A. 405:
"In a suit between the parties to a contract the general rule is that whether it be an action *ex contractu,* or an action of tort, founded on the breach of contract, the measure of damages is the same and under the control of the Court."

Rite Aid reads *Knickerbocker* to hold that in cases of interference with the contractual rights of another that the damages are to be measured in the same manner as a breach of contract. That, however, is not what *Knickerbocker* says. The key words of the above quotation from *Knickerbocker* are: "In a suit between the parties to a contract...." Patently, Rite Aid was not a party to the contract in the instant case and the general rule laid down by *Knickerbocker* in the quoted passage is simply not applicable.

*178 *Knickerbocker* involved a suit by Gardiner Dairy Company against Knickerbocker. Gardiner alleged that it was engaged in the dairy business and was required to buy large quantities of ice during the summer months. It contracted with Sumwalt Ice and Coal Company whereby Sumwalt would deliver 20 tons of ice each day to Gardiner at a cost of $5 per ton. At that time Sumwalt was purchasing ice from Knickerbocker which was engaged in the business of manufacturing ice. Knickerbocker advised Sumwalt that unless it stopped delivering ice to Gardiner, Knickerbocker would cease selling ice to Sumwalt. Because Sumwalt's ice business depended upon supplies from Knickerbocker, it was compelled to break its contract with Gardiner.

The Court, speaking through Chief Judge Boyd, said:
"It may be safely said that if wrongful or unlawful means are employed to induce a breach of contract, and injury ensues, the party so causing the breach is liable in an action in tort." 107 Md. at 566, 69 A. 405.

Writing on the subject of interference with contractual relationship, Professor William L. Prosser, in *Handbook of the Law of Torts* (4th ed. 1971), § 129 states that the tort stems from "very ancient times." It was incorporated into Roman law and by the Thirteenth Century "had been taken over by the common law." The tort first appears, Prosser says, "in definite form in 1853" in a case entitled, *Lumley v. Gye,* 2 El. & Bl. 216, 118 Eng.Rep. 749. The facts of that case were that

Miss Wagner, an opera singer of some renown, was under a contract to sing for the plaintiff. The defendant, fully aware of the contract and "maliciously intending to injure the plaintiff," lured Miss Wagner into refusing to abide by her agreement with the plaintiff. A divided court allowed damages to the plaintiff.

American courts, according to Prosser, were reluctant to follow the English precedents. Eventually, the American courts recognized the tort of interference with a contract. Now, however, the cause of action is perceived as a tort "virtually everywhere."

***179** By its nature, wilful interference with the contractual rights of another is usually an intentional tort.FN3

FN3. There is an exception. One who *negligently* injures a servant becomes liable to the master for loss of services. That exception appears to apply more in England than in this country and even in the former has "been under considerable attack of late." Prosser, *Law of Torts* (4th ed. 1971) § 129, p. 938.

[1] Damages in cases of interference with contractual relationships are generally awarded on the basis of one of three methods:
1. *The contract method.* This method limits recovery to the damages within the contemplation of the original contracting parties.
2. *A tort standard.* Such a measure limits damages to those which are "proximate" to the injury about which complaint is made. Prosser describes this method as analogous to ****730** damages determined by rule of "negligent torts." *Law of Torts,* § 129, p. 948-949.
3. *An intentional tort.* This method of determining damages permits recovery for unforeseen expenses, mental suffering and damage to reputation, in addition to punitive damages.

See generally Prosser, *Law of Torts* (4th ed. 1971) § 129, n. 43 through n. 50.

We agree with Prosser's observation that, "[i]n the light of the intent and the lack of justification necessary to the tort ... [the third method affords] the most consistent result." (4th ed. 1971) § 129, p. 949. We think the contract method appears to allow inadequate damages. If a subsequent sale showed no loss, or at best a minimum loss, the plaintiff would be left without a remedy at law. The tortfeasor would be able to accomplish his objective and yet remain, for all practical purposes, immune from having to pay damages.

Knickerbocker makes perspicuous that if the evidence demonstrates that a defendant has caused a contract to be broken "for the sole purpose, and with the deliberate intention***180** of wrongfully injuring the plaintiff, exemplary damages might be recovered ...." 107 Md. at 569, 69 A. 405. *See also Damazo v. Wahby,* 259 Md. 627, 270 A.2d 814 (1970); *Rinaldi v. Tana,* 252 Md. 544, 250 A.2d 533 (1969). *Knickerbocker* and its siblings declare that wilful interference with the contractual rights of another is a tort for which exemplary or punitive damages may be awarded.

[2][3] To support the contractual damages theory, the trial court relied upon *Kasten Construction Company, Inc. v. Jolles,* 262 Md. 527, 278 A.2d 48 (1971). There the Court made crystalline that, "the measure of damages when a vendee breaches a contract to purchase real estate is the difference between the contract price and the fair market value at the time of the breach." We have no quarrel with the rule announced in *Kasten.* We do, however, think that it was misapplied in the matter *sub judice. Kasten* was concerned with a breach of contract between the parties; it did not purport to deal with matters involving tortious interference with the contractual rights of third parties. Damages in a case of breach of contract by a party to the contract are clearly measured by the *Kasten* standard. On the other hand, Maryland case law makes manifest that interference with the contractual right of another is a tort, not a breach of contract. *See e.g., Knickerbocker Ice Co. v. Gardiner Dairy Co., supra; Cumberland Glass Mnf'g Co. v. DeWitt, supra; Goldman v. Harford Road Building Assn., supra; Stannard v. McCool, supra; Horn v. Seth,* 201 Md. 589, 95 A.2d 312 (1953); *McGinnis v. Chance,* 247 Md. 393, 231 A.2d 63 (1967); *Rinaldi v. Tana, supra; Damazo v. Wahby, supra; St. Paul at Chase Corp. v. Manufacturers Life Ins. Co.,* 262 Md. 192, 278 A.2d 12 (1971); *Daugherty v. Kessler, supra; H & R Block v. Testerman,* 275 Md. 36, 338 A.2d 48 (1975).

[4] A contract can only impose obligation upon those who are parties to it. Third persons,

however, are under a duty not to interfere with the performance of the contract by the parties to it without lawful justification. *Goldman v. Building Assn.*, 150 Md. at 681, 133 A. 843.

***181** [5][6][7] The tort of interference with a contractual relationship does not grow out of the contract but is separate and apart. Of course, it is necessary to show that a contract exists between two or more parties and that the defendant wrongfully, without justification, interfered with that contract so as to bring about a breach to the detriment of the one or more parties thereto. That does not mean that the injured party is limited in his or its proof of damages to those arising directly from the breach occasioned by the interference. It is the successful interference that is the tort, not the ****731** breach of the contract.FN4 The latter is but proof of the former.

FN4. Whether an unsuccessful interference gives rise to a cause of action is not an issue, and we do not decide it.

[8] There was evidence before the trial court from which one could reasonably infer that Rite Aid deliberately and wilfully interfered with LSI's contractual relationship with BTR,FN5 and that the interference was purposely done in order to injure LSI.

FN5. From the record one may conclude that Rite Aid made contact with Drug Fair in an effort to dissuade Drug Fair's going into the Lake Shore Plaza shopping center. That action by Rite Aid is not the basis of the suit. Whether such conduct is tortious interference is not before us.

[9] Based on that evidence, if the jury were to find any amount of compensatory damages, it might assess punitive damages, *Montgomery Ward & Co. v. Keulemans*, 275 Md. 441, 446, 340 A.2d 705 (1975) (and cases cited therein), in such sum as would dissuade future acts of interference by the tortfeasor.

With respect to punitive damages in torts of contractual interference, Chief Judge Hammond penned for the Court of Appeals in *Damazo v. Wahby*, 259 Md. at 638, 270 A.2d 814:
"The Maryland rule is that malice in its sense of deliberate and improper violation of a known right, that is, absence of legal justification, will support an action and permit recovery of compensatory damages for deprivation of known contractual rights, but that actual malice must be shown to support punitive damages."

***182** *See also Knickerbocker Ice Co. v. Gardiner Dairy Co., supra; Rinaldi v. Tana, supra; Stannard v. McCool, supra; Heinze v. Murphy*, 180 Md. 423, 24 A.2d 917 (1942).

[10] We hold that the trial court erred in limiting the evidence of damages to the "benefit of bargain." LSI should have been permitted to prove such damages as would reasonably flow from the tortious contractual interference by Rite Aid.

II.

Damages

[11] As we have previously observed, LSI proffered evidence of damages stemming from the contractual interference. They declined the judge's invitation to submit evidence under the "benefit of bargain" theory and, therefore, subjected themselves to the entry of a directed verdict against them.

At that time, LSI was put to the choice of going forward and introducing damages under the "benefit of bargain" theory or suffering the entry of a directed verdict in favor of Rite Aid. Had LSI gone forward the trial court might have determined that they had waived any other theory and thus they had, for practical purposes on appeal, slammed the door in their own face. Instead, LSI chose to engage in a strategic withdrawal so that it might "live to fight another day." FN6

FN6. Oliver Goldsmith (1728-1774), *The Art of Poetry on a New Plan* (1761), wrote:
"For he who fights and runs away
May live to fight another day;
But he who is in battle slain
Can never rise and fight again."

LSI's submission to the directed verdict did not waive the issue on appeal.

***183** III.

Cross-Appeal-Partial Summary Judgment

Rite Aid asserts that the trial court should have granted its motion for summary judgment which was predicated upon its having a valid lease with LSI. Rite Aid argues that even if it be decided that the trial court was correct in denying its motion for summary judgment, the court was incorrect in entering a judgment on behalf of LSI because entry of judgment was prevented by the presence of a genuine dispute of a material fact.

Had Rite Aid a valid lease with LSI, the interference with LSI's contractual relationship**732 with BTR would have been grounded upon that fact, thus affording Rite Aid the defense of justification of protecting its lease.

As we observed at the outset, the lease between Rite Aid, as successor to Read's, and LSI was subject to agreement on plans and specifications. No agreement with respect thereto was ever reached by the parties. John Schmitt, on behalf of Rite Aid, endeavored to reduce the number of square feet that Rite Aid would occupy. According to the evidence offered by LSI, the parties eventually "agreed to disagree" and went their "different ways."

In *People's Drug Stores v. Fenton,* 191 Md. 489, 62 A.2d 273 (1948), the Court rejected an effort by People's Drug Stores to enforce specifically a lease of a store that "was to be built in accordance with plans and specifications to be approved ... but no plans and specifications ... [were ever] submitted."

[12][13] Patently, in the case at bar, if the plans and specifications were not decided upon, an essential element of the lease was missing. Without that element, there was no binding lease. Without a binding lease, Rite Aid had no basis for its claim. Consequently, the hearing court correctly declined to enter a summary judgment in favor of Rite Aid. Contrary to the way Rite Aid views the matter, the parties had not agreed on all material terms of the lease, else they would have agreed on the plans and specifications.

***184** We think that the trial court was correct in granting LSI's motion for summary judgment because there was no barrier in the form of a genuine dispute of a material fact so as to preclude the entry.

JUDGMENT IN FAVOR OF RITE AID CORPORATION ET AL., REVERSED; SUMMARY JUDGMENT IN FAVOR OF LAKE SHORE INVESTORS, AFFIRMED.

CASE REMANDED FOR A NEW TRIAL. COSTS TO BE PAID BY APPELLEES-CROSS-APPELLANTS.

Md.App.,1983.
Lake Shore Investors v. Rite Aid Corp.
55 Md.App. 171, 461 A.2d 725

END OF DOCUMENT

Exhibit 7

Lake Shore Investors v. Rite Aid Corp.
Md.App.,1986.

Court of Special Appeals of Maryland.
LAKE SHORE INVESTORS
v.
RITE AID CORPORATION, et al.
No. 1222, Sept. Term, 1985.

June 5, 1986.

Land developer sued prospective vendee for tortious interference with land sale contract. The Circuit Court, Baltimore City, Joseph H.H. Kaplan, J., rendered summary judgment for defendant on tortious interference claim, and that judgment was certified as final. The Court of Special Appeals, Adkins, J., held that breach of contract is not an essential element of tort of tortious interference with contract and that material fact issue existed regarding damages, precluding summary judgment.

Reversed and remanded.

West Headnotes

[1] Torts 379 ⇐ 211

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)1 In General
379k211 k. Business Relations or Economic Advantage, in General. Most Cited Cases
(Formerly 379k12)

Torts 379 ⇐ 212

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)1 In General
379k212 k. Contracts. Most Cited Cases
(Formerly 379k12)

One who intentionally and wrongfully hinders contract performance, as by causing a party to cancel the contract, and thereby damages the party to the contract, is liable to the injured party even if there is no breach of the contract; such conduct is encompassed within the tort of interference with economic relations; overruling *Storch v. Ricker*, 57 Md.App. 683, 471 A.2d 1079.

[2] Torts 379 ⇐ 243

379 Torts
379III Tortious Interference
379III(B) Business or Contractual Relations
379III(B)2 Particular Cases
379k243 k. Landlord and Tenant. Most Cited Cases
(Formerly 379k12)

Land developer's allegation that defendant, a former prospective lessee, wrongfully introduced vendee to withdraw from land sale contract by improperly refusing to execute release of claim of leasehold interest stated cause of action for tortious interference with economic advantage, notwithstanding that there was no breach of contract and that vendee avoided performance by resort to "escape clause" permitting its withdrawal on failure to furnish a release.

[3] Judgment 228 ⇐ 185.2(4)

228 Judgment
228V On Motion or Summary Proceeding
228k182 Motion or Other Application
228k185.2 Use of Affidavits
228k185.2(4) k. Showing to Be Made on Opposing Affidavit. Most Cited Cases
Where defendant's summary judgment motion was based largely on depositions, under oath, of two of plaintiff's partners and depositions contained material sufficient to establish factual disputes and conflicting inferences, there was no need for plaintiff to refile the depositions as part of its answer to the motion before they could be utilized to raise factual conflicts. Md.Rule 2-501(b).

****727 *744** Shale D. Stiller (Robert B. Levin and Frank, Bernstein, Conaway & Goldman, on brief), Baltimore, for appellant.
Steven K. Fedder (Leslie C. Bender, Davis, Fedder & Allen, M. Albert Figinski, Stephen B. Caplis and Melnicove, Kaufman, Weiner & Smouse, P.A., on brief), Baltimore, for appellees.

Argued before MOYLAN, ADKINS, and ROSALYN B. BELL, JJ.
ADKINS, Judge.

The principal question we must address in this case is whether a defendant who induces cancellation of a contract ***745** may be liable for tortious interference even though no breach of the contract has occurred. A secondary question is whether the record contains a showing of compensatory damages sufficient to withstand a motion for summary judgment.

The party seeking to recover damages for tortious interference is appellant, Lake Shore Investors (Lake Shore). The Circuit Court for Baltimore City granted summary judgment in favor of appellees, Rite Aid Corporation and Rite Aid of Maryland, Inc. (Rite Aid).FN1 The court found that factual disputes as to the damages claimed by Lake Shore precluded entry of summary judgment on that issue, but held that Lake Shore's tortious interference claim could not be sustained absent a showing of a breach of the contract with which Rite Aid had purportedly interfered. We hold that the court was correct on the damages point, but erred on the tortious interference issue. Accordingly, we reverse.

FN1. Tortious interference was but one of several claims asserted by Lake Shore. Although not all of the other claims have been adjudicated, the trial court properly certified as final its judgment on the tortious interference count. Md.Rule 2-602(b).

Facts

Some aspects of the controversy between Lake Shore and Rite Aid previously have been before this court and the Court of Appeals. *Lake Shore Investors v. Rite Aid Corp.*, 55 Md.App. 171, 461 A.2d 725 (1983), *aff'd sub nom. Rite Aid Corp. v. Lake Shore Investors,* 298 Md. 611, 471 A.2d 735 (1984). We need not repeat all the history set forth in those opinions. For present purposes it is enough to outline the facts briefly.

In 1975 and 1978 Lake Shore acquired property in Anne Arundel County. It intended to develop that property, or some of it, as a shopping center. To that end, it entered into negotiations looking to the leasing of space in the center to Read's Inc., corporate predecessor of Rite Aid. ***746** No lease agreement, however, was ever consummated with Read's or Rite Aid.FN2

FN2. The circuit court, in an earlier phase of this case, determined that no lease existed between Lake Shore and Rite Aid. We affirmed that determination in *Lake Shore I,* 55 Md.App. at 183, 461 A.2d 725. Since that issue was "not within the ambit of the review granted by the writ of certiorari" in Rite Aid Corp. v. Lake Shore Investors, *supra,* that determination stands "as the law of the case...." *Rite Aid,* 298 Md. at 629, 471 A.2d 735.

Lake Shore then leased space in the shopping center to Drug Fair, Inc. Rite Aid learned of this in early 1979 and threatened litigation against Lake Shore unless the latter agreed to include a Rite Aid store in the center. Lake Shore responded that no lease existed between it and Rite Aid.

In August 1979, Lake Shore found itself short of funds. It agreed to sell the shopping center property to BTR Realty, Inc. BTR was aware of Rite Aid's threat to Lake Shore, however, as well as its claim of a leasehold interest, and insisted that the purchase agreement include a clause permitting BTR to withdraw from it if Lake Shore could not furnish BTR with a written release from Rite Aid. Rite Aid, continuing to insist that it had a valid lease

with Lake Shore, refused to execute the release. BTR withdrew from the purchase agreement. This suit followed.

Breach of Contract as an Element of Tortious Interference

Count Two of Lake Shore's second amended declaration against Rite Aid is captioned "*Wrongful Interference With Contracts.*" Alleging the facts we have summarized, as well as others, it avers, in pertinent part, that Rite Aid

maliciously, with ill-will and spite toward Lake Shore, wrongfully interfered with **729 Lake Shore's contractual undertakings with B.T.R. ... by ... threatening B.T.R. with action that would delay construction of the shopping center ... so that B.T.R. did cancel its contract with Lake Shore.

*747 Rite Aid moved for summary judgment on this count. Its argument was (and before us, is) that neither the allegations we have quoted nor the facts we have recited (treated as undisputed for purposes of the motion) show that BTR breached its contract with Lake Shore. Instead, the facts show only that BTR exercised its contractual right to withdraw from the purchase agreement when Rite Aid refused to execute the release. This, according to Rite Aid, is fatal, because breach of the contract is an essential element of the tort of tortious interference with that contract. The trial judge agreed, but we do not.

To be sure, there are tortious interference cases in which the tortfeasor caused or induced the breach of the contract. That was true in the leading English case of *Lumley v. Gye,* 2 El. & Bl. 216, 118 Eng.Rep. 749 (1853). It was also true in the leading Maryland case of *Knickerbocker Ice Co. v. Gardiner Dairy Co.,* 107 Md. 556, 69 A. 405 (1908). In *Knickerbocker,* for example, the Court of Appeals thought "[i]t may be safely said that if wrongful or unlawful means are employed to induce the breach of a contract, and injury ensues, the party so causing the breach is liable in an action in tort." 107 Md. at 566, 69 A. 405. Similar cases include *Daugherty v. Kessler,* 264 Md. 281, 286 A.2d 95 (1972), *Baird v. Chesapeake and Potomac Telephone Co.,* 208 Md. 245, 117 A.2d 873 (1955), *Stannard v. McCool,* 198 Md. 609, 84 A.2d 862 (1951), *Cumberland Glass Manufacturing Co. v. DeWitt,* 120 Md. 381, 87 A. 927 (1913), and *Gore v. Condon,* 87 Md. 368, 376, 39 A. 1042 (1898) ("The right to maintain an action can also be sustained, upon the doctrine that a man who induces one of two parties to a contract to break it, intending thereby to injure the other or to obtain a benefit for himself, does the other an actionable wrong."). In each of those cases, the Court recognized that under appropriate circumstances proof of wrongful inducement of a breach of contract could sustain a cause of action for tortious interference with contractual rights. In none of them, however, did the Court hold that the action could not be sustained without proof of a breach of contract.

*748 A parallel line of authority indicates that proof of breach of contract is not an essential element of the tort. In *Lucke v. The Clothing Cutters and Trimmers Assembly,* 77 Md. 396, 26 A. 505 (1893), a union induced an employer to discharge a nonunion employee. There was no breach of contract, because the worker was an employee at will. The evidence nevertheless showed that but for the union's improper actions, the employment likely would have continued. The Court of Appeals characterized Lucke's action as one "to recover damages for the wrongful and malicious interference of [the union], by which [Lucke] was discharged from his employment and prevented the free exercise of his trade and occupation, and thereby deprived of his means of livelihood." 77 Md. at 397-98, 26 A. 505. It concluded that the action was viable despite the absence of a breach of contract. In like vein the Court, in a later case, discussed interference with contracts and unlawful interference with a person's trade, business, or employment. As to the latter area, it explained that "the authorities both in England and America have established the proposition that any unlawful or wrongful interference by A with the liberty of B to pursue his lawful ... business, or calling, whereby B suffers damage, is actionable...." *The Sumwalt Ice and Coal Co. v. The Knickerbocker Ice Co.,* 114 Md. 403, 414, 80 A. 48 (1911). "[U]nlawful or wrongful interference" with one's business interests may, but clearly need not, encompass breach of contract.

More specific is the language of *Goldman v. Harford Road Building Assn.,* 150 Md. 677, 133 A. 843 (1926). There the Court recognized that if the Building Association had induced an owner of land to **730 breach a contract with Goldman, Goldman would have had a cause of action. 150 Md. at 681, 133 A. 843. But it went on to say that "a right of action is given under this rule [the rule stated in

Cumberland Glass, Sumwalt, Knickerbocker Ice Co., and *Gore*, all *supra*] against a third party *who unjustifiably causes an existing contract to be terminated without breach.*" 150 Md. at 681-82, 133 A. 843 [emphasis supplied].

***749** The principle stated in *Goldman* was reaffirmed in *Wilmington Trust Co. v. Clark*, 289 Md. 313, 329, 424 A.2d 744 (1981). In that case the Court of Appeals observed: "We have recognized that a third party who, without legal justification, intentionally interferes with the rights of a party to a contract, *or* induces a breach thereof, is liable in tort to the injured contracting party" [emphasis supplied]. The use of the disjunctive "or" is, we think, significant; it demonstrates that either breach or other interference with contractual rights may provide a basis for a tort claim.FN3

FN3. *See also Vane v. Nocella*, 303 Md. 362, 383, n. 6, 494 A.2d 181 (1985): "Maryland law has long recognized the tort of wrongful interference with contractual relations [citing *Rite Aid, supra*]. This tort provides that a third party who, without legal justification, intentionally interferes with the rights of a party to a contract or induces a breach thereof is liable in tort to the injured contracting party." *And see Continental Casualty Co. v. Mirabile*, 52 Md.App. 387, 449 A.2d 1176, *cert. denied*, 294 Md. 652 (1982).

Quite recently, in *Orfanos v. Athenian, Inc.*, 66 Md.App. 507, 521, 505 A.2d 131 (1986), we had occasion to discuss the elements of a tortious interference claim. We did not list breach of contract as one of them. Instead, we thought the elements of the action were "not substantially different" from those listed in *Restatement (2d) Torts*, § 766. That section, as we shall see, does not require proof of breach of contract to sustain the action. *Orfanos* is consistent with the decision in *Sharrow v. State Farm Mutual Insurance Co.*, 63 Md.App. 412, 492 A.2d 977,*cert. granted*,304 Md. 362, 999 A.2d 191 (1985). *Sharrow* involved a client who settled a claim directly with the defendant's insurance carrier, thereby depriving the client's lawyer of a contingent fee. There was, of course, no breach of the contract between the client and the lawyer because, as we pointed out, that contract was revocable at the will of the client, and had been effectively terminated. 63 Md.App. at 418. We found no liability for tortious interference on the part of the carrier, because there was no evidence of culpable conduct on its part. But, despite the absence of a breach of contract, we observed: "If, to achieve its own ends, an insurer ***750** deliberately induces the claimant to repudiate his retainer by ... coercive or unconscionable conduct, its 'right to settle' cannot save it from liability to the lawyer who has suffered economic detriment from the repudiation." 63 Md.App. at 424, 492 A.2d 977.

These two lines of authority, then, instruct that when a third party intentionally and wrongfully induces a party to breach a contract to the damage of one of the contracting parties, an action for tortious interference will lie. They also appear to tell us that the action may lie when there has been a wrongful interference with contractual rights or expectations, even if there is no breach. We have found only two reported Maryland decisions that suggest or hold that a breach of contract is an essential element of a tortious interference claim.

The first of these cases is *Lake Shore I, supra*. In that opinion we said: "Of course it is necessary to show that a contract exists between two or more parties and that the defendant, wrongfully, without justification, interfered with that contract so as to bring about a breach to the detriment of the one or more parties thereto." 55 Md.App. at 181, 461 A.2d 725. In *Lake Shore I*, however, we were dealing chiefly with the proper measure of damages for tortious interference. The language we have quoted was mere *dictum*,****731** wholly unnecessary to the decision in that case.

More difficult to deal with is *Storch v. Ricker*, 57 Md.App. 683, 471 A.2d 1079,*cert. denied*,300 Md. 154, 476 A.2d 722 (1984). It is this case that persuaded the Circuit Court for Baltimore City that breach of contract is an essential element of a tortious interference claim. And it is this case that is principally relied upon by Rite Aid in its attempt to persuade us to reach the same conclusion.

Storch was a complex matter involving alleged breach of a contract to pay real estate commissions as well as a claim for tortious interference with that contract. The vendor in a real estate contract had lawfully terminated it pursuant to provision in the contract, and no real estate commissions ***751** were due, under the contract, until time of settlement-a

time that never arrived because of the termination of the contract. That, we held, disposed of the tortious interference claim. "This cause of action requires breach of a contractual right or obligation." 57 Md.App. at 703-04. Our chief authority for that statement was 3 J. Dooley, *Modern Tort Law*, § 44.03 (1977). Judge Dooley's text does, indeed, support our holding in *Storch*. But we believe that his view of the elements of tortious interference does not go far enough to fully set forth the tort as it exists under Maryland law.

Some ten months after we had decided *Storch*, the Court of Appeals decided *Natural Design, Inc. v. The Rouse Co.*, 302 Md. 47, 485 A.2d 663 (1984). In a scholarly review of the tort of malicious interference with business relationships, Judge Eldridge explained:
As the *Lucke* and *Gore* cases [both *supra*] illustrate, the two general types of tort actions for interference with business relationships are inducing the breach of an existing contract and, more broadly, maliciously or wrongfully interfering with economic relationships in the absence of a breach of contract. The principle underlying both forms of the tort is the same: under certain circumstances, a party is liable if he interferes with and damages another in his business or occupation.

302 Md. at 69, 485 A.2d 663 [footnote omitted].

The problem with our *Storch* is that we failed to recognize both branches of the single tort that encompasses not only that form of tortious interference with a contract exemplified by wrongful inducement of a breach of contract, but also the broader form that encompasses other sorts of wrongful interference with contractual relations; or indeed, with business expectations, or economic relationships where no contract exists. *See Ellett v. Giant Food, Inc.*, 66 Md.App. 695, 707-09, 505 A.2d 888 (1986) and R.P. Gilbert, P. Gilbert, and R.J. Gilbert, *Maryland Tort Law Handbook*, § 7.6 (1986). That is also the problem with Rite Aid's position in this case.

***752** Modern authority clearly identifies a single tort in the context of the matter at hand. "*The tort* of interference with existing or prospective contractual relations, covered in this Chapter [37], is an intentional tort." 4 *Restatement (2d) Torts* at 4 [emphasis supplied]. And "[t]he liability for inducing breach of contract is now regarded as but one instance, rather than the exclusive limit, of protection against improper interference in business relations." *Id.* at 9.

An analogy is found in the tort of defamation. Libel and slander are two branches of that tort. But their essential elements are the same, and in many instances, it does not make any difference in which form plaintiff elects to cast his complaint. *See, e.g., Hearst Corp. v. Hughes*, 297 Md. 112, 466 A.2d 486 (1983), where the court found it unnecessary to determine whether broadcasting a defamatory oral statement over television is libel or slander, because the words published by the television station constituted a defamatory publication, and *General Motors Corp. v. Piskor*, 277 Md. 165, 352 A.2d 810 (1976), where court found it unnecessary to decide ****732** whether conduct of defendant's employees constituted libel or slander. *See also Maryland Tort Law Handbook, supra*, § 6.2 (1976): "The distinction [between libel and slander] is somewhat trivial, inasmuch as there is really no practical benefit in denominating a defamation action as either variety when the statement is defamatory *per se*." Varying proof requirements follow if, for example, the plaintiff is a public figure, *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964), a private figure, *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 94 S.Ct. 2997, 41 L.Ed.2d 789 (1974), or if there is a media defendant, *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 106 S.Ct. 1558, 89 L.Ed.2d 783 (1986). But the basic tort is still defamation. So it is with the tort of malicious interference with business. *See Natural Design* at 69-70. There is but one tort, although it may be alleged, proved and defended against in various ways.

***753** Section 766 of the *Restatement (2d)* outlines the scope of the tort:
One who intentionally and improperly interferes with the performance of a contract (except a contract to marry) between another and a third person by inducing or otherwise causing the third person not to perform the contract, is subject to liability to the other for the pecuniary loss resulting to the other from the failure of the third person to perform the contract.

Section 766B adds:One who intentionally and

improperly interferes with another's prospective contractual relation (except a contract to marry) is subject to liability to the other for the pecuniary harm resulting from loss of the benefits of the relation, whether the interference consists of
(a) inducing or otherwise causing a third person not to enter into or continue the prospective relation or
(b) preventing the other from acquiring or continuing the prospective relation.

Wrongfully inducing a breach is surely one way of committing this tort, but it is equally surely not the only way. "[I]t is not necessary to show that the third party was induced to breach the contract. Interference with the third party's performance may be by prevention of the performance...." *Restatement (2d) Torts,* § 766, comment k. *Accord:* W. Prosser and W. Keeton, *The Law of Torts,* § 129 (5th ed. 1984); Harper, *Interference with Contractual Relations,* 47 Nw.U.L.Rev. 873, 883 (1953).

[1] In view of these authorities, we hold that a person who intentionally and wrongfully hinders contract performance, as by causing a party to cancel the contract, and thereby damages a party to the contract, is liable to the injured party even if there is no breach of the contract. This sort of conduct is encompassed within the tort that we shall denominate interference with economic relations, and it includes tortious interference with contractual relations. ***754** Accordingly, we overrule *Storch v. Ricker* to the extent that it is inconsistent with this opinion.FN4

FN4. This holding, had we applied it in *Storch,* would not have changed the result in that case. As an alternative basis for our decision there, we held that even if the contract had been breached, the allegedly tortious interferer would not have been liable because his conduct was not wrongful. 57 Md.App. at 704, 471 A.2d 1079.

[2] This holding in turn compels us to reverse the summary judgment in favor of Rite Aid since, as we shall shortly explain, we also reject its contentions as to damages. The allegations in Lake Shore's declaration, together with the other facts before the trial court, are sufficient to make out its tortious interference claim, even though there was no breach of the contract between Lake Shore and BTR. The fact that BTR used the "escape clause" in the contract to avoid performance is of no moment. There was a contract between Lake ****733** Shore and BTR; the "escape clause" was a condition precedent to performance of the contract, not to its formation. *See* S. Williston and W. Jaeger, 5 *Williston on Contracts,* § 666A (3d ed. 1961). The contract established a business relationship between Lake Shore and BTR. If Lake Shore can prove that Rite Aid intentionally and improperly interfered with that relationship by wrongfully inducing BTR to withdraw from the contract, Lake Shore will have made out a cause of action, provided it can also show damages caused by Rite Aid's culpable conduct.FN5

FN5. In *Lake Shore I* we observed that there was evidence before the trial court from which one could infer that Rite Aid deliberately interfered with the contractual relationship between Lake Shore and BTR with the purpose to injure Lake Shore. 55 Md.App. at 181, 461 A.2d 725.*Damages*
On the subject of damages, Rite Aid contends that the trial court's judgment should be affirmed in any event because Lake Shore "failed to allege any facts in response to Rite Aid's motion for summary judgment to establish that it had sustained damages as a result of Rite Aid's ***755** conduct." The trial court found "several disputes of material fact regarding the extent of actual damages, sufficient to preclude an entry of summary judgment."

Rite Aid initially attempted to raise that issue by cross-appeal, but the cross-appeal was dismissed because of a procedural defect. It now says the issue is before us anyway because an appellate court may affirm a decision of a trial court on any ground adequately shown by the record, even if it was not the ground relied on by the trial court. *Robeson v. State,* 285 Md. 498, 502, 403 A.2d 1221 (1979), *cert. denied,* 444 U.S. 1021, 100 S.Ct. 680, 62 L.Ed.2d 654 (1980). To that argument Lake Shore responds that Rite Aid's motion for summary judgment on the damages issue was denied, and the denial of a motion for summary judgment is not appealable. *Metropolitan Mortgage Fund, Inc. v. Basiliko,* 288 Md. 25, 29, 415 A.2d 582 (1980).

We find it unnecessary to resolve this dispute. Assuming, without deciding, that the issue is properly before us, we conclude that Rite Aid's contention is meritless.

[3] Rite Aid relies on Md.Rule 2-501(b) which provides that when "a motion for summary judgment is supported by an affidavit or other statement under oath, an opposing party who desires to controvert any fact contained in it may not rest solely upon allegations contained in the pleadings, but shall support the response by an affidavit or other written statement under oath."

It is true that Lake Shore's response to Rite Aid's motion for summary judgment was somewhat light on factual specifics on the matter of damages, and it was not under oath. But Rite Aid's motion was based largely on depositions of two of Lake Shore's partners. These were under oath. They contain material sufficient to establish factual disputes and conflicting inferences on the damages question. There was no need for Lake Shore to refile these depositions as part of its answer; that would simply have produced unnecessary duplication of the large amount of paper already before the court. Because the depositions ***756** raised factual conflicts, the trial judge did not err in denying the motion for summary judgment on that ground. Md.Rule 2-501(e).

Since, however, we have held that the judge erred on the breach of contract issue, we must reverse.

JUDGMENT REVERSED. CASE REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. APPELLEES TO PAY THE COSTS.

Md.App.,1986.
Lake Shore Investors v. Rite Aid Corp.
67 Md.App. 743, 509 A.2d 727

END OF DOCUMENT

Exhibit 8

PLESSY v. FERGUSON
U.S. 1896

Supreme Court of the United States
PLESSY
v.
FERGUSON.
No. 210.

May 18, 1896.

In Error to the Supreme Court of the State of Louisiana.

**1138 *538 This was a petition for writs of prohibition and certiorari originally filed in the supreme court of the state by Plessy, the plaintiff in error, against the Hon. John H. Ferguson, judge of the criminal district court for the parish of Orleans, and setting forth, in substance, the following facts:

That petitioner was a citizen of the United States and a resident of the state of Louisiana, of mixed descent, in the proportion of seven-eighths Caucasian and one-eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every recognition, right, privilege, and immunity secured to the citizens of the United States of the white race by its constitution and laws; that on June 7, 1892, he engaged and paid for a first-class passage on the East Louisiana Railway, from New Orleans to Covington, in the same state, and thereupon entered a passenger train, and took possession of a vacant seat in a coach where passengers of the white race were accommodated; that such railroad company was incorporated by the laws of Louisiana as a common carrier, and was not authorized to distinguish between citizens according to their race, but, notwithstanding this, petitioner was required by the conductor, under penalty of ejection from said train and imprisonment, to vacate said coach, and occupy another seat, in a coach assigned by said company for persons not of the white race, and for no other reason than that petitioner was of the colored race; that, upon petitioner's refusal to comply with such order, he was, with the aid of a police officer, forcibly ejected from **1139 said coach, and hurried off to, and imprisoned in, the parish jail of *539 New Orleans, and there held to answer a charge made by such officer to the effect that he was guilty of having criminally violated an act of the general assembly of the state, approved July 10, 1890, in such case made and provided.

The petitioner was subsequently brought before the recorder of the city for preliminary examination, and committed for trial to the criminal district court for the parish of Orleans, where an information was filed against him in the matter above set forth, for a violation of the above act, which act the petitioner affirmed to be null and void, because in conflict with the constitution of the United States; that petitioner interposed a plea to such information, based upon the unconstitutionality of the act of the general assembly, to which the district attorney, on behalf of the state, filed a demurrer; that, upon issue being joined upon such demurrer and plea, the court sustained the demurrer, overruled the plea, and ordered petitioner to plead over to the facts set forth

in the information, and that, unless the judge of the said court be enjoined by a writ of prohibition from further proceeding in such case, the court will proceed to fine and sentence petitioner to imprisonment, and thus deprive him of his constitutional rights set forth in his said plea, notwithstanding the unconstitutionality of the act under which he was being prosecuted; that no appeal lay from such sentence, and petitioner was without relief or remedy except by writs of prohibition and certiorari. Copies of the information and other proceedings in the criminal district court were annexed to the petition as an exhibit.

Upon the filing of this petition, an order was issued upon the respondent to show cause why a writ of prohibition should not issue, and be made perpetual, and a further order that the record of the proceedings had in the criminal cause be certified and transmitted to the supreme court.

To this order the respondent made answer, transmitting a certified copy of the proceedings, asserting the constitutionality of the law, and averring that, instead of pleading or admitting that he belonged to the colored race, the said Plessy declined and refused, either by pleading or otherwise, to admit*540 that he was in any sense or in any proportion a colored man.

The case coming on for hearing before the supreme court, that court was of opinion that the law under which the prosecution was had was constitutional and denied the relief prayed for by the petitioner (Ex parte Plessy, 45 La. Ann. 80,11 South. 948); whereupon petitioner prayed for a writ of error from this court, which was allowed by the chief justice of the supreme court of Louisiana.

Mr. Justice Harlan dissenting.

West Headnotes

Railroads 320 ⇐ 226

320 Railroads
320X Operation
320X(B) Statutory, Municipal, and Official Regulations
320k226 k. Accommodations for Passengers. Most Cited Cases

Statute requiring railroads carrying passengers to provide equal but separate accommodations for white or colored races was not unconstitutional (Act La.1890, No. 111,p. 152, LSA-R.S. 45:528 et seq.; LSA-Const. Amend. 13).

Slaves 356 ⇐ 24

356 Slaves
356k24 k. Abolition of Slavery; Peonage. Most Cited Cases

An act requiring white and colored persons to be furnished with separate accommodations on railway trains does not violate Const.Amend. 13, abolishing slavery and involuntary servitude. Ex parte Plessy (1892) 11 So. 948, affirmed.

Constitutional Law 92 ⇐ 83(2)

92 Constitutional Law
92V Personal, Civil and Political Rights
92k83 Personal Liberty and Security
92k83(2) k. Prohibition of Involuntary Servitude. Most Cited Cases

Act La.1890, No. 111,p. 152, enacting that all railway companies carrying passengers shall provide equal, but separate, accommodations for the white or colored races, by providing two or more passenger coaches for each train, or by dividing passenger coaches, and prohibiting persons from occupying seats in any coaches other than the ones assigned to them on account of the race to which they belong, does not violate Const.Amend. 13, abolishing slavery and involuntary servitude.

A. W. Tourgee and S. F. Phillips, for plaintiff in error.

Alex. Porter Morse, for defendant in error.

Mr. Justice BROWN, after stating the facts in the foregoing language, delivered the opinion of the court.

This case turns upon the constitutionality of an act of the general assembly of the state of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races. Acts 1890, No. 111, p. 152.

The first section of the statute enacts 'that all railway companies carrying passengers in their coaches in this state, shall provide equal but separate accommodations for the white, and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations: provided, that this section shall

not be construed to apply to street railroads. No person or persons shall be permitted to occupy seats in coaches, other than the ones assigned to them, on account of the race they belong to.'

By the second section it was enacted 'that the officers of such passenger trains shall have power and are hereby required ***541** to assign each passenger to the coach or compartment used for the race to which such passenger belongs; any passenger insisting on going into a coach or compartment to which by race he does not belong, shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison, and any officer of any railroad insisting on assigning a passenger to a coach or compartment other than the one set aside for the race to which said passenger belongs, shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison; and should any passenger refuse to occupy the coach or compartment to which he or she is assigned by the officer of such railway, said officer shall have power to refuse to carry such passenger on his train, and for such refusal neither he nor the railway company which he represents shall be liable for damages in any of the courts of this state.'

The third section provides penalties for the refusal or neglect of the officers, directors, conductors, and employes of railway companies to comply with the act, with a proviso that 'nothing in this act shall be construed as applying to nurses attending children of the other race.' The fourth section is immaterial.

The information filed in the criminal district court charged, in substance, that Plessy, being a passenger between two stations within the state of Louisiana, was assigned by officers of the company to the coach used for the race to which he belonged, but he insisted upon going into a coach used by the race to which he did not belong. Neither in the information nor plea was his particular race or color averred.

The petition for the writ of prohibition averred that petitioner was seven-eights Caucasian and one-eighth African blood; that the ****1140** mixture of colored blood was not discernible in him; and that he was entitled to every right, privilege, and immunity secured to citizens of the United States of the white race; and that, upon such theory, he took possession of a vacant seat in a coach where passengers of the white race were accommodated, and was ordered by the conductor to vacate ***542** said coach, and take a seat in another, assigned to persons of the colored race, and, having refused to comply with such demand, he was forcibly ejected, with the aid of a police officer, and imprisoned in the parish jail to answer a charge of having violated the above act.

The constitutionality of this act is attacked upon the ground that it conflicts both with the thirteenth amendment of the constitution, abolishing slavery, and the fourteenth amendment, which prohibits certain restrictive legislation on the part of the states.

1. That it does not conflict with the thirteenth amendment, which abolished slavery and involuntary servitude, except as a punishment for crime, is too clear for argument. Slavery implies involuntary servitude,-a state of bondage; the ownership of mankind as a chattel, or, at least, the control of the labor and services of one man for the benefit of another, and the absence of a legal right to the disposal of his own person, property, and services. This amendment was said in the Slaughter-House Cases, 16 Wall. 36, to have been intended primarily to abolish slavery, as it had been previously known in this country, and that it equally forbade Mexican peonage or the Chinese coolie trade, when they amounted to slavery or involuntary servitude, and that the use of the word 'servitude' was intended to prohibit the use of all forms of involuntary slavery, of whatever class or name. It was intimated, however, in that case, that this amendment was regarded by the statesmen of that day as insufficient to protect the colored race from certain laws which had been enacted in the Southern states, imposing upon the colored race onerous disabilities and burdens, and curtailing their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value; and that the fourteenth amendment was devised to meet this exigency.

So, too, in the Civil Rights Cases, 109 U. S. 3, 3 Sup. Ct. 18, it was said that the act of a mere individual, the owner of an inn, a public conveyance or place of amusement, refusing accommodations to colored people, cannot be justly regarded as imposing any badge of slavery or servitude upon the

applicant, but *543 only as involving an ordinary civil injury, properly cognizable by the laws of the state, and presumably subject to redress by those laws until the contrary appears. 'It would be running the slavery question into the ground,' said Mr. Justice Bradley, 'to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theater, or deal with in other matters of intercourse or business.'

A statute which implies merely a legal distinction between the white and colored races-a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color-has no tendency to destroy the legal equality of the two races, or re-establish a state of involuntary servitude. Indeed, we do not understand that the thirteenth amendment is strenuously relied upon by the plaintiff in error in this connection.

2. By the fourteenth amendment, all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are made citizens of the United States and of the state wherein they reside; and the states are forbidden from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, or shall deprive any person of life, liberty, or property without due process of law, or deny to any person within their jurisdiction the equal protection of the laws.

The proper construction of this amendment was first called to the attention of this court in the Slaughter-House Cases, 16 Wall. 36, which involved, however, not a question of race, but one of exclusive privileges. The case did not call for any expression of opinion as to the exact rights it was intended to secure to the colored race, but it was said generally that its main purpose was to establish the citizenship of the negro, to give definitions of citizenship of the United States and of the states, and to protect from the hostile legislation of the states the privileges and immunities of citizens of the United States, as distinguished from those of citizens of the states.

*544 The object of the amendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation, in places where they are liable to be brought into contact, do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which have been held to be a valid exercise of the legislative power even by courts of states where the political rights of the colored race have been longest and most earnestly enforced.

One of the earliest of these cases is that of Roberts v. City of Boston, 5 Cush. 198, in **1141 which the supreme judicial court of Massachusetts held that the general school committee of Boston had power to make provision for the instruction of colored children in separate schools established exclusively for them, and to prohibit their attendance upon the other schools. 'The great principle,' said Chief Justice Shaw, 'advanced by the learned and eloquent advocate for the plaintiff [Mr. Charles Sumner], is that, by the constitution and laws of Massachusetts, all persons, without distinction of age or sex, birth or color, origin or condition, are equal before the law. * * * But, when this great principle comes to be applied to the actual and various conditions of persons in society, it will not warrant the assertion that men and women are legally clothed with the same civil and political powers, and that children and adults are legally to have the same functions and be subject to the same treatment; but only that the rights of all, as they are settled and regulated by law, are equally entitled to the paternal consideration and protection of the law for their maintenance and security.' It was held that the powers of the committee extended to the establishment*545 of separate schools for children of different ages, sexes and colors, and that they might also establish special schools for poor and neglected children, who have become too old to attend the primary school, and yet have not acquired the rudiments of learning, to enable them to enter the ordinary schools. Similar laws have been enacted by congress under its general power of

legislation over the District of Columbia (sections 281-283, 310, 319, Rev. St. D. C.), as well as by the legislatures of many of the states, and have been generally, if not uniformly, sustained by the courts. State v. McCann, 21 Ohio St. 210; Lehew v. Brummell (Mo. Sup.) 15 S. W. 765; Ward v. Flood, 48 Cal. 36; Bertonneau v. Directors of City Schools, 3 Woods, 177, Fed. Cas. No. 1,361; People v. Gallagher, 93 N. Y. 438; Cory v. Carter, 48 Ind. 337; Dawson v. Lee, 83 Ky. 49.

Laws forbidding the intermarriage of the two races may be said in a technical sense to interfere with the freedom of contract, and yet have been universally recognized as within the police power of the state. State v. Gibson, 36 Ind. 389.

The distinction between laws interfering with the political equality of the negro and those requiring the separation of the two races in schools, theaters, and railway carriages has been frequently drawn by this court. Thus, in Strauder v. West Virginia, 100 U. S. 303, it was held that a law of West Virginia limiting to white male persons 21 years of age, and citizens of the state, the right to sit upon juries, was a discrimination which implied a legal inferiority in civil society, which lessened the security of the right of the colored race, and was a step towards reducing them to a condition of servility. Indeed, the right of a colored man that, in the selection of jurors to pass upon his life, liberty, and property, there shall be no exclusion of his race, and no discrimination against them because of color, has been asserted in a number of cases. Virginia v. Rivers, 100 U. S. 313; Neal v. Delaware, 103 U. S. 370; Bush v. Com., 107 U. S. 110, 1 Sup. Ct. 625; Gibson v. Mississippi, 162 U. S. 565, 16 Sup. Ct. 904. So, where the laws of a particular locality or the charter of a particular railway corporation has provided that no person shall be excluded from the cars on account of ***546** color, we have held that this meant that persons of color should travel in the same car as white ones, and that the enactment was not satisfied by the company providing cars assigned exclusively to people of color, though they were as good as those which they assigned exclusively to white persons. Railroad Co. v. Brown, 17 Wall. 445.

Upon the other hand, where a statute of Louisiana required those engaged in the transportation of passengers among the states to give to all persons traveling within that state, upon vessels employed in that business, equal rights and privileges in all parts of the vessel, without distinction on account of race or color, and subjected to an action for damages the owner of such a vessel who excluded colored passengers on account of their color from the cabin set aside by him for the use of whites, it was held to be, so far as it applied to interstate commerce, unconstitutional and void. Hall v. De Cuir, 95 U. S. 485. The court in this case, however, expressly disclaimed that it had anything whatever to do with the statute as a regulation of internal commerce, or affecting anything else than commerce among the states.

In the Civil Rights Cases, 109 U. S. 3, 3 Sup. Ct. 18, it was held that an act of congress entitling all persons within the jurisdiction of the United States to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances, on land or water, theaters, and other places of public amusement, and made applicable to citizens of every race and color, regardless of any previous condition of servitude, was unconstitutional and void, upon the ground that the fourteenth amendment was prohibitory upon the states only, and the legislation authorized to be adopted by congress for enforcing it was not direct legislation on matters respecting which the states were prohibited from making or enforcing certain laws, or doing certain acts, but was corrective legislation, such as might be necessary or proper for counter-acting and redressing the effect of such laws or acts. In delivering the opinion of the court, Mr. Justice Bradley observed that the fourteenth amendment 'does not invest congress with power to legislate upon subjects that are within the ***547** domain of state legislation, but to provide modes of relief against ****1142** state legislation or state action of the kind referred to. It does not authorize congress to create a code of municipal law for the regulation of private rights, but to provide modes of redress against the operation of state laws, and the action of state officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the fourteenth amendment; but they are secured by way of prohibition against state laws and state proceedings affecting those rights and privileges, and by power given to congress to legislate for the purpose of carrying such prohibition into effect; and such legislation must

necessarily be predicated upon such supposed state laws or state proceedings, and be directed to the correction of their operation and effect.'

Much nearer, and, indeed, almost directly in point, is the case of the Louisville, N. O. & T. Ry. Co. v. State, 133 U. S. 587, 10 Sup. Ct. 348, wherein the railway company was indicted for a violation of a statute of Mississippi, enacting that all railroads carrying passengers should provide equal, but separate, accommodations for the white and colored races, by providing two or more passenger cars for each passenger train, or by dividing the passenger cars by a partition, so as to secure separate accommodations. The case was presented in a different aspect from the one under consideration, inasmuch as it was an indictment against the railway company for failing to provide the separate accommodations, but the question considered was the constitutionality of the law. In that case, the supreme court of Mississippi (66 Miss. 662, 6 South. 203) had held that the statute applied solely to commerce within the state, and, that being the construction of the state statute by its highest court, was accepted as conclusive. 'If it be a matter,' said the court (page 591, 133 U. S., and page 348, 10 Sup. Ct.), 'respecting commerce wholly within a state, and not interfering with commerce between the states, then, obviously, there is no violation of the commerce clause of the federal constitution. * * * No question arises under this section as to the power of the state to separate in different compartments interstate passengers,*548 or affect, in any manner, the privileges and rights of such passengers. All that we can consider is whether the state has the power to require that railroad trains within her limits shall have separate accommodations for the two races. That affecting only commerce within the state is no invasion of the power given to congress by the commerce clause.'

A like course of reasoning applies to the case under consideration, since the supreme court of Louisiana, in the case of State v. Judge, 44 La. Ann. 770, 11 South. 74, held that the statute in question did not apply to interstate passengers, but was confined in its application to passengers traveling exclusively within the borders of the state. The case was decided largely upon the authority of Louisville, N. O. & T. Ry. Co. v. State, 66 Miss. 662, 6 South, 203, and affirmed by this court in 133 U. S. 587, 10 Sup. Ct. 348. In the present case no question of interference with interstate commerce can possibly arise, since the East Louisiana Railway appears to have been purely a local line, with both its termini within the state of Louisiana. Similar statutes for the separation of the two races upon public conveyances were held to be constitutional in Railroad v. Miles, 55 Pa. St. 209; Day v. Owen 5 Mich. 520; Railway Co. v. Williams, 55 Ill. 185; Railroad Co. v. Wells, 85 Tenn. 613; 4 S. W. 5; Railroad Co. v. Benson, 85 Tenn. 627, 4 S. W. 5; The Sue, 22 Fed. 843; Logwood v. Railroad Co., 23 Fed. 318; McGuinn v. Forbes, 37 Fed. 639; People v. King (N. Y. App.) 18 N. E. 245; Houck v. Railway Co., 38 Fed. 226; Heard v. Railroad Co., 3 Inter St. Commerce Com. R. 111, 1 Inter St. Commerce Com. R. 428.

While we think the enforced separation of the races, as applied to the internal commerce of the state, neither abridges the privileges or immunities of the colored man, deprives him of his property without due process of law, nor denies him the equal protection of the laws, within the meaning of the fourteenth amendment, we are not prepared to say that the conductor, in assigning passengers to the coaches according to their race, does not act at his peril, or that the provision of the second section of the act that denies to the passenger compensation *549 in damages for a refusal to receive him into the coach in which he properly belongs is a valid exercise of the legislative power. Indeed, we understand it to be conceded by the state's attorney that such part of the act as exempts from liability the railway company and its officers is unconstitutional. The power to assign to a particular coach obviously implies the power to determine to which race the passenger belongs, as well as the power to determine who, under the laws of the particular state, is to be deemed a white, and who a colored, person. This question, though indicated in the brief of the plaintiff in error, does not properly arise upon the record in this case, since the only issue made is as to the unconstitutionality of the act, so far as it requires the railway to provide separate accommodations, and the conductor to assign passengers according to their race.

It is claimed by the plaintiff in error that, in any mixed community, the reputation of belonging to the dominant race, in this instance the white race, is 'property,' in the same sense that a right of action or of inheritance is property. Conceding this to be so,

for the purposes of this case, we are unable to see how this statute deprives him of, or in any way affects his right to, such property. If he be a white man, and assigned to a colored coach, he may have his **1143 action for damages against the company for being deprived of his so-called 'property.' Upon the other hand, if he be a colored man, and be so assigned, he has been deprived of no property, since he is not lawfully entitled to the reputation of being a white man.

In this connection, it is also suggested by the learned counsel for the plaintiff in error that the same argument that will justify the state legislature in requiring railways to provide separate accommodations for the two races will also authorize them to require separate cars to be provided for people whose hair is of a certain color, or who are aliens, or who belong to certain nationalities, or to enact laws requiring colored people to walk upon one side of the street, and white people upon the other, or requiring white men's houses to be painted white, and colored men's black, or their vehicles or business signs to be of different colors, upon the theory that one side *550 of the street is as good as the other, or that a house or vehicle of one color is as good as one of another color. The reply to all this is that every exercise of the police power must be reasonable, and extend only to such laws as are enacted in good faith for the promotion of the public good, and not for the annoyance or oppression of a particular class. Thus, in Yick Wo v. Hopkins, 118 U. S. 356, 6 Sup. Ct. 1064, it was held by this court that a municipal ordinance of the city of San Francisco, to regulate the carrying on of public laundries within the limits of the municipality, violated the provisions of the constitution of the United States, if it conferred upon the municipal authorities arbitrary power, at their own will, and without regard to discretion, in the legal sense of the term, to give or withhold consent as to persons or places, without regard to the competency of the persons applying or the propriety of the places selected for the carrying on of the business. It was held to be a covert attempt on the part of the municipality to make an arbitrary and unjust discrimination against the Chinese race. While this was the case of a municipal ordinance, a like principle has been held to apply to acts of a state legislature passed in the exercise of the police power. Railroad Co. v. Husen, 95 U. S. 465; Louisville & N. R. Co. v. Kentucky, 161 U. S. 677, 16 Sup. Ct. 714, and cases cited on page 700, 161 U. S., and page 714, 16 Sup. Ct.; Daggett v. Hudson, 43 Ohio St. 548, 3 N. E. 538; Capen v. Foster, 12 Pick. 485; State v. Baker, 38 Wis. 71; Monroe v. Collins, 17 Ohio St. 665; Hulseman v. Rems, 41 Pa. St. 396; Osman v. Riley, 15 Cal. 48.

So far, then, as a conflict with the fourteenth amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and with respect to this there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness, it is at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances *551 is unreasonable, or more obnoxious to the fourteenth amendment than the acts of congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case, and is not unlikely to be so again, the colored race should become the dominant power in the state legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race, at least, would not acquiesce in this assumption. The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals. As was said by the court of appeals of New York in People v. Gallagher, 93 N. Y. 438,

448: 'This end can neither be accomplished nor promoted by laws which conflict with the general sentiment of the community upon whom they are designed to operate. When the government, therefore, has secured to each of its citizens equal rights before the law, and equal opportunities for improvement and progress, it has accomplished the end for which it was organized, and performed all of the functions respecting social advantages with which it is endowed.' Legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly ***552** or politically. If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane.

It is true that the question of the proportion of colored blood necessary to constitute a colored person, as distinguished from a white person, is one upon which there is a difference of opinion in the different states; some holding that any visible admixture of black ****1144** blood stamps the person as belonging to the colored race (State v. Chavers, 5 Jones [N. C.] 1); others, that it depends upon the preponderance of blood (Gray v. State, 4 Ohio, 354; Monroe v. Collins, 17 Ohio St. 665); and still others, that the predominance of white blood must only be in the proportion of three-fourths (People v. Dean, 14 Mich. 406; Jones v. Com., 80 Va. 544). But these are questions to be determined under the laws of each state, and are not properly put in issue in this case. Under the allegations of his petition, it may undoubtedly become a question of importance whether, under the laws of Louisiana, the petitioner belongs to the white or colored race.

The judgment of the court below is therefore affirmed.

Mr. Justice BREWER did not hear the argument or participate in the decision of this case.

Mr. Justice HARLAN dissenting.

By the Louisiana statute the validity of which is here involved, all railway companies (other than street-railroad companies) carry passengers in that state are required to have separate but equal accommodations for white and colored persons, 'by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations.' Under this statute, no colored person is permitted to occupy a seat in a coach assigned to white persons; nor any white person to occupy a seat in a coach assigned to colored persons. The managers of the railroad are not allowed to exercise any discretion in the premises, but are required to assign each passenger to some coach or compartment set apart for the exclusive use of his race. If a passenger insists upon going into a coach or compartment not set apart for persons of his race, ***553** he is subject to be fined, or to be imprisoned in the parish jail. Penalties are prescribed for the refusal or neglect of the officers, directors, conductors, and employes of railroad companies to comply with the provisions of the act.

Only 'nurses attending children of the other race' are excepted from the operation of the statute. No exception is made of colored attendants traveling with adults. A white man is not permitted to have his colored servant with him in the same coach, even if his condition of health requires the constant personal assistance of such servant. If a colored maid insists upon riding in the same coach with a white woman whom she has been employed to serve, and who may need her personal attention while traveling, she is subject to be fined or imprisoned for such an exhibition of zeal in the discharge of duty.

While there may be in Louisiana persons of different races who are not citizens of the United States, the words in the act 'white and colored races' necessarily include all citizens of the United States of both races residing in that state. So that we have before us a state enactment that compels, under penalties, the separation of the two races in railroad passenger coaches, and makes it a crime for a citizen of either race to enter a coach that has been assigned to citizens of the other race.

Thus, the state regulates the use of a public highway by citizens of the United States solely upon the basis of race.

However apparent the injustice of such legislation may be, we have only to consider whether it is consistent with the constitution of the United States.

That a railroad is a public highway, and that the corporation which owns or operates it is in the

exercise of public functions, is not, at this day, to be disputed. Mr. Justice Nelson, speaking for this court in New Jersey Steam Nav. Co. v. Merchants' Bank, 6 How. 344, 382, said that a common carrier was in the exercise 'of a sort of public office, and has public duties to perform, from which he should not be permitted to exonerate himself without the assent of the parties concerned.' Mr. Justice Strong, delivering the judgment of *554 this court in Olcott v. Supervisors, 16 Wall. 678, 694, said: 'That railroads, though constructed by private corporations, and owned by them, are public highways, has been the doctrine of nearly all the courts ever since such conveniences for passage and transportation have had any existence. Very early the question arose whether a state's right of eminent domain could be exercised by a private corporation created for the purpose of constructing a railroad. Clearly, it could not, unless taking land for such a purpose by such an agency is taking land for public use. The right of eminent domain nowhere justifies taking property for a private use. Yet it is a doctrine universally accepted that a state legislature may authorize a private corporation to take land for the construction of such a road, making compensation to the owner. What else does this doctrine mean if not that building a railroad, though it be built by a private corporation, is an act done for a public use?' So, in Township of Pine Grove v. Talcott, 19 Wall. 666, 676: 'Though the corporation [a railroad company] was private, its work was public, as much so as if it were to be constructed by the state.' So, in Inhabitants of Worcester v. Western R. Corp., 4 Metc. (Mass.) 564: 'The establishment of that great thoroughfare is regarded as a public work, established by public authority, intended for the public use and benefit, the use of which is secured to the whole community, and constitutes, therefore, like a canal, turnpike, or highway, a public easement.' 'It is true that the real and personal property, necessary to the establishment and management of the railroad, is vested **1145 in the corporation; but it is in trust for the public.'

In respect of civil rights, common to all citizens, the constitution of the United States does not, I think, permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights. Every true man has pride of race, and under appropriate circumstances, when the rights of others, his equals before the law, are not to be affected, it is his privilege to express such pride and to take such action based upon it as to him seems proper. But I deny that any legislative body or judicial tribunal may have regard to the *555 race of citizens when the civil rights of those citizens are involved. Indeed, such legislation as that here in question is inconsistent not only with that equality of rights which pertains to citizenship, national and state, but with the personal liberty enjoyed by every one within the United States.

The thirteenth amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. It decreed universal civil freedom in this country. This court has so adjudged. But, that amendment having been found inadequate to the protection of the rights of those who had been in slavery, it was followed by the fourteenth amendment, which added greatly to the dignity and glory of American citizenship, and to the security of personal liberty, by declaring that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside,' and that 'no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' These two amendments, if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship. Finally, and to the end that no citizen should be denied, on account of his race, the privilege of participating in the political control of his country, it was declared by the fifteenth amendment that 'the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude.'

These notable additions to the fundamental law were welcomed by the friends of liberty throughout the world. They removed the race line from our governmental systems. They had, as this court has said, a common purpose, namely, to secure 'to a race recently emancipated, a race that through *556

many generations have been held in slavery, all the civil rights that the superior race enjoy.' They declared, in legal effect, this court has further said, 'that the law in the states shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the states; and in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color.' We also said: 'The words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity or right, most valuable to the colored race,-the right to exemption from unfriendly legislation against them distinctively as colored; exemption from legal discriminations, implying inferiority in civil society, lessening the security of their enjoyment of the rights which others enjoy; and discriminations which are steps towards reducing them to the condition of a subject race.' It was, consequently, adjudged that a state law that excluded citizens of the colored race from juries, because of their race, however well qualified in other respects to discharge the duties of jurymen, was repugnant to the fourteenth amendment. Strauder v. West Virginia, 100 U. S. 303, 306, 307; Virginia v. Rives, Id. 313; Ex parte Virginia, Id. 339; Neal v. Delaware, 103 U. S. 370, 386; Bush v. Com., 107 U. S. 110, 116, 1 Sup. Ct. 625. At the present term, referring to the previous adjudications, this court declared that 'underlying all of those decisions is the principle that the constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the general government or the states against any citizen because of his race. All citizens are equal before the law.' Gibson v. State, 162 U. S. 565, 16 Sup. Ct. 904.

The decisions referred to show the scope of the recent amendments of the constitution. They also show that it is not within the power of a state to prohibit colored citizens, because of their race, from participating as jurors in the administration of justice.

It was said in argument that the statute of Louisiana does *557 not discriminate against either race, but prescribes a rule applicable alike to white and colored citizens. But this argument does not meet the difficulty. Every one knows that the statute in question had its origin in the purpose, not so much to exclude white persons from railroad cars occupied by blacks, as to exclude colored people from coaches occupied by or assigned to white persons. Railroad corporations of Louisiana did not make discrimination among whites in the matter of commodation for travelers. The thing to accomplish was, under the guise of giving equal accommodation for whites and blacks, to compel the latter to keep to themselves while traveling in railroad passenger coaches. No one would be so wanting in candor as to assert the contrary. The fundamental **1146 objection, therefore, to the statute, is that it interferes with the personal freedom of citizens. 'Personal liberty,' it has been well said, 'consists in the power of locomotion, of changing situation, or removing one's person to whatsoever places one's own inclination may direct, without imprisonment or restraint, unless by due course of law.' 1 Bl. Comm. *134. If a white man and a black man choose to occupy the same public conveyance on a public highway, it is their right to do so; and no government, proceeding alone on grounds of race, can prevent it without infringing the personal liberty of each.

It is one thing for railroad carriers to furnish, or to be required by law to furnish, equal accommodations for all whom they are under a legal duty to carry. It is quite another thing for government to forbid citizens of the white and black races from traveling in the same public conveyance, and to punish officers of railroad companies for permitting persons of the two races to occupy the same passenger coach. If a state can prescribe, as a rule of civil conduct, that whites and blacks shall not travel as passengers in the same railroad coach, why may it not so regulate the use of the streets of its cities and towns as to compel white citizens to keep on one side of a street, and black citizens to keep on the other? Why may it not, upon like grounds, punish whites and blacks who ride together in street cars or in open vehicles on a public road *558 or street? Why may it not require sheriffs to assign whites to one side of a court room, and blacks to the other? And why may it not also prohibit the commingling of the two races in the galleries of legislative halls or in public assemblages convened for the consideration of the political questions of the day? Further, if this statute of Louisiana is consistent with the personal liberty of citizens, why may not the state require the

separation in railroad coaches of native and naturalized citizens of the United States, or of Protestants and Roman Catholics?

The answer given at the argument to these questions was that regulations of the kind they suggest would be unreasonable, and could not, therefore, stand before the law. Is it meant that the determination of questions of legislative power depends upon the inquiry whether the statute whose validity is questioned is, in the judgment of the courts, a reasonable one, taking all the circumstances into consideration? A statute may be unreasonable merely because a sound public policy forbade its enactment. But I do not understand that the courts have anything to do with the policy or expediency of legislation. A statute may be valid, and yet, upon grounds of public policy, may well be characterized as unreasonable. Mr. Sedgwick correctly states the rule when he says that, the legislative intention being clearly ascertained, 'the courts have no other duty to perform than to execute the legislative will, without any regard to their views as to the wisdom or justice of the particular enactment.' Sedg. St. & Const. Law, 324. There is a dangerous tendency in these latter days to enlarge the functions of the courts, by means of judicial interference with the will of the people as expressed by the legislature. Our institutions have the distinguishing characteristic that the three departments of government are co-ordinate and separate. Each much keep within the limits defined by the constitution. And the courts best discharge their duty by executing the will of the law-making power, constitutionally expressed, leaving the results of legislation to be dealt with by the people through their representatives. Statutes must always have a reasonable construction. Sometimes they are to be construed strictly, sometimes literally, in order to carry out the legislative*559 will. But, however construed, the intent of the legislature is to be respected if the particular statute in question is valid, although the courts, looking at the public interests, may conceive the statute to be both unreasonable and impolitic. If the power exists to enact a statute, that ends the matter so far as the courts are concerned. The adjudged cases in which statutes have been held to be void, because unreasonable, are those in which the means employed by the legislature were not at all germane to the end to which the legislature was competent.

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a state to regulate the enjoyment by citizens of their civil rights solely upon the basis of race.

In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the *Dred Scott* Case.

It was adjudged in that case that the descendants of Africans who were imported into this country, and sold as slaves, were not included nor intended to be included under the word 'citizens' in the constitution, and could not claim any of the rights and privileges **1147 which that instrument provided for and secured to citizens of the United States; that, at time of the adoption of the constitution, they were 'considered as a subordinate and inferior class of beings, who had been subjugated by the dominant *560 race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them.' 19 How. 393, 404. The recent amendments of the constitution, it was supposed, had eradicated these principles from our institutions. But it seems that we have yet, in some of the states, a dominant race,-a superior class of citizens,-which assumes to regulate the enjoyment of civil rights, common to all citizens, upon the basis of race. The present decision, it may well be apprehended, will not only stimulate aggressions, more or less brutal and irritating, upon the admitted

rights of colored citizens, but will encourage the belief that it is possible, by means of state enactments, to defeat the beneficent purposes which the people of the United States had in view when they adopted the recent amendments of the constitution, by one of which the blacks of this country were made citizens of the United States and of the states in which they respectively reside, and whose privileges and immunities, as citizens, the states are forbidden to abridge. Sixty millions of whites are in no danger from the presence here of eight millions of blacks. The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.

The sure guaranty of the peace and security of each race is the clear, distinct, unconditional recognition by our governments, national and state, of every right that inheres in civil freedom, and of the equality before the law of all citizens of the United States, without regard to race. State enactments regulating the enjoyment of civil rights upon the basis of race, and cunningly devised to defeat legitimate results of the ***561** war, under the pretense of recognizing equality of rights, can have no other result than to render permanent peace impossible, and to keep alive a conflict of races, the continuance of which must do harm to all concerned. This question is not met by the suggestion that social equality cannot exist between the white and black races in this country. That argument, if it can be properly regarded as one, is scarcely worthy of consideration; for social equality no more exists between two races when traveling in a passenger coach or a public highway than when members of the same races sit by each other in a street car or in the jury box, or stand or sit with each other in a political assembly, or when they use in common the streets of a city or town, or when they are in the same room for the purpose of having their names placed on the registry of voters, or when they approach the ballot box in order to exercise the high privilege of voting.

There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race. But, by the statute in question, a Chinaman can ride in the same passenger coach with white citizens of the United States, while citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union, who are entitled, by law, to participate in the political control of the state and nation, who are not excluded, by law or by reason of their race, from public stations of any kind, and who have all the legal rights that belong to white citizens, are yet declared to be criminals, liable to imprisonment, if they ride in a public coach occupied by citizens of the white race. It is scarcely just to say that a colored citizen should not object to occupying a public coach assigned to his own race. He does not object, nor, perhaps, would he object to separate coaches for his race if his rights under the law were recognized. But he does object, and he ought never to cease objecting, that citizens of the white and black races can be adjudged criminals because they sit, or claim the right to sit, in the same public coach on a public highway.

***562** The arbitrary separation of citizens, on the basis of race, while they are on a public highway, is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the constitution. It cannot be justified upon any legal grounds.

If evils will result from the commingling of the two races upon public highways established for the benefit of all, they will be infinitely less than those that will surely come from state legislation regulating the enjoyment of civil rights upon the basis of race. We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens,-our equals before the law. The thin disguise of 'equal' accommodations for passengers in railroad coaches will not mislead any one, nor atone for the wrong this day done.

The result of the whole matter is that while this court has frequently adjudged, and at the present term has recognized the doctrine, that **1148 a state cannot, consistently with the constitution of the United States, prevent white and black citizens, having the required qualifications for jury service, from sitting in the same jury box, it is now solemnly held that a state may prohibit white and black citizens from sitting in the same passenger coach on a public highway, or may require that they be separated by a 'partition' when in the same passenger coach. May it not now be reasonably expected that astute men of the dominant race, who affect to be disturbed at the possibility that the integrity of the white race may be corrupted, or that its supremacy will be imperiled, by contact on public highways with black people, will endeavor to procure statutes requiring white and black jurors to be separated in the jury box by a 'partition,' and that, upon retiring from the court room to consult as to their verdict, such partition, if it be a movable one, shall be taken to their consultation room, and set up in such way as to prevent black jurors from coming too close to their brother jurors of the white race. If the 'partition' used in the court room happens to be stationary, provision could be made for screens with openings through *563 which jurors of the two races could confer as to their verdict without coming into personal contact with each other. I cannot see but that, according to the principles this day announced, such state legislation, although conceived in hostility to, and enacted for the purpose of humiliating, citizens of the United States of a particular race, would be held to be consistent with the constitution.

I do not deem it necessary to review the decisions of state courts to which reference was made in argument. Some, and the most important, of them, are wholly inapplicable, because rendered prior to the adoption of the last amendments of the constitution, when colored people had very few rights which the dominant race felt obliged to respect. Others were made at a time when public opinion, in many localities, was dominated by the institution of slavery; when it would not have been safe to do justice to the black man; and when, so far as the rights of blacks were concerned, race prejudice was, practically, the supreme law of the land. Those decisions cannot be guides in the era introduced by the recent amendments of the supreme law, which established universal civil freedom, gave citizenship to all born or naturalized in the United States, and residing here, obliterated the race line from our systems of governments, national and state, and placed our free institutions upon the broad and sure foundation of the equality of all men before the law.

I am of opinion that the state of Louisiana is inconsistent with the personal liberty of citizens, white and black, in that state, and hostile to both the spirit and letter of the constitution of the United States. If laws of like character should be enacted in the several states of the Union, the effect would be in the highest degree mischievous. Slavery, as an institution tolerated by law, would, it is true, have disappeared from our country; but there would remain a power in the states, by sinister legislation, to interfere with the full enjoyment of the blessings of freedom, to regulate civil rights, common to all citizens, upon the basis of race, and to place in a condition of legal inferiority a large body of American citizens, now constituting a part of the political community, called the *564 'People of the United States,' for whom, and by whom through representatives, our government is administered. Such a system is inconsistent with the guaranty given by the constitution to each state of a republican form of government, and may be stricken down by congressional action, or by the courts in the discharge of their solemn duty to maintain the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding.

For the reason stated, I am constrained to withhold my assent from the opinion and judgment of the majority.

U.S. 1896
Plessy v. Ferguson
163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256

END OF DOCUMENT

Exhibit 9

Bell v. State of Md.,
U.S.Md. 1964.

Supreme Court of the United States
Robert Mack BELL et al., Petitioners,
v.
STATE OF MARYLAND.
No. 12.

Argued Oct. 14 and 15, 1963.
Decided June 22, 1964.

Negro students who participated in a 'sit-in' protest demonstration at a Baltimore restaurant which refused to serve colored people were convicted for violating the Maryland criminal trespass law. The Criminal Court of Baltimore rendered judgment, and the defendants appealed. The Court of Appeals of Maryland, 227 Md. 302, 176 A.2d 771, affirmed, and certiorari was granted. The Supreme Court, Mr. Justice Brennan, held that whether Maryland general saving clause statute would save the Maryland convictions after enactment of the Baltimore and Maryland public accommodations laws was question of Maryland law, which should be determined initially by Maryland Court of Appeals.

Reversed and remanded.

Mr. Justice Black, Mr. Justice Harlan and Mr. Justice White dissented.

West Headnotes

[1] Criminal Law 110 ⇦ 1189

110 Criminal Law
110XXIV Review
110XXIV(U) Determination and Disposition of Cause
110k1185 Reversal
110k1189 k. Ordering New Trial. Most Cited Cases

Where a significant change had taken place in applicable law of Maryland since Maryland state court convictions were affirmed by Maryland Court of Appeals, the judgments must be vacated and reversed and the case remanded so that the state court may consider the effect of the supervening change in state law.

[2] Criminal Law 110 ⇦ 1181(2)

110 Criminal Law
110XXIV Review
110XXIV(U) Determination and Disposition of Cause
110k1181 Decision in General
110k1181(2) k. Effect of Change in Law or Facts. Most Cited Cases
(Formerly 110k1181)

Under common law of Maryland, supervening enactment of statutes abolishing crime for which accuseds have been convicted causes Maryland Court of Appeals to reverse the convictions and order the indictments dismissed.

[3] Criminal Law 110 ⇦ 15

110 Criminal Law
110I Nature and Elements of Crime

110k12 Statutory Provisions
110k15 k. Repeal. Most Cited Cases
The common-law rule is that when the legislature repeals a criminal statute or otherwise removes the state's condemnation from conduct that was formerly deemed criminal, this action requires dismissal of pending criminal proceeding charging such conduct; the rule applies to any such proceeding which, at time of supervening legislation, has not yet reached final disposition in highest court authorized to review it.

[4] Criminal Law 110 ⇐ 15

110 Criminal Law
110I Nature and Elements of Crime
110k12 Statutory Provisions
110k15 k. Repeal. Most Cited Cases
For purposes of Maryland common-law rule that legislative abolition of crime requires dismissal of pending criminal proceeding, the only question is whether legislature acts before affirmance of conviction becomes final, and judgment which is on direct review in United States Supreme Court is not yet final.

[5] Criminal Law 110 ⇐ 1181(2)

110 Criminal Law
110XXIV Review
110XXIV(U) Determination and Disposition of Cause
110k1181 Decision in General
110k1181(2) k. Effect of Change in Law or Facts. Most Cited Cases
(Formerly 110k1181)
It is the general rule that the province of an appellate court is only to inquire whether a judgment of conviction when rendered was erroneous or not; but if subsequent to the judgment and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed.

[6] Criminal Law 110 ⇐ 1189

110 Criminal Law
110XXIV Review
110XXIV(U) Determination and Disposition of Cause
110k1185 Reversal
110k1189 k. Ordering New Trial. Most Cited Cases
Whether Maryland general saving clause statute would save Maryland state convictions for violations of Maryland criminal trespass law after enactment of Baltimore and Maryland public accommodations laws was question of Maryland law, and Supreme Court would vacate and reverse Maryland state court judgments convicting Negroes for criminal trespass arising out of their participation in a "sit-in" protest demonstration at a Baltimore restaurant which refused to serve colored people and would remand case to Maryland Court of Appeals for determination of this question. Code Md.1957, art. 1, § 3; art. 27, § 577; Code Md.Supp. art. 49B, § 11; Acts Md.1963, c. 227, § 4.

[7] Federal Courts 170B ⇐ 381

170B Federal Courts
170BVI State Laws as Rules of Decision
170BVI(B) Decisions of State Courts as Authority
170Bk381 k. State Court Decisions in General. Most Cited Cases
(Formerly 106k365(1))
The Supreme Court has a tradition of deference to state courts on questions of state law.

[8] Constitutional Law 92 ⇐ 69

92 Constitutional Law
92III Distribution of Governmental Powers and Functions
92III(B) Judicial Powers and Functions
92k69 k. Advisory Opinions. Most Cited Cases
The Supreme Court has constitutional inability to render advisory opinions.

[9] Federal Courts 170B ⇐ 502

170B Federal Courts
170BVII Supreme Court
170BVII(E) Review of Decisions of State Courts
170Bk502 k. Federal Question as Essential to Decisions. Most Cited Cases
(Formerly 106k399(1))
The Supreme Court has a policy of refusing to decide a federal question in a case that might be controlled by a state ground of decision.

[10] Federal Courts 170B ⇐ 513

170B Federal Courts
170BVII Supreme Court
170BVII(E) Review of Decisions of State Courts
170Bk513 k. Determination and Disposition of Cause. Most Cited Cases
(Formerly 106k400)
Where a supervening event raises a question of state law pertaining to a case pending on review in the Supreme Court, the practice is to vacate and reverse the judgment and remand the case to the state court, so that it may consider it in the light of the supervening change in state law.

[11] Federal Courts 170B ⇐ 511.1

170B Federal Courts
170BVII Supreme Court
170BVII(E) Review of Decisions of State Courts
170Bk511 Scope and Extent of Review
170Bk511.1 k. In General. Most Cited Cases
(Formerly 170Bk511, 106k399(1))
Ordinarily the Supreme Court on writ of error to state court considers only federal questions and does not review questions of state law; but where questions of state law arising from the decision below are presented in the Supreme Court, the court's appellate powers are not thus restricted; either because new facts have supervened since the judgment below, or because of a change in the law, the Supreme Court, in the exercise of its appellate jurisdiction, may consider the state questions thus arising and either decide them or remand the cause for appropriate action by the state courts.

[12] Federal Courts 170B ⇐ 513

170B Federal Courts
170BVII Supreme Court
170BVII(E) Review of Decisions of State Courts
170Bk513 k. Determination and Disposition of Cause. Most Cited Cases
(Formerly 106k400)
Supreme Court exercising appellate jurisdiction may not only correct error in judgment but may make such disposition of case as justice requires, and hence must consider any change in fact or law supervening since entry of judgment, and may recognize such change, which may affect result, by setting aside judgment and remanding case so that state court may be free to act.

***227** Jack Greenberg, New York City, for petitioners.
Loring E. Hawes and Russell R. Reno, Jr., Baltimore, Md., for respondent.
Ralph S. Spritzer, Washington, D.c., for United States, as amicus curiae, by special leave of Court.
Mr. Justice BRENNAN delivered the opinion of the Court.
Petitioners, 12 Negro students, were convicted in a Maryland state court as a result of their participation in a 'sit-in' demonstration at Hooper's restaurant in ****1816** the City of Baltimore in 1960. The convictions were based on a record showing in summary that a group of 15 to 20 Negro students, including petitioners, went to Hooper's restaurant to engage in what their counsel describes as a 'sit-in protest' because the restaurant would not serve Negroes. The 'hostess,' on orders of Mr. Hooper, the president of the corporation owning the restaurant, told them, 'solely on the basis of their color,' that they would ***228** not be served. Petitioners did not leave when requested to by the hostess and the manager; instead they went to tables, took seats, and refused to leave, insisting that they be served. On orders of Mr. Hooper the police were called, but they advised that a warrant would be necessary before they could arrest petitioners. Mr. Hooper then went to the police station and swore out warrants, and petitioners were accordingly arrested.

The statute under which the convictions were obtained was the Maryland criminal trespass law, s 577 of Art. 27 of the Maryland Code, 1957 edition, under which it is 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.' The convictions were affirmed by the Maryland Court of Appeals, 227 Md. 302, 176 A.2d 771 (1962), and we granted certiorari. 374 U.S. 805, 83 S.Ct.1691, 10 L.Ed.2d 1030.

[1] We do not reach the questions that have been argued under the Equal Protection and Due Process Clauses of the Fourteenth Amendment. It appears that a significant change has taken place in the

applicable law of Maryland since these convictions were affirmed by the Court of Appeals. Under this Court's settled practice in such circumstances, the judgments must consequently be vacated and reversed and the case remanded so that the state court may consider the effect of the supervening change in state law.

Petitioners' convictions were affirmed by the Maryland Court of Appeals on January 9, 1962. Since that date, Maryland has enacted laws that abolish the crime of which petitioners were convicted. These laws accord petitioners a right to be served in Hooper's restaurant, and make unlawful conduct like that of Hooper's president and hostess in refusing them service because of their race. On June 8, 1962, the City of Baltimore enacted its Ordinance No. 1249, adding s 10A to Art. 14A of the ***229** Baltimore City Code (1950 ed.). The ordinance, which by its terms took effect from the date of its enactment, prohibits owners and operators of Baltimore places of public accommodation, including restaurants, from denying their services or facilities to any person because of his race. A similar 'public accommodations law,' applicable to Baltimore City and Baltimore County though not to some of the State's other counties, was adopted by the State Legislature on March 29, 1963. Art. 49B Md. Code s 11 (1963 Supp.). This statute went into effect on June 1, 1963, as provided by s 4 of the Act, Acts 1963, c. 227. The statute provides that:

'It is unlawful for an owner or operator of a place of public accommodation or an agent or employee of said owner or operator, because of the race, creed, color, or national origin of any person, to refuse, with-hold from, or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation. For the purpose of this subtitle, a place of public accommodation means any hotel, restaurant, inn, motel or an establishment commonly known or recognized as regularly engaged in the business of providing sleeping accommodations, or serving food, or ****1817** both, for a consideration, and which is open to the general public * *.'FN1

FN1. Another public accommodations law was enacted by the Maryland Legislature on March 14, 1964, and signed by the Governor on April 7, 1964. This statute reenacts the quoted provision from the 1963 enactment and gives it statewide application, eliminating the county exclusions. The new statute was scheduled to go into effect on June 1, 1964, but its operation has apparently been suspended by the filing of petitions seeking a referendum. See Md.Const., Art. XIV; Baltimore Sun, May 31, 1964, p. 22, col. 1. Meanwhile, the Baltimore City ordinance and the 1963 state law, both of which are applicable to Baltimore City, where Hooper's restaurant is located, remain in effect.

***230** It is clear from these enactments that petitioners' conduct in entering or crossing over the premises of Hooper's restaurant after being notified not to do so because of their race would not be a crime today; on the contrary, the law of Baltimore and of Maryland now vindicates their conduct and recognizes it as the exercise of a right, directing the law's prohibition not at them but at the restaurant owner or manager who seeks to deny them service because of their race.

[2][3] An examination of Maryland decisions indicates that under the common law of Maryland, the supervening enactment of these statutes abolishing the crime for which petitioners were convicted would cause the Maryland Court of Appeals at this time to reverse the convictions and order the indictments dismissed. For Maryland follows the universal common-law rule that when the legislature repeals a criminal statute or otherwise removes the State's condemnation from conduct that was formerly deemed criminal, this action requires the dismissal of a pending criminal proceeding charging such conduct. The rule applies to any such proceeding which, at the time of the supervening legislation, has not yet reached final disposition in the highest court authorized to review it. Thus, in Keller v. State, 12 Md. 322 (1858), the statute under which the appellant had been indicted and convicted was repealed by the legislature after the case had been argued on appeal in the Court of Appeals but before that court's decision, although the repeal was not brought to the notice of the court until after the judgment of affirmance had been announced. The appellant's subsequent motion to correct the judgment was granted, and the judgment was reversed. The court explained, id., at 325-327:

'It is well settled, that a party cannot be convicted, after the law under which he may be prosecuted has been repealed, although the offence may have been ***231** committed before the repeal. * * * The same principle applies where the law is repealed, or

expires pending an appeal on a writ of error from the judgment of an inferior court. * * * The judgment in a criminal cause cannot be considered as final and conclusive to every intent, notwithstanding the removal of the record to a superior court. If this were so, there would be no use in taking the appeal or suing out a writ of error. * * * And so if the law be repealed, pending the appeal or writ of error, the judgment will be reversed, because the decision must be in accordance with the law at the time of final judgment.'

The rule has since been reaffirmed by the Maryland court on a number of occasions. Beard v. State, 74 Md. 130, 135, 21 A. 700, 702 (1891); Smith v. State, 45 Md. 49 (1876); State v. Gambrill, 115 Md. 506, 513, 81 A. 10, 12 (1911); State v. Clifton, 177 Md. 572, 574, 10 A.2d 703, 704 (1940). FN2

FN2. The rule has also been consistently recognized and applied by this Court. Thus in United States v. Schooner Peggy, 1 Cranch 103, 110, 2 L.Ed. 49, Chief Justice Marshall held:
'It is in the general true that the province of an appellate court is only to enquire whether a judgment when rendered was erroneous or not. But if subsequent to the judgment and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed, or its obligation denied. If the law be constitutional, * * * I know of no court which can contest its obligation. * * * In such a case the court must decide according to existing laws, and if it be necessary to set aside a judgment, rightful when rendered, but which cannot be affirmed but in violation of law, the judgment must be set aside.'
See also Yeaton v. United States, 5 Cranch 281, 283, 3 L.Ed. 101; Maryland for Use of Washington County v. Baltimore & O.R Co., 3 How. 534, 552, 11 L.Ed. 714; United States v. Tynen, 11 Wall. 88, 95, 20 L.Ed. 153; United States v. Reisinger, 128 U.S. 398, 401, 9 S.Ct. 99, 100, 32 L.Ed. 480; United States v. Chambers, 291 U.S. 217, 222-223, 54 S.Ct. 434, 435, 78 L.Ed. 763; Massey v. United States, 291 U.S. 608, 54 S.Ct. 532, 78 L.Ed. 1019.

**1818 [4][5] *232 It is true that the present case is factually distinguishable, since here the legislative abolition of the crime for which petitioners were convicted occurred after rather than before the decision of the Maryland Court of Appeals. But that fact would seem irrelevant. For the purpose of applying the rule of the Maryland common law, it appears that the only question is whether the legislature acts before the affirmance of the conviction becomes final. In the present case the judgment is not yet final, for it is on direct review in this Court. This would thus seem to be a case where, as in Keller, the change of law has occurred 'pending an appeal on a writ of error from the judgment of an inferior court,' and hence where the Maryland Court of Appeals upon remand from this Court would render its decision 'in accordance with the law at the time of final judgment.' It thus seems that the Maryland Court of Appeals would take account of the supervening enactment of the city and state public accommodations laws and, applying the principle that a statutory offense which has 'ceased to exist is no longer punishable at all,' Beard v. State, supra, 74 Md. 130, 135, 21 A. 700, 702 (1891), would now reverse petitioners' convictions and order their indictments dismissed.

[6] The Maryland common law is not, however, the only Maryland law that is relevant to the question of the effect of the supervening enactments upon these convictions. Maryland has a general saving clause statute which in certain circumstances 'saves' state convictions from the common-law effect of supervening enactments. It is thus necessary to consider the impact of that clause upon the present situation. The clause, Art. 1 Md. Code s 3 (1957), reads as follows:
'The repeal, or the repeal and reenactment, or the revision, amendment or consolidation of any statute, or of any section or part of a section of any statute, *233 civil or criminal, shall not have the effect to release, extinguish, alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such statute, section or part thereof, unless the repealing, repealing and re-enacting, revising, amending or consolidating act shall expressly so provide; and such statute, section or part thereof, so repealed, repealed and re- enacted, revised, amended or consolidated, shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings or prosecutions, civil or criminal, for the enforcement of such penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits,

proceedings or prosecutions **1819 imposing, inflicting or declaring such penalty, forfeiture or liability.'

Upon examination of this clause and of the relevant state case law and policy considerations, we are far from persuaded that the Maryland Court of Appeals would hold the clause to be applicable to save these convictions. By its terms, the clause does not appear to be applicable at all to the present situation. It applies only to the 'repeal,' 'repeal and re-enactment,' 'revision,' 'amendment,' or 'consolidation' of any statute or part thereof. The effect wrought upon the criminal trespass statute by the supervening public accommodations laws would seem to be properly described by none of these terms. The only two that could even arguably apply are 'repeal' and 'amendment.' But neither the city nor the state public accommodations enactment gives the slightest indication that the legislature considered itself to be 'repealing' or 'amending' the trespass law. Neither enactment refers in any way to the trespass law, as is character-istically done when a prior statute is being *234 repealed or amended.FN3 This fact alone raises a substantial possibility that the saving clause would be held inapplicable, for the clause might be narrowly construed-especially since it is in derogation of the common law and since this is a criminal case-as requiring that a 'repeal' or 'amendment' be designated as such in the supervening statute itself. FN4

FN3. Thus the statewide public accommodations law enacted in 1964, see note 1, supra, is entitled 'An Act to repeal and re-enact, with amendments * * *,' the 1963 Act, and provides expressly at several points that certain portions of the 1963 Act-none of which is here relevant-are 'hereby repealed.' But the 1964 enactment, like the 1963 enactment and the Baltimore City ordinance, contains no reference whatever to the trespass law, much less a statement that that law is being in any respect 'repealed' or 'amended.'

FN4. The Maryland case law under the saving clause is meager and sheds little if any light on the present question. The clause has been construed only twice since its enactment in 1912, and neither case seems directly relevant here. State v. Clifton, 177 Md. 572, 10 A.2d 703 (1940); State v. Kennerly, 204 Md. 412, 104 A.2d 632, 106 A.2d 90 (1954). In two other cases, the clause was ignored. State to Use of Prince George's County Com'rs v. American Bonding Co., 128 Md. 268, 97 A. 529 (1916); Green v. State, 170 Md. 134, 183 A. 526 (1936). The failure to apply the clause in these cases was explained by the Court of Appeals in the Clifton case, supra, 177 Md., at 576-577, 10 A.2d, at 705, on the basis that 'in neither of those proceedings did it appear that any penalty, forfeiture, or liability had actually been incurred.' This may indicate a narrow construction of the clause, since the language of the clause would seem to have applied to both cases. Also indicative of a narrow construction is the statement of the Court of Appeals in the Kennerly case, supra, that the saving clause is 'merely an aid to interpretation, stating the general rule against repeals by implication in more specific form.' 204 Md., at 417, 104 A.2d, at 634. Thus, if the case law has any pertinence, it supports a narrow construction of the saving clause and hence a conclusion that the clause is inapplicable here.

The absence of such terms from the public accommodations laws becomes more significant when it is recognized that the effect of these enactments upon the trespass statute was quite different from that of an 'amendment' *235 or even a 'repeal' in the usual sense. These enactments do not-in the manner of an ordinary 'repeal,' even one that is substantive rather than only formal or technical-merely erase the criminal liability that had formerly attached to persons who entered or crossed over the premises of a restaurant after being notified not to because of their race; they go further and confer upon such persons an affirmative right to carry on such conduct, making it unlawful for the restaurant owner or proprietor to notify them to leave because of their race. Such a substitution of a right for a crime, and vice versa, is a possibly unique phenomenon**1820 in legislation; it thus might well be construed as falling outside the routine categories of 'amendment' and 'repeal.'

Cogent state policy considerations would seem to support such a view. The legislative policy embodied in the supervening enactments here would appear to be much more strongly opposed to that embodied in the old enactment than is usually true in the case of an 'amendment' or 'repeal.' It would consequently seem unlikely that the legislature intended the saving clause to apply in this situation, where the result of its application would be the

conviction and punishment of persons whose 'crime' has been not only erased from the statute books but officially vindicated by the new enactments. A legislature that passed a public accommodations law making it unlawful to deny service on account of race probably did not desire that persons should still be prosecuted and punished for the 'crime' of seeking service from a place of public accommodations which denies it on account of race. Since the language of the saving clause raises no barrier to a ruling in accordance with these policy considerations, we should hesitate long indeed before concluding that the Maryland Court of Appeals would definitely hold the saving clause applicable to save these convictions.

***236** Moreover, even if the word 'repeal' or 'amendment' were deemed to make the saving clause prima facie applicable, that would not be the end of the matter. There would remain a substantial possibility that the public accommodations laws would be construed as falling within the clause's exception: 'unless the repealing * * * act shall expressly so provide.' Not only do the policy considerations noted above support such an interpretation, but the operative language of the state public accommodations enactment affords a solid basis for a finding that it does 'expressly so provide' within the terms of the saving clause. Whereas most criminal statutes speak in the future tense-see, for example, the trespass statute here involved, Art. 27 Md. Code s 577: 'Any person or persons who shall enter upon or cross over * * *'-the state enactment here speaks in the present tense, providing that '(i)t is unlawful for an owner or operator * * *.' In this very context, the Maryland Court of Appeals has given effect to the difference between the future and present tense. In Beard v. State, supra, 74 Md. 130, 21 A. 700, the court, in holding that a supervening statute did not implicitly repeal the former law and thus did not require dismissal of the defendant's conviction under that law, relied on the fact that the new statute used the word 'shall' rather than the word 'is.' From this the court concluded that 'The obvious intention of the legislature in passing it was not to interfere with past offences, but merely to fix a penalty for future ones.' 74 Md., at 133, 21 A., at 701. Conversely here, the use of the present instead of the more usual future tense may very possibly be held by the Court of Appeals, especially in view of the policy considerations involved, to constitute an 'express provision' by the legislature, within the terms of the saving clause, that it did intend its new enactment to apply to past as well as future conduct-that it did not intend the saving clause to be applied, in derogation of ***237** the common-law rule, so as to permit the continued prosecution and punishment of persons accused of a 'crime' which the legislature has now declared to be a right.

[7][8][9][10] As a matter of Maryland law, then, the arguments supporting a conclusion that the saving clause would not apply to save these convictions seem quite substantial. It is not for us, however, to decide this question of Maryland law, or to reach a conclusion as to how the Maryland Court of Appeals would decide it. Such a course would be inconsistent with our tradition of deference to state courts on questions of state law. Now is it for ****1821** us to ignore the supervening change in state law and proceed to decide the federal constitutional questions presented by this case. To do so would be to decide questions which, because of the possibility that the state court would now reverse the convictions, are not necessarily presented for decision. Such a course would be inconsistent with our constitutional inability to render advisory opinions, and with our consequent policy of refusing to decide a federal question in a case that might be controlled by a state ground of decision. See Murdock v. Memphis, 20 Wall. 590, 634-636, 22 L.Ed. 429. To avoid these pitfalls-to let issues of state law be decided by state courts and to preserve our policy of avoiding gratuitous decisions of federal questions-we have long followed a uniform practice where a supervening event raises a question of state law pertaining to a case pending on review here. That practice is to vacate and reverse the judgment and remand the case to the state court, so that it may reconsider it in the light of the supervening change in state law.

[11][12] The rule was authoritatively stated and applied in Missouri ex rel. Wabash R. Co. v. Public Service Comm'n, 273 U.S. 126, 47 S.Ct. 311, 71 L.Ed. 575, a case where the supervening event was-as it is here-enactment of new state legislation asserted to change the law under which the case had been decided ***238** by the highest state court. Speaking for the Court, Mr. Justice Stone said:
'Ordinarily this court on writ of error to a state court considers only federal questions and does not review questions of state law. But where questions

of state law arising after the decision below are presented here, our appellate powers are not thus restricted. Either because new facts have supervened since the judgment below, or because of a change in the law, this Court, in the exercise of its appellate jurisdiction, may consider the state questions thus arising and either decide them or remand the cause for appropriate action by the state courts. The meaning and effect of the state statute now in question are primarily for the determination of the state court. While this court may decide these questions, it is not obliged to do so, and, in view of their nature, we deem it appropriate to refer the determination to the state court. In order that the state court may be free to consider the question and make proper disposition of it, the judgment below should be set aside, since a dismissal of this appeal might leave the judgment to be enforced as rendered. The judgment is accordingly reversed and the cause remanded for further proceedings.' (Citations omitted.) 273 U.S., at 131, 47 S.Ct., at 313.

Similarly, in Patterson v. Alabama, 294 U.S. 600, 55 S.Ct. 575, 79 L.Ed. 1082, Mr. Chief Justice Hughes stated the rule as follows:'We have frequently held that in the exercise of our appellate jurisdiction we have power not only to correct error in the judgment under review but to make such disposition of the case as justice requires. And in determining what justice does require, the Court is bound to consider any change, either in fact *239 or in law, which has supervened since the judgment was entered. We may recognize such a change, which may affect the result, by setting aside the judgment and remanding the case so that the state court may be free to act. We have said that to do this is not to review, in any proper sense of the term, the decision of the state court upon a nonfederal question, but only to deal appropriately with a matter arising since its judgment and having a bearing upon the right disposition of the case.' 294 U.S., at 607, 55 S.Ct., at 578.

**1822 For other cases applying the rule, see Gulf, C. & S.F.R. Co. v. Dennis, 224 U.S. 503, 505-507, 32 S.Ct. 542, 543, 56 L.Ed. 860; Dorchy v. Kansas, 264 U.S. 286, 289, 44 S.Ct. 323, 324, 68 L.Ed. 686; Ashcraft v. Tennessee, 322 U.S. 143, 155-156, 64 S.Ct. 921, 927, 88 L.Ed. 1192.FN5

FN5. See also Metzger Motor Car Co. v. Parrott, 233 U.S. 36, 34 S.Ct. 575, 58 L.Ed. 837; New York ex rel. Whitman v. Wilson, 318 U.S. 688, 63 S.Ct. 840, 87 L.Ed. 1083; State Tax Comm'n of Utah v. Van Cott, 306 U.S. 511, 59 S.Ct. 605, 83 L.Ed. 950; Roth v. Delano, 338 U.S. 226, 231, 70 S.Ct. 22, 24, 94 L.Ed. 13; Williams v. Georgia, 349 U.S. 375, 390-391, 75 S.Ct. 814, 823, 99 L.Ed. 1161; Trunkline Gas Co. v. Hardin County, 375 U.S. 8, 84 S.Ct. 49, 11 L.Ed.2d 38.

The question of Maryland law raised here by the supervening enactment of the city and state public accommodations laws clearly falls within the rule requiring us to vacate and reverse the judgment and remand the case to the Maryland Court of Appeals. Indeed, we have followed this course in other situations involving a state saving clause or similar provision, where it was considerably more probable than it is here that the State would desire its judgment to stand despite the supervening change of law. In Roth v. Delano, 338 U.S. 226, 70 S.Ct. 22, 94 L.Ed. 13, the Court vacated and remanded the judgment in light of the State's supervening repeal of the applicable statute despite the presence in the repealer of a saving clause which, unlike the one here, was clearly applicable in terms. In Dorchy v. Kansas, supra, 264 U.S. 286, 44 S.Ct. 323, the supervening event was a holding by this Court that another*240 portion of the same state statute was unconstitutional, and the question was whether Dorchy's conviction could stand nevertheless. The state statute had a severability provision which seemingly answered the question conclusively, providing that 'If any section or provision of this act shall be found invalid by any court, it shall be conclusively presumed that this act would have been passed by the legislature without such invalid section or provision * * *.' Nevertheless, a unanimous Court vacated and reversed the judgment and remanded the case, so that the question could be decided by the state court. Mr. Justice Brandeis said, 264 U.S., at 290-291, 44 S.Ct., at 324:
'Whether section 19 (the criminal provision under which Dorchy stood convicted) is so interwoven with the system held invalid that the section cannot stand alone, is a question of interpretation and of legislative intent. * * * Section 28 of the act (the severability clause) * * * provides a rule of construction which may sometimes aid in determining that intent. But it is an aid merely; not an inexorable command.
'The task of determining the intention of the state

legislature in this respect, like the usual function of interpreting a state statute, rests primarily upon the state court. Its decision as to the severability of a provision is conclusive upon this Court. * * * In cases coming from the state courts, this Court, in the absence of a controlling state decision, may, in passing upon the claim under the federal law, decide, also, the question of severability. But it is not obliged to do so. The situation may be such as to make it appropriate to leave the determination of the question to the state court. We think that course should be followed in this case.
'* * * In order that the state court may pass upon this question, its judgment in this case, which was ***241** rendered before our decision in (the other case), should be vacated. * * To this end the judgment is

'Reversed.'

Except for the immaterial fact that a severability clause rather than a saving clause was involved, the holding and the ****1823** operative language of the Dorchy case are precisely in point here. Indeed, the need to set aside the judgment and remand the case is even more compelling here, since the Maryland saving clause is not literally applicable to the public accommodations laws and since state policy considerations strengthen the inference that it will be held inapplicable. Here, as in Dorchy, the applicability of the clause to save the conviction 'is a question of interpretation and of legislative intent,' and hence it is 'appropriate to leave the determination of the question to the state court.' Even if the Maryland saving clause were literally applicable, the fact would remain that, as in Dorchy, the clause 'provides a rule of construction which may sometimes aid in determining that intent. But it is an aid merely; not an inexorable command.' The Maryland Court of Appeals has s tated that the Mayland saving clause is likewise 'merely an aid to interpretation.' State v. Kennerly, note 4, supra, 204 Md., at 417, 104 A.2d, at 634.

In short, this case involves not only a question of state law but an open and arguable one. This Court thus has a 'duty to recognize the changed situation,' Gulf, C. & S.F.R. Co. v. Dennis, supra, 224 U.S., at 507, 32 S.Ct., at 543, and, by vacating and reversing the judgment and remanding the case, to give effect to the principle that '(t)he meaning and effect of the state statute now in question are primarily for the determination of the state court.' Missouri ex rel. Wabash R. Co. v. Public Service Comm'n, supra, 273 U.S., at 131, 47 S.Ct., at 313.

***242** Accordingly, the judgment of the Maryland Court of Appeals should be vacated and the case remanded to that court, and to this end the judgment is

Reversed and remanded.
Mr. Justice DOUGLAS, with whom Mr. Justice GOLDBERG concurs as respects Parts II-V, for reversing and directing dismissal of the indictment.

I.

I reach the merits of this controversy. The issue is ripe for decision and petitioners, who have been convicted of asking for service in Hooper's restaurant, are entitled to an answer to their complaint here and now.

On this the last day of the Term, we studiously avoid decision of the basic issue of the right of public accommodation under the Fourteenth Amendment, remanding the case to the state court for reconsideration in light of an issue of state law.

This case was argued October 14 and 15, 1963-over eight months ago. The record of the case is simple, the constitutional guidelines well marked, the precedents marshalled. Though the Court is divided, the preparation of opinions laying bare the differences does not require even two months, let alone eight. Moreover, a majority reach the merits of the issue. Why then should a minority prevent a resolution of the differing views?

The laws relied on for vacating and remanding were enacted June 8, 1962, and March 29, 1963-long before oral argument. We did indeed not grant certiorari until June 10, 1963. Hence if we were really concerned with this state law question, we would have vacated and remanded for reconsideration in light of those laws on June 10, 1963. By now we would have had an answer and been able to put our decision into the mainstream of the law at this critical hour. If the parties had been concerned***243** they too might have asked that we follow that course. Maryland adverted to the new law merely to show why certiorari should not be granted. At the argument and at our conferences we

were not concerned with that question, the issue being deemed frivolous. Now it is resurrected to avoid facing the constitutional question.

The whole Nation has to face the issue; Congress is conscientiously considering **1824 it; some municipalities have had to make it their first order of concern; law enforcement officials are deeply implicated, North as well as South; the question is at the root of demonstrations, unrest, riots, and violence in various areas. The issue in other words consumes the public attention. Yet we stand mute, avoiding decision of the basic issue by an obvious pretense.

The clash between Negro customers and white restaurant owners is clear; each group claims protection by the Constitution and tenders the Fourteenth Amendment as justification for its action. Yet we leave resolution of the conflict to others, when, if our voice were heard, the issues for the Congress and for the public would become clear and precise. The Court was created to sit in troubled times as well as in peaceful days.

There is a school of thought that our adjudication of a constitutional issue should be delayed and postponed as long as possible. That school has had many stout defenders and ingenious means have at times been used to avoid constitutional pronouncements. Yet judge-made rules, fashioned to avoid decision of constitutional questions, largely forget what Chief Justice Marshall wrote in Fletcher v. Peck, 6 Cranch 87, 137-138, 3 L.Ed. 162:
'Whatever respect might have been felt for the state sovereignties, it is not to be disguised that the framers of the constitution viewed, with some apprehension, the violent acts which might grow out of the feelings of the moment; and that the people of the *244 United States, in adopting that instrument, have manifested a determination to shield themselves and their property from the effects of those sudden and strong passions to which men are exposed. The restrictions on the legislative power of the states are obviously founded in this sentiment; and the constitution of the United States contains what may be deemed a bill of rights for the people of each state.'

Much of our history has shown that what Marshall said of the encroachment of legislative power on the rights of the people is true also of the encroachment of the judicial branch, as where state courts use unconstitutional procedures to convict people or make criminal what is beyond the reach of the States. I think our approach here should be that of Marshall in Marbury v. Madison, 1 Cranch 137, 177-178, 2 L.Ed. 60, where the Court spoke with authority though there was an obviously easy way to avoid saying anything:
'It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.
'So if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.'

We have in this case a question that is basic to our way of life and fundamental in our constitutional scheme. No question preoccupies the country more than this one; *245 it is plainly justiciable; it presses for a decision one way or another; we should resolve it. The people should know that when filbusters occupy other forums, when oppressions are great, when the clash of authority between the individual and the State is severe, they can still get justice in the courts. When we default, as we do today, **1825 the prestige of law in the life of the Nation is weakened.

For these reasons I reach the merits; and I vote to reverse the judgments of conviction outright.

II.

The issue in this case, according to those who would affirm, is whether a person's 'personal prejudices' may dictate the way in which he uses his property and whether he can enlist the aid of the State to enforce those 'personal prejudices.' With all respect, that is not the real issue. The corporation that owns this restaurant did not refuse service to these Negroes because 'it' did not like Negroes. The reason 'it' refused service was because 'it' thought 'it' could make more money by running a segregated restaurant.

In the instant case, G. Carroll Hooper, president of the corporate chain owning the restaurant here involved, testified concerning the episode that gave rise to these convictions. The reasons were wholly commercial ones:
'I set at the table with him and two other people and reasoned and talked to him why my policy was not yet one of integration and told him that I had two hundred employees and half of them were colored. I thought as much of them as I did the white employees. I invited them back in my kitchen if they'd like to go back and talk to them. I wanted to prove to them it wasn't my policy, my personal prejudice, we were not, that I had valuable colored employees and I thought just as much of them. I ***246** tried to reason with these leaders, told them that as long as my customers were the deciding who they want to eat with, I'm at the mercy of my customers. I'm trying to do what they want. If they fail to come in, these people are not paying my expenses, and my bills. They didn't want to go back and talk to my colored employees because every one of them are in sympathy with me and that is we're in sympathy with what their objectives are, with what they are trying to abolish * * *.' (Italics added.)

Here, as in most of the sit-in cases before us, the refusal of service did not reflect 'personal prejudices' but business reasons.FN1 Were we today to hold that segregated restaurants, whose racial policies were enforced by a State, violated the Equal Protection Clause, all restaurants would be on an equal footing and the reasons given in this and most of the companion cases for refusing service to Negroes would evaporate. Moreover, when corporate restaurateurs are involved, whose 'personal prejudices' are being protected? The stockholders'? The directors'? The officers'? The managers'? The truth is, I think, that the corporate interest is in making money, not in protecting 'personal prejudices.'

FN1. See Appendix II.

III.

I leave those questions to another part of this opinionFN2 and turn to an even more basic issue.

FN2. See Appendix I.

I now assume that the issue is the one stated by those who would affirm. The case in that posture deals with a relic of slavery-an institution that has cast a long shadow across the land, resulting today in a second-class citizenship in this area of public accommodations.

***247** The Thirteenth, Fourteenth, and Fifteenth Amendments had 'one pervading purpose * * * we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newlymade freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him.' Slaughter-House Cases, 16 Wall. 36, 71, 21 L.Ed. 394.

Prior to those Amendments, Negroes were segregated and disallowed the use ****1826** of public accommodations except and unless the owners chose to serve them. To affirm these judgments would remit those Negroes to their old status and allow the States to keep them there by the force of their police and their judiciary.

We deal here with public accommodations-with the right of people to eat and travel as they like and to use facilities whose only claim to existence is serving the public. What the President said in his State of the Union Message on January 8, 1964, states the constitutional right of all Americans, regardless of race or color, to be treated equally by all branches of government:
'Today Americans of all races stand side by side in Berlin and in Vietnam.
'They died side by side in Korea.
'Surely they can work and eat and travel side by side in their own country.'

The Black Codes were a substitute for slavery; segregation was a substitute for the Black Codes; FN3 ***248** the discrimination in these sit-in cases is a relic of slavery.FN4

FN3. For accounts of the Black Codes see Fleming, The Sequel of Appomattox (1919), pp. 94-98; Sen.Ex.Doc.No.6, 39th Cong., 2d Sess.; I Oberholtzer, A History of the United States Since the Civil War (1917), pp. 126-127, 136-137, 175. They are summarized as follows by Morison and Commager, The Growth of the American Republic (1950), pp. 17-18:
'These black codes provided for relationships between the whites and the blacks in harmony with

realities-as the whites understood them-rather than with abstract theory. They conferred upon the freedmen fairly extensive privileges, gave them the essential rights of citizens to contract, sue and be sued, own and inherit property, and testify in court, and made some provision for education. In no instance were the freedmen accorded the vote or made eligible for juries, and for the most part they were not permitted to testify against white men. Because of their alleged aversion to steady work they were required to have some steady occupation, and subjected to special penalties for violation of labor contracts. Vagrancy and apprenticeship laws were especially harsh, and lent themselves readily to the establishment of a system of peonage. The penal codes provided harsher and more arbitrary punishments for blacks than for whites, and some states permitted individual masters to administer corporal punishment to 'refractory servants.' Negroes were not allowed to bear arms or to appear in all public places, and there were special laws governing the domestic relations of the blacks. In some states laws closing to the freedmen every occupation save domestic and agricultural service, betrayed a poor-white jealousy of the Negro artisan. Most codes, however, included special provision to protect the Negro from undue exploitation and swindling. On the whole the black codes corresponded fairly closely to the essential fact that nearly four million ex-slaves needed special attention until they were ready to mingle in free society on more equal terms. But in such states as South Carolina and Mississippi there was clearly evident a desire to keep the freedmen in a permanent position of tutelage, if not of peonage.'

FN4. Other 'relics of slavery' have recently come before this Court. In Hamilton v. Alabama, 376 U.S. 650, 84 S.Ct. 982, we reversed a judgment of contempt imposed on a Negro witness under these circumstances:
'Cross examination by Solicitor Rayburn:
'Q. What is your name, please?
'A. Miss Mary Hamilton.
'Q. Mary, I believe-you were arrested-who were you arrested by?
'A. My name is Miss Hamilton. Please address me correctly.
'Q. Who were you arrested by, Mary?
'A. I will not answer a question-
'By Attorney Amaker: The witness's name is Miss Hamilton.
'A.-your question until I am addressed correctly.
'The Court: Answer the question.
'The Witness: I will not answer them unless I am addressed correctly.
'The Court: You are in contempt of court-
'Attorney Conley: Your Honor-your Honor-
'The Court: You are in contempt of this court, and you are sentenced to five days in jail and a fifty dollar fine.'
Additional relics of slavery are mirrored in recent decisions: Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (segregated schools); Johnson v. Virginia, 373 U.S. 61, 83 S.Ct. 1053, 10 L.Ed.2d 195 (segregated courtroom); Peterson v. Greenville, 373 U.S. 244, 83 S.Ct. 1119, 10 L.Ed. 323, and Lombard v. Louisiana, 373 U.S. 267, 83 S.Ct. 1122, 10 L.Ed.2d 338 (segregated restaurants); Wright v. Georgia, 373 U.S. 284, 83 S.Ct. 1240, 10 L.Ed.2d 349, and Watson v. Memphis, 373 U.S. 526, 83 S.Ct. 1314, 10 L.Ed.2d 529 (segregated public parks).

****1827** The Fourteenth Amendment says 'No State shall make or enforce any law which shall abridge the privileges or ***249** immunities of citizens of the United States.' The Fourteenth Amendment also makes every person who is born here a citizen; and there is no second or third or fourth class of citizenship. See, e.g., Schneider v. Rusk, 377 U.S. 163, 168, 84 S.Ct. 1187, 1190.

We deal here with incidents of national citizenship. As stated in the Slaughter-House Cases, 16 Wall. 36, 71-72, 21 L.Ed. 394, concerning the federal rights resting on the Thirteenth, Fourteenth, and Fifteenth Amendments:
'* * * no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him. It is true that only the fifteenth amendment, in terms, mentions the negro by speaking of his color and his slavery. But it is just as true that each of the other articles was addressed to the grievances of that race, and designed to remedy them as the fifteenth.'

*250 When we deal with Amendments touching the liberation of people from slavery, we deal with rights 'which owe their existence to the Federal government, its National character, its Constitution, or its laws.' Id., 16 Wall. at 79. We are not in the field of exclusive municipal regulation where federal intrusion might 'fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character.' Id., 16 Wall. at 78.

There has been a judicial reluctance to expand the content of national citizenship beyond racial discrimination, voting rights, the right to travel, safe custody in the hands of a federal marshal, diplomatic protection abroad, and the like. See Slaughter-House Cases, supra; Logan v. United States, 144 U.S. 263, 12 S.Ct. 617, 36 L.Ed. 429; United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Edwards v. California, 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119; Kent v. Dulles, 357 U.S. 116, 78 S.Ct. 1113, 2 L.Ed.2d 1204. The reluctance has been due to a fear of creating constitutional refuges for a host of rights historically subject to regulation. See Madden v. Kentucky, 309 U.S. 83, 60 S.Ct. 406, 84 L.Ed. 590, overruling Colgate v. Harvey, 296 U.S. 404, 56 S.Ct. 252, 80 L.Ed. 299. But those fears have no relevance here, where we deal with Amendments whose dominant purpose was to guarantee the freedom of the slave race and establish a regime where national citizenship has only one class.

The manner in which the right to be served in places of public accommodations is an incident of national citizenship and of the right to travel is summarized in H.R.Rep. No. 914, Pt. 2, 88th Cong., 1st Sess., pp. 7-8:
'An official of the National Association for the Advancement of Colored People, testified before the Senate Commerce Subcommittee as follows:
"For millions of Americans this is vacation time. Swarms of families load their automobiles and trek **1828 across country. I invite the members of this committee*251 to imagine themselves darker in color and to plan an auto trip from Norfolk, Va., to the gulf coast of Mississippi, say, to Biloxi. Or one from Terre Haute, Ind., to Charleston, S. C., or from Jacksonville, Fla., to Tyler, Tex.
"How far do you drive each day? Where and under what conditions can you and your family eat? Where can they use a rest room? Can you stop driving after a reasonable day behind the wheel or must you drive until you reach a city where relatives or friends will accommodate you and yours for the night? Will your children be denied a soft dring or an ice cream cone because they are not white?'
'In response to Senator Pastore's question as to what the Negro must do, there was the reply:
"Where you travel through what we might call hostile territory you take your chances. You drive and you drive and you drive. You don't stop where there is a vacancy sign out at a motel at 4 o'clock in the afternoon and rest yourself; you keep on driving until the next city or the next town where you know somebody or they know somebody who knows somebody who can take care of you.
"This is the way you plan it.
"Some of them don't go.'
'Daily we permit citizens of our Nation to be humiliated and subjected to hardship and abuse solely because of their color.'

As stated in the first part of the same Report, p. 18:
'Today, more than 100 years after their formal emancipation, Negroes, who make up over 10 percent of our population, are by virtue of one or another type of discrimination not accorded the rights, privileges, and opportunities which are considered to be, and must be, the birthright of all citizens.'

*252 When one citizen because of his race, creed, or color is denied the privilege of being treated as any other citizen in places of public accommodation, we have classes of citizenship, one being more degrading than the other. That is at war with the one class of citizenship created by the Thirteenth, Fourteenth, and Fifteenth Amendments.

As stated in Ex parte Virginia, 100 U.S. 339, 344-345, 25 L.Ed. 676, where a federal indictment against a state judge for discriminating against Negroes in the selection of jurors was upheld:
'One great purpose of these amendments was to raise the colored race from that condition of inferiority and servitude in which most of them had previously stood, into perfect equality of civil rights with all other persons within the jurisdiction of the States. They were intended to take away all possibility of oppression by law because of race or color. They were intended to be, what they really are, limitations of the power of the States and

enlargements of the power of Congress.'

IV.

The problem in this case, and in the other sit-in cases before us, is presented as though it involved the situation of 'a private operator conducting his own business on his own premises and exercising his own judgment'FN5 as to whom he will admit to the premises.

FN5. Wright, The Sit-in Movement: Progress Report and Prognosis, 9 Wayne L.Rev. 445, 450 (1963).

The property involved is not, however, a man's home or his yard or even his fields. Private property is involved, but it is property that is serving the public. As my Brother GOLDBERG says, it is a**1829 'civil' right, not a 'social' right, with which we deal. Here it is a restaurant refusing service to a Negro. But so far as principle and law are concerned it might just as well be a hospital refusing*253 admission to a sick or injured Negro (cf. Simkins v. Moses H. Cone Memorial Hospital, 4 Cir., 323 F.2d 959), or a drugstore refusing antibiotics to a Negro, or a bus denying transportation to a Negro, or a telephone company refusing to install a telephone in a Negro's home.

The problem with which we deal has no relation to opening or closing the door of one's home. The home of course is the essence of privacy, in no way dedicated to public use, in no way extending an invitation to the public. Some businesses, like the classical country store where the owner lives overhead or in the rear, make the store an extension, so to speak, of the home. But such is not this case. The facts of these sit-in cases have little resemblance to any institution of property which we customarily associate with privacy.

Joseph H. Choate, who argued the Income Tax Cases (Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 534, 15 S.Ct. 673, 39 L.Ed. 759), said: 'I have thought that one of the fundamental objects of all civilized government was the preservation of the rights of private property. I have thought that it was the very keystone of the arch upon which all civilized government rests, and that this once abandoned, everything was at stake and in danger. That is what Mr. Webster said in 1820, at Plymouth, and I supposed that all educated, civilized men believed in that.'

Charles A. Beard had the theory that the Constitution was 'an economic document drawn with superb skill by men whose property interests were immediately at stake.' An Economic Interpretation of the Constitution of the United States (1939), p. 188. That school of thought would receive new impetus from an affirmance of these judgments. Seldom have modern cases (cf. the ill-starred Dred Scott decision, 19 How. 393, 15 L.Ed. 691) so exalted property in suppression of individual rights. We would *254 reverse the modern trend were we to hold that property voluntarily serving the public can receive state protection when the owner refuses to serve some solely because they are colored.

There is no specific provision in the Constitution which protects rights of privacy and enables restaurant owners to refuse service to Negroes. The word 'property' is, indeed, not often used in the Constitution, though as a matter of experience and practice we are committed to free enterprise. The Fifth Amendment makes it possible to take 'private property' for public use only on payment of 'just compensation.' The ban on quartering soldiers in any home in time of peace, laid down by the Third Amendment, is one aspect of the right of privacy. The Fourth Amendment in its restrictions on searches and seizures also sets an aura of privacy around private interests. And the Due Process Clauses of the Fifth and Fourteenth Amendments lay down the command that no person shall be deprived 'of life, liberty, or property, without due process of law.' (Italics added.) From these provisions those who would affirm find emanations that lead them to the conclusion that the private owner of a restaurant serving the public can pick and choose whom he will serve and restrict his dining room to whites only.

Apartheid, however, is barred by the common law as respects innkeepers and common carriers. There were, to be sure, criminal statutes that regulated the common callings. But the civil remedies were made by judges who had no written constitution. We, on the other hand, live under a constitution that proclaims equal protection under the law. Why then, even in the absence of a statute, should **1830 apartheid be given constitutional sanction in the

restaurant field? That was the question I asked in Lombard v. Louisiana, 373 U.S. 267, 83 S.Ct. 1122. I repeat it here. Constitutionally speaking, why should Hooper Food Co., Inc., *255 or Peoples Drug Stores-or any other establishment that dispenses food or medicines-stand on a higher, more sanctified level than Greyhound Bus when it comes to a constitutional right to pick and choose its customers?

The debates on the Fourteenth Amendment show, as my Brother GOLDBERG points out, that one of its purposes was to grant the Negro 'the rights and guarantees of the good old common law.' Post, at 1851. The duty of common carriers to carry all, regardless of race, creed, or color, was in part the product of the inventive genius of judges. See Lombard v. Louisiana, 373 U.S., at 275-277, 83 S.Ct. at 1126-1127. We should make that body of law the common law of the Thirteenth and Fourteenth Amendments so to speak. Restaurants in the modern setting are as essential to travelers as inns and carriers.

Are they not as much affected with a public interest? Is the right of a person to eat less basic than his right to travel, which we protected in Edwards v. California, 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119? Does not a right to travel in modern times shrink in value materially when there is no accompanying right to eat in public places?

The right of any person to travel interstate irrespective of race, creed, or color is protected by the Constitution. Edwards v. California, supra. Certainly his right to travel intrastate is as basic. Certainly his right to eat at public restaurants is as important in the modern setting as the right of mobility. In these times that right is, indeed, practically indispensable to travel either interstate or intrastate.

V.

The requirement of equal protection, like the guarantee of privileges and immunities of citizenship, is a constitutional command directed to each State.

State judicial action is as clearly 'state' action as state administrative action. Indeed, we held in Shelley v. Kraemer, 334 U.S. 1, 20, 68 S.Ct. 836, 845, 92 L.Ed. 1161, that 'State action, as that *256 phrase is understood for the purposes of the Fourteenth Amendment, refers to exertions of state power in all forms.'

That case involved suits in state courts to enforce restrictive covenants in deeds of residential property whereby the owner agreed that it should not be used or occupied by any person except a Caucasian. There was no state statute regulating the matter. That is, the State had not authorized by legislative enactment the use of restrictive covenants in residential property transactions; nor was there any administrative regulation of the matter. Only the courts of the State were involved. We held without dissent in an opinion written by Chief Justice Vinson that there was nonetheless state action within the meaning of the Fourteenth Amendment:
'The short of the matter is that from the time of the adoption of the Fourteenth Amendment until the present, it has been the consistent ruling of this Court that the action of the States to which the Amendment has reference, includes action of state courts and state judicial officials. Although, in construing the terms of the Fourteenth Amendment, differences have from time to time been expressed as to whether particular types of state action may be said to offend the Amendment's prohibitory provisions, it has never been suggested that state court action is immunized from the operation of those provisions simply because**1831 the act is that of the judicial branch of the state government.' Id., 334 U.S. at 18, 68 S.Ct. at 844.

At the time of the Shelley case there was to be sure a Congressional Civil Rights Act that guaranteed all citizens the same right to purchase and sell property 'as is enjoyed by white citizens.' Id., 334 U.S. at 11, 68 S.Ct. at 841. But the existence of that statutory right, like the existence of a right under *257 the Constitution, is no criterion for determining what is or what is not 'state' action within the meaning of the Fourteenth Amendment. The conception of 'state' action has been considered in light of the degree to which a State has participated in depriving a person of a right. 'Judicial' action alone has been considered ample in hundreds of cases. Thus, 'state action' took place only by judicial action in cases involving the use of coerced confessions (e.g., Chambers v. Florida, 309 U.S. 227, 60 S.Ct. 472, 84 L.Ed. 716), the denial to indigents of equal protection in judicial

proceedings (e.g., Griffin v. Illinois, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed. 891), and the action of state courts in punishing for contempt by publication (e.g., Bridges v. California, 314 U.S. 252, 62 S.Ct. 190, 86 L.Ed. 192).

Maryland's action against these Negroes was as authoritative as any case where the State in one way or another puts its full force behind a policy. The policy here was segregation in places of public accommodation; and Maryland enforced that policy with her police, her prosecutors, and her courts.

The owners of the residential property in Shelley v. Kraemer were concerned, as was the corporate owner of this Maryland restaurant, over a possible decrease in the value of the property if Negroes were allowed to enter. It was testified in Shelley v. Kraemer that white purchasers got better bank loans than Negro purchasers:
'A. Well, I bought 1238 north Obert, a 4-family flat, about a year ago through a straw party, and I was enabled to secure a much larger first deed of trust than I would have been able to do at the present home on Garfield.
'The Court: I understand what you mean: it's easier to finance?
'A. Yes, easier to finance through white. That's common knowledge.
*258 'Q. You mean if property is owned by a white person its easier to finance it?
'A. White can secure larger loans, better loans. I have a 5% loan.'

In McGhee v. Sipes, a companion case to Shelley v. Kraemer, a realtor testified:
'I have seen the result of influx of colored people moving into a white neighborhood. There is a depression of values to start with, general run down of the neighborhood within a short time afterwards. I have, however, seen one exception. The colored people on Scotten, south of Tireman have kept up their property pretty good and enjoyed them. As a result of this particular family moving in the people in the section are rather panic-stricken and they are willing to sell-the only thing that is keeping them from throwing their stuff on the market and giving it away is the fact that they think they can get one or two colored people in there out of there. My own sales have been affected by this family. * * *
'I am familiar with the property at 4626 Seebaldt, and the value of it with a colored family in it is fifty-two hundred, and if there was no colored family in it I would say sixty-eight hundred. I would say seven thousand is a fair price for that property.'

While the purpose of the restrictive covenant is in part to protect the commercial**1832 values in a 'closed' community (see Hundley v. Gorewitz, 77 U.S.App.D.C. 48, 132 F.2d 23, 24), it at times involves more. The sale to a Negro may bring a higher price than a sale to a white. See Swain v. Maxwell, 355 Mo. 448, 454, 196 S.W.2d 780, 785. Yet the resistance to having a Negro as a neighbor is often strong. All-white or all-Caucasian residential communities are often preferred by the owners.

*259 An occupant of a 'white' area testified in Hurd v. Hodge, 334 U.S. 24, 68 S.Ct. 847, 92 L.Ed. 1187, another companion case to Shelley v. Kraemer:
'* * * we feel bitter towards you for coming in and breaking up our block. We were very peaceful and harmonious there and we feel that you bought that property just to transact it over to colored people and we don't like it, and naturally we feel bitter towards you * * *.'

This witness added:'A. The complexion of the person doesn't mean anything.
'Q. The complexion does not?
'A. It is a fact that he is a negro.
'Q. I see, so no matter how brown a negro may be, no matter how white they are, you object to them?
'A. I would say yes, Mr. Houston. * * * I want to live with my own color people.'

The preferences involved in Shelley v. Kraemer and its companion cases were far more personal than the motivations of the corporate managers in the present case when they declined service to Negroes. Why should we refuse to let state courts enforce apartheid in residential areas of our cities but let state courts enforce apartheid in restaurants? If a court decree is state action in one case, it is in the other. Property rights, so heavily underscored, are equally involved in each case.

The customer in a restaurant is transitory; he comes and may never return. The colored family who buys the house next door is there for keeps-night and day. If 'personal prejudices' are not to be the criterion in one case they should not be in the other. We should

put these restaurant cases in line with Shelley v. Kraemer, holding that what the Fourteenth Amendment requires in restrictive covenant cases it also requires from restaurants.

*260 Segregation of Negroes in the restaurants and lunch counters of parts of America is a relic of slavery. It is a badge of second-class citizenship. It is a denial of a privilege and immunity of national citizenship and of the equal protection guaranteed by the Fourteenth Amendment against abridgment by the States. When the state police, the state prosecutor, and the state courts unite to convict Negroes for renouncing that relic of slavery, the 'State' violates the Fourteenth Amendment.

I would reverse these judgments of conviction outright, as these Negroes in asking for service in Hooper's restaurant were only demanding what was their constitutional right.

APPENDIX I TO OPINION OF MR. JUSTICE DOUGLAS.

In the sit-in cases involving eating places last Term and this Term, practically all restaurant or lunch counter owners whose constitutional rights were vindicated below are corporations. Only two out of the 20 before us are noncorporate, as Appendix III shows. Some of these corporations are small, privately owned affairs. Others are large, national or regional businesses with many stockholders:

S. H. Kress & Co., operating 272 stores in 30 States, its stock being listed on the New York Stock Exchange; McCrory Corporation, with 1,307 stores, its stock being listed on the New York Stock Exchange; J. J. Newberry Co., with 567 stores of which 371 serve food, its stock being listed on the New York Stock Exchange; F. W. Woolworth Co., with 2,130 **1833 stores, its stock also being listed on the New York Stock Exchange; Eckerd Drugs, having 17 stores with its stock traded over-the-counter. F. W. Woolworth has over 90,000 stockholders; J. J. Newberry about 8,000; McCrory over 24,000; S. H. Kress over 8,000; Eckerd Drugs about 1,000.

*261 At the national level most 'eating places,' as Appendix IV shows, are individual proprietorships or partnerships. But a substantial number are corporate in form; and even though in numbers they are perhaps an eighth of the others, in business done they make up a much larger percentage of the total.

Those living in the Washington, D.C., metropolitan area know that it is true in that area-the hotels are incorporated; Howard Johnson Co., listed on the New York Stock Exchange, has 650 restaurants and over 15,000 stockholders; Hot Shoppes, Inc., has 4,900 stockholders; Thompson Co. (involved in District of Columbia v. John R. Thompson Co., 346 U.S. 100, 73 S.Ct. 1007, 97 L.Ed. 1480) has 50 restaurants in this country with over 1,000 stockholders and its stock is listed on the New York Stock Exchange; Peoples Drug Stores, with a New York Stock Exchange listing, has nearly 5,000 stockholders. See Moody's Industrial Manual (1963 ed.).

All the sit-in cases involve a contest in a criminal trial between Negroes who sought service and state prosecutors and state judges who enforced trespass laws against them. The corporate beneficiaries of these convictions, those whose constitutional rights were vindicated by these convictions, are not parties to these suits. The beneficiary in the present case was Hooper Food Co., Inc., a Maryland corporation; and as seen in Appendix IV, 'eating places' in Maryland owned by corporations, though not a fourth in number of those owned by individuals or partnerships, do nearly as much business as the other two combined.

So far as the corporate owner is concerned, what constitutional right is vindicated? It is said that ownership of property carries the right to use it in association with such people as the owner chooses. The corporate owners in these cases-the stockholders-are unidentified members of the public at large, who probably never saw these petitioners, who may never have frequented*262 these restaurants. What personal rights of theirs would be vindicated by affirmance? Why should a stockholder in Kress, Woolworth, Howard Johnson, or any other corporate owner in the restaurant field have standing to say that any associational rights personal to him are involved? Why should his interests-his associational rights-make it possible to send these Negroes to jail?

Who, in this situation, is the corporation? Whose racial prejudices are reflected in 'its' decision to refuse service to Negroes? The racial prejudices of

the manager? Of the stockholders? Of the board of directors?

The Court in Santa Clara County v. Southern Pacific R. Co., 118 U.S. 394, 6 S.Ct. 1132, 30 L.Ed. 118, interrupted counsel on oral argument to say, 'The court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are all of opinion that it does.' 118 U.S., at 396, 6 S.Ct. 1132. Later the Court held that corporations are 'persons' within the meaning of the Due Process Clause of the Fourteenth Amendment. Minneapolis & St. L.R. Co. v. Beckwith, 129 U.S. 26, 28, 9 S.Ct. 207, 32 L.Ed. 585. While that view is the law today, it prevailed only over dissenting opinions. See the dissent of Mr. Justice BLACK in Connecticut General Co. v. Johnson, 303 U.S. 77, 85, 58 S.Ct. 436, 440, 82 L.Ed. 673; and my dissent in Wheeling Steel Corp. v. Glander, 337 U.S. **1834 562, 576, 69 S.Ct. 1291, 1299, 93 L.Ed. 1544. Mr. Justice BLACK said of that doctrine and its influence:
'* * * of the cases in this Court in which the Fourteenth Amendment was applied during the first fifty years after its adoption, less than one-half of one per cent. invoked it in protection of the negro race, and more than 50 per cent. asked that its benefits be extended to corporations.' Connecticut General Co. v. Johnson, 303 U.S., at 90, 58 S.Ct. at 442.

*263 A corporation, like any other 'client,' is entitled to the attorney-client privilege. See Radiant Burners, Inc., v. American Gas Ass'n., 7 Cir., 320 F.2d 314. A corporation is protected as a publisher by the Freedom of the Press Clause of the First Amendment. Grosjean v. American Press Co., 297 U.S. 233, 244, 56 S.Ct. 444, 446, 80 L.Ed. 660: New York Times Co. v. Sullivan, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686. A corporation, over the dissent of the first Mr. Justice Harlan, was held entitled to protection against unreasonable searches and seizures by reason of the Fourth Amendment. Hale v. Henkel, 201 U.S. 43, 76-77, 26 S.Ct. 370, 379-380, 50 L.Ed. 652. On the other hand the privilege of self-incrimination guaranteed by the Fifth Amendment cannot be utilized by a corporation. United States v. White, 322 U.S. 694, 64 S.Ct. 1248, 88 L.Ed. 1542. 'The constitutional privilege against self-incrimination is essentially a personal one, applying only to natural individuals.' Id., 322 U.S. at 698, 64 S.Ct. at 1251.

We deal here, we are told, with personal rights-the rights pertaining to property. One need not share his home with one he dislikes. One need not allow another to put his foot upon his private domain for any reason he desires-whether bigoted or enlightened. In the simple agricultural economy that Jefferson extolled, the conflicts posed were highly personal. But how is a 'personal' right infringed when a corporate chain store, for example, is forced to open its lunch counters to people of all races? How can that so-called right be elevated to a constitutional level? How is that corporate right more 'personal' than the right against self-incrimination?

The revolutionary change effected by an affirmance in these sit-in cases would be much more damaging to an open and free society than what the Court did when it gave the corporation the sword and the shield of the Due Process and Equal Protection Clauses of the Fourteenth Amendment. Affirmance finds in the Constitution a corporate right to refuse service to anyone 'it' chooses and to get the State to put people in jail who defy 'its' will.

*264 More precisely, affirmance would give corporate management vast dimensions for social planning.FN1

FN1. The conventional claims of corporate management are stated in Ginzberg and Berg, Democratic Values and the Rights of Management (1963), pp. 153-154:
'The founding fathers, despite some differences of opinion among them, were of one mind when it came to fundamentals-the best guarantee of freedom was the retention by the individual of the broadest possible scope for decision-making. And early in the nation's history, when the Supreme Court decided that the corporation possessed many of the same rights as individuals, continuity was maintained in basic structure; the corporate owner as well as the individual had wide scope for decision-making. In recent decades, another extension of this trend became manifest. The agents of owners-the managers-were able to subsume for themselves the authorities inherent in ownership. The historical

record, then, is clear. The right to do what one likes with his property lies at the very foundation of our historical experience. This is a basis for management's growing concern with the restrictions and limitations which have increasingly come to characterize an arena where the widest scope for individual initiative previously prevailed.'

**1835 Affirmance would make corporate management the arbiter of one of the deepest conflicts in our society: corporate management could then enlist the aid of state police, state prosecutors, and state courts to force apartheid on the community they served, if apartheid best suited the corporate need; or, if its profits would be better served by lowering the barriers of segregation, it could do so.

Veblen, while not writing directly about corporate management and the racial issue, saw the danger of leaving fundamental, governmental decisions to the managers or absentee owners of our corporate enterprises:
'Absentee ownership and absentee management on this grand scale is immune from neighborly personalities and from sentimental considerations and scruples.
'It takes effect through the colorless and impersonal channels of corporation management, at the *265 hands of businesslike officials whose discretion and responsibility extend no farther than the procuring of a reasonably large-that is to say the largest obtainable-net gain in terms of price. The absentee owners are removed out of all touch with the working personnel or with the industrial work in hand, except such remote, neutral and dispassionate contact by proxy as may be implied in the continued receipt of a free income; and very much the same is true for the business agents of the absentee owners, the investment-bankers and the staff of responsible corporation officials. Their relation to what is going on, and to the manpower by use of which it is going on, is a fiscal relation. As industry, as a process of workmanship and a production of the means of life, the work in hand has no meaning for the absentee owners sitting in the fiscal background of these vested interests. Personalities and tangible consequences are eliminated and the business of governing the rate and volume of the output goes forward in terms of funds, prices, and percentages.' Absentee Ownership (1923), pp. 215-216.

The point is that corporate motives in the retail field relate to corporate profits, corporate prestige, and corporate public relations.FN2 Corporate motives have no tinge of *266 an individual's choice to associate only with one class of customers, to keep members of one race from his 'property,' to erect a wall of privacy around a business in the manner that one is erected around the home.

FN2. 'Fred Harvey, president of Harvey's Department Store in Nashville, says that when his store desegregated its lunch counters in 1960 only 13 charge accounts were closed out of 60,000. 'The greatest surprise I ever had was the apparent 'sowhat' attitude of white customers,' says Mr. Harvey.
'Even where business losses occur, they usually are only temporary. At the 120-room Peachtree Manor Hotel in Atlanta, owner Irving H. Goldstein says his business dropped off 15% when the hotel desegregated a year ago. 'But now we are only slightly behind a year ago and we can see we are beginning to recapture the business we initially lost,' declares Mr. Goldstein.
'William F. Davoren, owner of the Brownie Drug Co. in Huntsville, Ala., reports that though his business fell a bit for several weeks after lunch counters were desegregated, he's now picked up all that he lost. Says he: 'I could name a dozen people who regarded it as a personal affront when I started serving Negroes, but have come back as if nothing had happened.'
'Even a segregation-minded businessman in Huntsville agrees that white customers frequently have short memories when it comes to the race question. W. T. Hutchens, general manager of three Walgreen stores there, says he held out when most lunch counter operators gave in to sit-in pressures last July. In one shopping center where his competition desegregated, Mr. Hutchens says his business shot up sharply and the store's lunch counter volume registered a 12% gain for the year. However, this year business has dropped back to pre-integration levels 'because a lot of people have forgotten' the defiant role his stores played during the sit-ins, he adds.
'Some Southern businessmen who have desegregated say they have picked up extra business as a result of the move.
'At Raleigh, N.C., where Gino's Restaurant was desegregated this year, owner Jack Griffiths reports only eight whites have walked out after learning the

establishment served Negroes, and he says, 'we're getting plenty of customers to replace the hard-headed ones.'
'In Dallas, integration of hotels and restaurants has 'opened up an entirely new area of convention prospects,' according to Ray Bennison, convention manager of the Chamber of Commerce. 'This year we've probably added $8 million to $10 million of future bookings because we're integrated,' Mr. Bennison says.' Wall Street Journal, July 15, 1963, pp. 1, 12.
As recently stated by John Perry:
'The manager has become accustomed to seeing well-dressed Negroes in good restaurants, on planes and trains, in church, in hotel lobbies, at United Fund meetings, on television, at his university club. Only a few years ago, if he met a Negro at some civic or political meeting, he understood that the man was there because he was a Negro; he was a kind of exhibit. Today it is much more likely that the Negro is there because of his position or profession. It makes a difference that everyone feels.
'The manager is aware that companies other than his are changing. He sees it happening. He reads about it. It is talked about, usually off the record and informally, at business gatherings. So, in due course, questions are shaped in his mind: 'How can we keep in step? How can we change, without making a big deal of it? Can we do it without a lot of uproar? " Business-Next Target for Integration, March-April, 1963, Harvard Business Rev., pp. 104, 111.

**1836 *267 At times a corporation has standing to assert the constitutional rights of its members, as otherwise the rights peculiar to the members as individuals might be lost or impaired. Thus in NAACP v. Alabama, 357 U.S. 449, 78 S.Ct. 1163, 2 L.Ed.2d 1488, the question was whether the N.A.A.C.P., a membership corporation, could assert on behalf of its members a right personal to them to be protected from compelled disclosure by the State of their affiliation with it. In that context we said the N.A.A.C.P. was 'the appropriate party to assert these rights, because it and its members are in every practical sense identical.' Id., 357 U.S. at 459, 78 S.Ct. at 1170. We felt, moreover, that to deny the N.A.A.C.P. standing to raise the question and to require it to be claimed by the members themselves 'would result in nullification of the right at the very moment of its assertion.' Ibid. Those were the important reasons governing our decision, the adverse effect of disclosure on the N.A.A.C.P. itself being only a make-weight. Id., 357 U.S. at 459-460, 78 S.Ct. at 1170.

The corporate owners of a restaurant, like the corporate owners of streetcars, buses, telephones, and electric light and gas facilities, are interested in balance sheets and in profit and loss statements. 'It' does not stand at the door turning Negroes aside because of 'its' feelings of antipathy to black-skinned people. 'It' does not have any associational rights comparable to the classic individual store owner at a country crossroads whose store, in the dichotomy of an Adam Smith, was indeed no different from his home. 'It' has been greatly transformed, as Berle and Means, The Modern Corporation and Private Property (1932), made clear a generation ago; and 'it' has also transformed our economy. Separation of power *268 or control from beneficial ownership was part of the phenomenon of change:
'This dissolution of the atom of property destroys the very foundation on which the economic order of the past three centuries has rested. Private enterprise, which has molded economic life since the close of the middle ages, has been rooted in the **1837 institution of private property. Under the feudal system, its predecessor, economic organization grew out of mutual obligations and privileges derived by various individuals from their relation to property which no one of them owned. Private enterprise, on the other hand, has assumed an owner of the instruments of production with complete property rights over those instruments. Whereas the organization of feudal economic life rested upon an elaborate system of binding customs, the organization under the system of private enterprise has rested upon the self-interest of the property owner-a self-interest held in check only by competition and the conditions of supply and demand. Such self-interest has long been regarded as the best guarantee of economic efficiency. It has been assumed that, if the individual is protected in the right both to use his own property as he sees fit and to receive the full fruits of its use, his desire for personal gain, for profits, can be relied upon as an effective incentive to his efficient use of any industrial property he may possess.
'In the quasi-public corporation, such an assumption no longer holds. * * * it is no longer the individual himself who uses his wealth. Those in control of

that wealth, and therefore in a position to secure industrial efficiency and produce profits, are no longer, as owners, entitled to the bulk of such profits. Those who control the destinies of the typical*269 modern corporation own so insignificant a fraction of the company's stock that the returns from running the corporation profitably accrue to them in only a very minor degree. The stockholders, on the other hand, to whom the profits of the coporation go, cannot be motivated by those profits to a more efficient use of the property, since they have surrendered all disposition of it to those in control of the enterprise. The explosion of the atom of property destroys the basis of the old assumption that the quest for profits will spur the owner of industrial property to its effective use. It consequently challenges the fundamental economic principle of individual initiative in industrial enterprise.' Id., at 8-9.

By like token the separation of the atom of 'property' into one unit of 'management' and into another of 'absentee ownership' has in other ways basically changed the relationship of that 'property' to the public.

A corporation may exclude Negroes if 'it' thinks 'it' can make more money doing so. 'It' may go along with community prejudices when the profit and loss statement will benefit; 'it' is unlikely to go against the current of community prejudice when profits are endangered.FN3

FN3. The New York Times stated the idea editorially in an analogous situation on October 31, 1963. P. 32:
'When it comes to speaking out on business matters, Roger Blough, chairman of the United States Steel Corporation, does not mince words.
'Mr. Blough is a firm believer in freedom of action for corporate management, a position he made clear in his battle with the Administration last year. But he also has put some severe limits on the exercise of corporate responsibility, for he rejects the suggestion that U.S. Steel, the biggest employer in Birmingham, Ala., should use its economic influence to erase racial tensions. Mr. Blough feels that U.S. Steel has fulfilled its responsibilities by following a non-discriminatory hiring policy in Birmingham, and looks upon any other measures as both 'repugnant' and 'quite beyond what a corporation should do' to improve conditions.
'This hands-off strategy surely underestimates the potential influence of a corporation as big as U.S. Steel, particularly at the local level. It could, without affecting its profit margins adversely or getting itself directly involved in politics, actively work with those groups in Birmingham trying to better race relations. Steel is not sold on the retail level, so U.S. Steel has not been faced with the economic pressure used against the branches of national chain stores.
'Many corporations have belatedly recognized that it is in their own self-interest to promote an improvement in Negro opportunities. As one of the nation's biggest corporations, U.S. Steel and its shareholders have as great a stake in eliminating the economic imbalances associated with racial discrimination as any company. Corporate responsibility is not easy to define or to measure, but in refusing to take a stand in Birmingham, Mr. Blough appears to have a rather narrow, limited concept of his influence.'

****1838 *270** Veblen stated somewhat the same idea in Absentee Ownership (1923), p. 107:
'* * * the arts of business are arts of bargaining, effrontery, salesmanship, make-believe, and are directed to the gain of the business man at the cost of the community, at large and in detail. Neither tangible performance nor the common good is a business proposition. Any material use which his traffic may serve is quite beside the business man's purpose, except indirectly, in so far as it may serve to influence his clientele to his advantage.'

By this standard the bus company could refuse service to Negroes if 'it' felt 'its' profits would increase once apartheid were allowed in the transportation field.

In the instant case, G. Carroll Hooper, president of the corporate chain owning the restaurant here involved, testified concerning the episode that gave rise to these convictions. His reasons were wholly commercial ones, as we have already seen.

***271** There are occasions when the corporation is little more than a veil for man and wife or brother and brother; and disregarding the corporate entity often is the instrument for achieving a just result. But the relegation of a Negro customer to second-class citizenship is not just. Nor is fastening apartheid on America a worthy occasion for tearing

aside the corporate veil.

APPENDIX II TO OPINION OF MR. JUSTICE DOUGLAS.

A. In Green v. Virginia, 378 U.S. 550, 84 S.Ct. 1910, the purpose or reason for not serving Negroes was ruled to be immaterial to the issues in the case.

B. In the following cases, the testimony of corporate officers shows that the reason was either a commercial one or, which amounts to the same thing, that service to Negroes was not in accord with local custom:

1. Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697.

Dr. Guy Malone, the manager of the Columbia branch of Eckerd Drugs of Florida, Inc., testified:
'Q. Mr. Malone, is the public generally invited to do business with Eckerd's?
'A. Yes, I would say so.
'Q. Does that mean all of the public of all races?
'A. Yes.
'Q. Are Negroes welcome to do business with Eckerd's?
'A. Yes.
'Q. Are Negroes welcome to do business at the lunch counter at Eckerd's?
'A. Well, we have never served Negroes at the lunch counter department.
'Q. According to the present pollicy of Eckerd's, the lunch counter is closed to members of the Negro public?
'A. I would say yes.
*272 'Q. And all other departments of Eckerd's are open to members of the Negro public, as well as to other members of the public generally?
'A. Yes.
**1839 'Q. Mr. Malone, on the occasion of the arrest of these young men, what were they doing in your store, if you know?
'A. Well, it was four of them came in. Two of them went back and sat down at the first booth and started reading books, and they sat there for about fifteen minutes. Of course, we had had a group about a week prior to that, of about fifty, who came into the store.
'Mr. Perry: Your Honor, I ask, of course, that the prior incident be stricken from the record. That is not responsive to the question which has been asked, and is not pertinent to the matter of the guilt or innocence of these young men.
'The Court: All right, strike it.
'Mr. Sholenberger: Your Honor, this is their own witness.
'Mr. Perry: We announced at the outset that Mr. Malone would, in a sense, be a hostile witness.
'Q. And so, when a person comes into Eckerd's and seats himself at a place where food is ordinarily served, what is the practice of your employees in that regard?
'A. Well, it's to take their order.
'Q. Did anyone seek to take the orders of these young men?
'A. No, they did not.
'Q. Why did they not do so?
'A. Because we didn't want to serve them.
'Q. Why did you not want to serve them?
'A. I don't think I have to answer that.
'Q. Did you refuse to serve them because they were Negroes?
*273 'A. No.
'Q. You did say, however, that Eckerd's has the policy of not serving Negroes in the lunch counter section?
'A. I would say that all stores do the same thing.
'Q. We're speaking specifically of Eckerd's?
'A. Yes.
'Q. Did you or any or your employees, Mr. Malone, approach these defendants and take their order for food?
'A. No.'

2. Robinson v. Florida, 378 U.S. 153, 84 S.Ct. 1693.

A Vice President of Shell's City, Inc., testified:
'Q. Why did you refuse to serve these defendants?
'A. Because I feel, definitely, it is very detrimental to our business to do so.
'Q. What do you mean 'detrimental'?
'A. Detrimental because it would mean a loss of business to us to serve mixed groups.'

Another Vice President of Shell's City, Inc., testified:
'Q. You have several departments in your store, do you not?
'A. Yes. Nineteen, I believe. Maybe twenty.
'Q. Negroes are invited to participate and make purchases in eighteen of these departments?
'A. Yes, sir.
'Q. Can you distinguish between your feeling that it

is not detrimental to have them served in eighteen departments and it is detrimental to have them served in the nineteenth department, namely, the lunch counter?
'A. Well, it goes back to what is the custom, that is, the tradition of what is basically observed in Dade **1840 County would be the bottom of it. We have-
'Q. Would you tell me what this custom is, that you are making reference to, that would prevent you from serving Negroes at your lunch counter?
*274 'A. I believe I already answered that, that it is the customs and traditions and practice in this county-not only in this county but in this part of the state and elsewhere, not to serve whites and colored people seated in the same restaurant. That's my answer.
'Q. Was that the sole reason, the sole basis, for your feeling that this was detrimental to your business?
'A. Well, that is the foundation of it, yes, but we feel that at this time if we went into a thing of trying to break that barrier, we might have racial trouble, which we don't want. We have lots of good friends among colored people and will have when this case is over.
'Q. Are you familiar with the fact that the Woolworth Stores in this community have eliminated this practice?
'Mr. Goshgarian: To which the State objects. It is irrelevant and immaterial.
'The Court: The objection is sustained.'

3. Fox v. North Carolina, 378 U.S. 587, 84 S.Ct. 1901.

Mr. Claude M. Breeden, the manager of the McCrory branch in Raleigh, testified:
'I just don't serve colored. I don't have the facilities for serving colored. Explaining why I don't serve colored. I don't have the facilities for serving colored. I have the standard short order lunch, but I don't serve colored. I don't serve colored because I don't have the facilities for serving colored.
'COUNSEL FOR DEFENDANT: What facilities would be necessary for serving colored?
'SOLICITOR FOR STATE: Objection.
'THE COURT: Sustained.
'WITNESS CONTINUES: It is not the policy of my store to discriminate and not serve Negroes. We have no policy against discrimination. I do not discriminate and it is not the custom in the Raleigh Store to discriminate. I do not have the facilities for serving colored and that is why I don't serve colored.'

*275 4. Mitchell v. City of Charleston, 378 U.S. 551, 84 S.Ct. 1901.

Mr. Albert C. Watts, the manager of the S. H. Kress & Co. outlet in Charleston, testified:
'Q. * * * What type of business is Kress's?
'A. Five and Ten Cent variety store.
'Q. Could you tell us briefly something about what commodities it sells-does it sell just about every type of commodity that one might find in this type establishment?
'A. Strictly variety store merchandise-no appliances or anything like that.
'Q. I see. Kress, I believe it invites members of the public generally into its premises to do business, does it not?
'A. Yes.
'Q. It invites Negroes in to do business, also?
'A. Right.
'Q. Are Negroes served in all of the departments of Kress's except your lunch counter?
'A. We observe local custom.
'Q. In Charleston, South Carolina, the store that you manage, sir, **1841 does Kress's serve Negroes at the lunch counter?
'A. No. It is not a local custom.
'Q. To your knowledge, does the other like businesses serve Negroes at their lunch counters? What might happen at Woolworth's or some of the others?
'A. They observe local custom-I say they wouldn't.
'Q. Then you know of your own knowledge that they do not serve Negroes? Are you speaking of other business such as your business?
'A. I can only speak in our field, yes.
'Q. In your field, so that the other stores in your field do not serve Negroes at their lunch counters?
'A. Yes, sir.'

*276 5. Hamm v. City of Rock Hill, 377 U.S. 988, 84 S.Ct. 1902.

Mr. H. C. Whiteaker, the manager of McCrory's in Rock Hill, testified:
'Q. All rght. Now, how many departments do you have in your store?
'A. Around twenty.
'Q. Around twenty departments?

'A. Yes, sir.
'Q. All right, sir, is one of these departments considered a lunch counter or establishment where food is served?
'A. Yes, sir. That is a separate department.
'Q. Now, I believe, is it true that you invite members of the public to come into your store?
'A. Yes, it is for the public.
'Q. And is it true, too, that the public to you means everybody, various races, religions, nationalities?
'A. Yes, sir.
'Q. The policy of your store as manager is not to exclude anybody from coming in and buying these three thousand items on account of race, nationality or religion, is that right?
'A. The only place where there has been exception, where there is an exception, is at our lunch counter.
'Q. Oh, I see. Is that a written policy you get from headquarters in New York?
'A. No, sir.
'Q. It is not. You don't have any memorandum in your store that says that is a policy?
'A. No, sir.
'Q. Is it true, then, that if, that well, even if a man was quiet enough, and a Communist, that he could sit at your lunch counter and eat, according to the policy of your store right now? Whether you knew he was a Communist*277 or not, so his political beliefs would not have anything to do with it, is that right?
'A. No.
'Q. Now, sir, you said that there was a policy there as to Negroes sitting. Am I to understand that you do serve Negroes or Americans who are Negroes, standing up?
'A. To take out, at the end of the counter, we serve take-outs, yes, sir.
'Q. In other words, you have a lunch counter at the end of your store?
'A. No, I said at the end, they can wait and get a package or a meal or order a coke or hamburger and take it out.
'Q. Oh, to take out. They don't normally eat it on the premises?
'A. They might, but usually it is to take out.
**1842 'Q. Of course, you probably have some Negro employees in your store, in some capacity, don't you?
'A. Yes, sir.
'Q. They eat on the premises, is that right?
'A. Yes, sir.
'Q. But not at the lunch counter?
'A. No, sir.
'Q. Oh, I see, but generally speaking, you consider the American Negro as part of the general public, is that right, just generally speaking?
'A. Yes, sir.
'Q. You don't have any objections for him spending any amount of money he wants to on these 3,000 items, do you?
'A. That's up to him to spend if he wants to spend.
'Q. This is a custom, as I understand it, this is a custom instead of a law that causes you not to want him to ask for service at the lunch counter?
*278 'A. There is no law to my knowledge, it is merely a custom in this community.'

C. The testimony in the following cases is less definitive with respect to why Negroes were refused service.

In Griffin v. Maryland, 378 U.S. 130, 84 S.Ct. 1769, the president of the corporations which own and operate Glen Echo Amusement Park said he would admit Chinese, Filipinos, Indians and, generally, anyone but Negroes. He did not elaborate, beyond stating that a private property owner has the right to make such a choice.

In Barr v. City of Columbia, 378 U.S. 146, 84 S.Ct. 1734, the co-owner and manager of the Taylor Street Pharmacy said Negroes could purchase in other departments of his store and that whether for business or personal reasons, he felt he had a right to refuse service to anyone.

In Williams v. North Carolina, 378 U.S. 548, 84 S.Ct. 1900, the president of Jones Drug Company said Negroes were not permitted to take seats at the lunch counter. He did say, however, that Negroes could purchase food and eat it on the premises so long as they stood some distance from the lunch counter, such as near the back door.

In Lupper v. Arkansas, 377 U.S. 989, 84 S.Ct. 1906, and Harris v. Virginia, 378 U.S. 552, 84 S.Ct. 1923, the record discloses only that the establishment did not serve Negroes.

APPENDIX III TO OPINION OF MR. JUSTICE DOUGLAS.

Corporate FN1 Business Establishments Involved In The 'Sit-in' Cases Before This Court During The

1962 Term And The 1963 Term. Reference (other than the record in each case): Moody's Industrial Manual (1963 ed.).

FN1. The only 'sit-in' cases not involving a corporation are Barr v. City of Columbia, 378 U.S. 146, 84 S.Ct. 1734, and Daniels v. Virginia, 374 U.S. 500, 83 S.Ct. 1877, 10 L.Ed.2d 1045. In Barr, the business establishment was the Taylor Street Pharmacy, which apparently is a partnership; in Daniels, it was the 403 Restaurant in Alexandria, Virginia, an individual proprietorship.

*279 1. Gus Blass & Co. Department Store.
Case: Lupper v. Arkansas, 377 U.S. 989, 84 S.Ct. 1906.
Location: Little Rock, Arkansas.
Ownership: Privately owned corporation.
2. Eckerd Drugs of Florida, Inc.
Case: Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697.
**1843 Location: 17 retail drugstores throughout Southern States.
Ownership: Publicly owned corporation.
Number of shareholders: 1,000.
Stock traded: Over-the-counter market.
3. George's Drug Stores, Inc.
Case: Harris v. Virginia, 378 U.S. 552, 84 S.Ct. 1923.
Location: Hopewell, Virginia.
Ownership: Privately owned corporation.
4. Gwynn Oak Park, Inc.
Case: Drews v. Maryland, 378 U.S. 547, 84 S.Ct. 1900.
Location: Baltimore, Maryland.
Ownership: Privately owned corporation.
5. Hooper Food Company, Inc.
Case: Bell v. Maryland, 378 U.S. 226, 84 S.Ct. 1814.
Location: Several restaurants in Baltimore, Maryland.
Ownership: Privately owned corporation.
6. Howard Johnson Co.
Case: Henry v. Virginia, 374 U.S. 98, 83 S.Ct. 1685, 10 L.Ed.2d 1025.
Location: 650 restaurants in 25 States.
Ownership: Publicly owned corporation.
Number of shareholders: 15,203.
Stock traded: New York Stock Exchange.
7. Jones Drug Company, Inc.
Case: Williams v. North Carolina, 378 U.S. 548, 84 S.Ct. 1900.
Location: Monroe, North Carolina.
Ownership: Privately owned corporation.
*280 8. Kebar, Inc. (lessee from Rakad, Inc.).
Case: Griffin v. Maryland, 378 U.S. 130, 84 S.Ct. 1770.
Location: Glen Echo Amusement Park, Maryland.
Ownership: Privately owned corporation.
9. S. H. Kress & Company.
Cases: Mitchell v. City of Charleston, 378 U.S. 551, 84 S.Ct. 1901; Avent v. North Carolina, 373 U.S. 375, 83 S.Ct. 1311, 10 L.Ed.2d 420; Gober v. City of Birmingham, 373 U.S. 374, 83 S.Ct. 1311, 10 L.Ed.2d 419; Peterson v. City of Greenville, 373 U.S. 244, 83 S.Ct. 1133, 10 L.Ed.2d 323.
Location: 272 stores in 30 States.
Ownership: Publicly owned corporation.
Number of shareholders: 8,767.
Stock traded: New York Stock Exchange.
10. Loveman's Department Store (food concession operated by Price Candy Company of Kansas City).
Case: Gober v. City of Birmingham, supra.
Location: Birmingham, Alabama.
Ownership: Privately owned corporation.
11. McCrory Corporation.
Cases: Fox v. North Carolina, 378 U.S. 587, 84 S.Ct. **1844 1901; Hamm v. City of Rock Hill, 377 U.S. 988, 84 S.Ct. 1902; Lombard v. Louisiana, 373 U.S. 267, 83 S.Ct. 1122.
Location: 1,307 stores throughout the United States.
Ownership: Publicly owned corporation.
Number of shareholders: 24,117.
Stock traded: New York Stock Exchange.
12. National White Tower System, Incorporated.
Case: Green v. Virginia, 378 U.S. 550, 84 S.Ct. 1910.
Location: Richmond, Virginia, and other cities (number unknown).
Ownership: Apparently a privately owned corporation.
*281 13. J. J. Newberry Co.
Case: Gober v. City of Birmingham, supra.
Location: 567 variety stores in 46 States; soda fountains, lunch bars, cafeterias and restaurants in 371 stores.
Ownership: Publicly owned corporation.
Number of shareholders: 7,909.
Stock traded: New York Stock Exchange.
14. Patterson Drug Co.
Cases: Thompson v. Virginia, 374 U.S. 99, 83 S.Ct. 1686, 10 L.Ed.2d 1025; Wood v. Virginia, 374 U.S. 100, 83 S.Ct. 1686, 10 L.Ed.2d 1025.
Location: Lynchburg, Virginia.

Ownership: Privately owned corporation.
15. Pizitz's Department Store.
Case: Gober v. City of Birmingham, supra.
Location: Birmingham, Alabama.
Ownership: Privately owned corporation.
16. Shell's City, Inc.
Case: Robinson v. Florida, 378 U.S. 153, 84 S.Ct. 1693.
Location: Miami, Florida.
Ownership: Privately owned corporation.
17. Thalhimer Bros., Inc., Department Store.
Case: Randolph v. Virginia, 374 U.S. 97, 83 S.Ct. 1685, 10 L.Ed.2d 1025.
Location: Richmond, Virginia.
Ownership: Privately owned corporation.
18. F. W. Woolworth Company.
Case: Gober v. City of Birmingham, supra.
Location: 2,130 stores (primarily variety stores) throughout the United States.
Ownership: Publicly owned corporation.
Number of shareholders: 90,435.
Stock traded: New York Stock Exchange.

****1845 *282** APPENDIX IV TO OPINION OF MR. JUSTICE DOUGLAS.

Legal form of organization--by kind of business.

References: United States Census of Business, 1958, Vol. I.

Retail trade--Summary Statistics (1961).

A. UNITED STATES..

	Establishments	Sales ($1,000)
Eating places:.		
Total.	229,238	$11,037,644
Individual proprietorships.	166,003	5,202,308
Partnerships.	37,756	2,062,830
Corporations.	25,184	3,723,295
Cooperatives.	231	13,359
Other legal forms.	64	35,852
Drugstores with fountain:.		
Total.	24,093	$ 3,535,637

Individual proprietorships.	
1,294,737	13,549
Partnerships.	
602,014	4,368
Corporations.	
1,633,998	6,140
Cooperatives.	
(withheld)	9
Other legal forms.	
"	27
Proprietary stores with fountain:.	
Total.	
132,518	2,601
Individual proprietorships.	
85,988	1,968
Partnerships.	
(withheld)	446
Corporations.	
21,090	185
Cooperatives.	
.....	.....
Other legal forms.	
(withheld)	2
Department stores:.	
Total.	
13,359,467	3,157
Individual proprietorships.	
(withheld)	19
Partnerships.	
85,273	64
Corporations.	
13,245,916	3,073
Cooperatives.	
(withheld)	1
Other legal forms.	
.....	.....

B. STATE OF MARYLAND1.

Establishments	Sales
Eating places:.	
($1,000)	(number)
Total.	
175,546	3,223
Individual proprietorships.	
72,816	2,109
Partnerships.	
30,386	456
Corporations.	
71,397	628
Other legal forms.	
947	30
Drugstores, proprietary stores:.	

	Total.				
139,943					832
Individual proprietorships.					
42,753					454
Partnerships.					
(withheld)					139
Corporations.					
76,403					235
Other legal forms.					
(withheld)					4
Department stores:.					
	Total.				
247,872					43
Individual proprietorships.					
	.....			.....	
Partnerships.					
	.....			.....	
Corporations.					
247,872					43
Other legal forms.					
	.....			.....	

FN1. A division into stores with or without fountains, furnished for the United States, is not furnished for individual States.

FN1. See generally Flack, The Adoption of the Fourteenth Amendment (1908); Harris, The Quest for Equality (1960).

***284 **1846** APPENDIX V TO OPINION OF MR. JUSTICE DOUGLAS.

STATE ANTIDISCRIMINATION LAWS.-

(As of March 18, 1964.)-

(Prepared by the United States Commission on Civil Rights.)-

State-	Public owned housing	Private employment	Private accommodations	Private housing	Privately Private schools	Private hospitals
Alaska-						
	1959	1962	----	1959	1962	
	----	----	----			----
California-						
	1959	1963	----	1959	1959	
		----	----			----
Colorado-						
	1957	1959	----	1885-		
	----	----	----			
Connecticut-						
	1947	1959	----	1953	1953	

----	----	----		----
Delaware-				
1960	----	----	1963-	
----	----			
Hawaii-				
1963	----	----	-----	

Idaho-				
1961	----	----	1961-	
Illinois-				
1961	----	31963	1[illegible]927	

Indiana-				
1945	----	----	1[illegible]963	
----	----			----
Iowa-				
1963	----	----	1884-	
Kansas-				
1961	----	----	1874-	
----	----			
Kentucky5-				
----	----	----	-----	
Maine-				
----	----	----	19[illegible]959	
Maryland6-				
----	----	----	1963-	

Massachusetts-				
1946	1959	1949	1[illegible]953	
----	----	----	----	----
Michigan7-				
1955	----	----	1885-	

Minnesota-				
1955	1961	----	1[illegible]943	
----	----	----		----
Missouri-				
1961	----	----	-----	

Montana-				
----	----	----	1955-	
Nebraska-				
----	----	----	1885-	
New Hampshire-				
----	1961	----	19[illegible]961	
New Jersey-				
1945	1961	1945	1[illegible]951	
----	----	----	----	----
New Mexico-				
1949	----	----	19[illegible]957	

New York-				

	1945	1961	1945	1945
North Dakota-				
				1961-
Ohio-				
	1959			1961
Oregon-				
	1949	1959	1951	1961
Pennsylvania-				
	1955	1961	1939	1939
Rhode Island-				
	1949			1957
South Dakota-				
				1963-
Vermont-				
	1963			1957
Washington10-				
	1949		1957	1957
Wisconsin-				
	1957			1895-
Wyoming-				
				1961

The dates are those in which the law was first enacted; the underlining means that the law is enforced by a commission. In addition to the above, the following cities in States without pertinent laws have enacted antidiscrimination ordinances: Albuquerque, N. Mex. (housing); Ann Arbor, Mich. (housing); Baltimore, Md. (employment); Beloit, Wis. (housing); Chicago, Ill. (housing); El Paso, Tex. (public accommodations); Ferguson, Mo. (public accommodations); Grand Rapids, Mich. (housing); Kansas City, Mo. (public accommodations); Louisville, Ky. (public accommodations); Madison, Wis. (housing); Oberlin, Ohio (housing); Omaha, Nebr. (employment); Peoria, Ill. (housing); St. Joseph, Mo. (public accommodations); St. Louis, Mo. (housing and public accommodations); Toledo, Ohio (housing); University City, Mo. (public accommodations); Yellow Springs, Ohio (housing); and Washington, D.C. (public accommodations and housing).-

FN1. Alaska was admitted to the Union in 1959 with these laws on its books.

FN2. Hospitals are not enumerated in the law; however, a reasonable interpretation of the broad language contained in the public accommodations law could include various health facilities.

FN3. The law appears to be limited to business schools.

FN4. Hospitals where operations (surgical) are performed are required to render emergency or first aid to any applicant if the accident or injury complained of

could cause death or severe injury.

FN5. In 1963, the Governor issued an executive order requiring all executive departments and agencies whose functions relate to the superviising or licensing of persons or organizations doing business to take all lawful action necessary to prevent racial or religious discrimination.

FN6. In 1963, the law exempted 11 counties; in 1964, the coverage was extended to include all of the counties. See ante, p. 1817, n. 1.

FN7. See 1963 Mich.Atty.Gen. opinion holding that the State Commission on Civil Rights has plenary authority in housing.

FN8. The statute does not cover housing *per se* but it prohibits persons engaged in the business from discriminating.

FN9. The statute relates to vocational, professional, and trade schools.

FN10. In 1962, a Washington, lower court held that a real estate broker is within the public accommodations law.

**1847 *286 Mr. Justice GOLDBERG, with whom THE CHIEF JUSTICE joins, and with whom Mr. Justice DOUGLAS joins as to Parts IV-V, concurring.

I.

I join in the opinion and the judgment of the Court and would therefore have no occasion under ordinary circumstances to express my views on the underlying constitutional issue. Since, however, the dissent at length discusses this constitutional issue and reaches a conclusion with which I profoundly disagree, I am impelled to state the reasons for my conviction that the Constitution guarantees to all Americans the right to be treated as equal members of the community with respect to public accommodations.

II.

The Declaration of Independence states the American creed: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.' This ideal was not fully achieved with the adoption of our Constitution because of the hard and tragic reality of Negro slavery. The Constitution of the new Nation, while heralding liberty, in effect declared all men to be free and equal-except black men who were to be neither free nor equal. This inconsistency reflected a fundamental departure from the American creed, a departure which it took a tragic civil war to set right. With the adoption, however, of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution, freedom and equality were guaranteed expressly to all regardless 'of race, color, or previous condition of servitude.' FN1 United States v. Reese, 92 U.S. 214, 218, 23 L.Ed. 563.

See generally Flack, The Adoption of the Fourteenth Amendment (1908); Harris, The Quest for Equality (1960).

*287 The light of this American commitment to equality and the history of that commitment, these Amendments must be read not as 'legislative codes which are subject to continuous revision with the **1848 changing course of events, but as the revelation of the great purposes which were intended to be achieved by the Constitution as a continuing instrument of government.' United States v. Classic, 313 U.S. 299, 316, 61 S.Ct. 1031, 1038, 85 L.Ed. 1368. The cases following the 1896 decision in Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256, too often tended to negate this great purpose. In 1954 in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873, this Court unanimously concluded that the Fourteenth Amendment commands equality and that racial segregation by law is inequality. Since

Brown the Court has consistently applied this constitutional standard to give real meaning to the Equal Protection Clause 'as the revelation' of an enduring constitutional purpose. FN2

FN2. E.g., Anderson v. Martin, 375 U.S. 399, 84 S.Ct. 454, 11 L.Ed.2d 430; Goss v. Board of Education, 373 U.S. 683, 83 S.Ct. 1405, 10 L.Ed.2d 632; Watson v. City of Memphis, 373 U.S. 526, 83 S.Ct. 1314, 10 L.Ed.2d 529; Lombard v. Louisiana, 373 U.S. 267, 83 S.Ct. 1122, 10 L.Ed.2d 338; Peterson v. City of Greenville, 373 U.S. 244, 83 S.Ct. 1119, 10 L.Ed.2d 323; Johnson v. Virginia, 373 U.S. 61, 83 S.Ct. 1053, 10 L.Ed.2d 195; Turner v. City of Memphis, 369 U.S. 350, 82 S.Ct. 805, 7 L.Ed.2d 762; Burton v. Wilmington Parking Authority, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45; Boynton v. Virginia, 364 U.S. 454, 81 S.Ct. 182, 5 L.Ed.2d 206; Gomillion v. Lightfoot, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110; Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, 19. As Professor Freund has observed, Brown and the decisions that followed it 'were not an abrupt departure in constitutional law or a novel interpretation of the guarantee of equal protection of the laws. The old doctrine of separate-but-equal, announced in 1896, had been steadily eroded for at least a generation before the school cases, in the way that precedents are whittled down until they finally collapse.' Freund, The Supreme Court of the United States (1961), p. 173. See, e.g., Missouri ex rel. Gaines v. Canada, 305 U.S. 337, 59 S.Ct. 232, 83 L.Ed. 208; Sweatt v. Painter, 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 1114; McLaurin v. Oklahoma State Regents, 339 U.S. 637, 70 S.Ct. 851, 94 L.Ed. 1149.

The dissent argues that the Constitution permits American citizens to be denied access to places of public accommodation solely because of their race or color. Such a few does not do justice to a Constitution which ***288** is color blind and to the Court's decision in Brown v. Board of Education, which affirmed the right of all Americans to public equality. We cannot blind ourselves to the consequences of a constitutional interpretation which would permit citizens to be turned away by all the restaurants, or by the only restaurant, in town. The denial of the constitutional right of Negroes to access to places of public accommodation would perpetuate a caste system in the United States.

The Thirteenth, Fourteenth and Fifteenth Amendments do not permit Negroes to be considered as second-class citizens in any aspect of our public life. Under our Constitution distinctions sanctioned by law between citizens because of race, ancestry, color or religion 'are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.' Hirabayashi v. United States, 320 U.S. 81, 100, 63 S.Ct. 1375, 1385, 87 L.Ed. 1774. We make no racial distinctions between citizens in exacting from them the discharge of public responsibilities: The heaviest duties of citizenship-military service, taxation, obedience to laws-are imposed even-handedly upon black and white. States may and do impose the burdens of state citizenship upon Negroes and the States in many ways benefit from the equal imposition of the duties of federal citizenship. Our fundamental law which insures such an equality of public burdens, in my view, similarly insures an equality of public benefits. This Court has repeatedly recognized and applied this fundamental principle to many aspects of community life. FN3

See supra, note 2.

****1849** III.

Of course our constitutional duty is 'to construe, not to rewrite or amend, the Constitution.' Post, at 1877 (dissenting opinion of Mr. Justice BLACK). Our sworn duty to construe the Constitution requires, however, that ***289** we read it to effectuate the intent and purposes of the Framers. We must, therefore, consider the history and circumstances indicating what the Civil War Amendments were in fact designed to achieve.

In 1873, in one of the earliest cases interpreting the Thirteenth and Fourteenth Amendments, this Court observed:

'(N)o one can fail to be impressed with the one pervading purpose found in * * * all (these Amendments), lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him. * * *' Slaughter-House Cases, 16 Wall. 36, 71, 21

L.Ed. 394.

A few years later, in 1880, the Court had occasion to observe that these Amendments were written and adopted 'to raise the colored race from that condition of inferiority and servitude in which most of them had previously stood, into perfect equality of civil rights with all other persons within the jurisdiction of the States.' Ex parte Virginia, 100 U.S. 339, 344-345, 25 L.Ed. 676. In that same Term, the Court in Strauder v. West Virginia, 100 U.S. 303, 307, 25 L.Ed. 664, stated that the recently adopted Fourteenth Amendment must 'be construed liberally, to carry out the purposes of its framers.' Such opinions immediately following the adoption of the Amendments clearly reflect the contemporary understanding that they were 'to secure to the colored race, thereby invested with the rights, privileges, and responsibilities of citizenship, the enjoyment of all the civil rights that, under the law, are enjoyed by white persons * * *.' Neal v. Delaware, 103 U.S. 370, 386, 26 L.Ed. 567.

***290** The historical evidence amply supports the conclusion of the Government, stated by the Solicitor General in this Court, that:
'it is an inescapable inference that Congress, in recommending the Fourteenth Amendment, expected to remove the disabilities barring Negroes from the public conveyances and places of public accommodation with which they were familiar, and thus to assure Negroes an equal right to enjoy these aspects of the public life of the community.'

The subject of segregation in public conveyances and accommodations was quite familiar to the Framers of the Fourteenth Amendment. FN4 Moreover, it appears that the contemporary understanding of the general public was that freedom from discrimination in places of public accommodation was part of the Fourteenth Amendment's promise of equal protection. FN5 This view was readily ****1850 *291** accepted by the Supreme Court of Mississippi in 1873 in Donnell v. State, 48 Miss. 661. The Mississippi Supreme Court there considered and upheld the equal accommodations provisions of Mississippi's 'civil rights' bill as applied to a Negro theater patron. Justice Simrall, speaking for the court, noted that the '13th, 14th and 15th amendments of the constitution of the United States, are the logical results of the late civil war,' id., at 675, and concluded that the 'fundamental idea and principle pervading these amendments, is an impartial equality of rights and privileges, civil and political, to all 'citizens of the United States' * * *,' id., at 677. FN6

FN4. See, e.g., Cong.Globe, 38th Cong., 1st Sess., 839; Cong.Globe, 38th Cong., 1st Sess., 1156-1157; Cong.Globe, 42d Cong., 2d Sess., 381-383; 2 Cong.Rec. 4081-4082. For the general attitude of post-Civil War Congresses toward discrimination in places of public accommodation, see Frank and Munro, The Original Understanding of 'Equal Protection of the Laws,' 50 Col.L.Rev. 131, 150-153 (1950).

The Civil Rights Act of 1866, 14 Stat. 27, which was the precursor of the Fourteenth Amendment, did not specifically enumerate such rights but, like the Fourteenth Amendment, was nevertheless understood to open to Negroes places of public accommodation. See Flack, op. cit., supra, note 1, at 45 (opinion of the press); Frank and Munro, supra, note 4, at 150-153; Lewis, The Sit-In Cases: Great Expectations, 1963 Sup.Ct.Rev. 101, 145-146. See also Coger v. The North West. Union Packet Co., 37 Iowa 145; Ferguson v. Gies, 82 Mich. 358, 46 N.W. 718, 9 L.R.A. 589: The Government, in its brief in this Court, has agreed with these authorities: '(W)e may feel sure that any member of Congress would have answered affirmatively if he had been asked in 1868 whether the Civil Rights Act of 1866 and the Fourteenth Amendment would have the effect of securing Negroes the same right as other members of the public to use hotels, trains and public conveyances.'

Justice Simrall, a Kentuckian by birth, was a plantation owner and a prominent Mississippi lawyer and Mississippi State Legislator before the Civil War. Shortly before the war, he accepted a chair of law at the University of Louisville; he continued in that position until the beginning of the war when he returned to his plantation in Mississippi. He subsequently served for nine years on the Mississippi Supreme Court, the last three years serving as Chief Justice. He later lectured at the University of Mississippi and in 1890 was elected a member of the Constitutional Convention of Mississippi and served as chairman of the judiciary committee. 5 National Cyclopaedia of American Biography (1907), 456; 1 Rowland,

Courts, Judges, and Lawyers of Mississippi 1798-1935 (1935), 98-99.

In Strauder v. West Virginia, supra, this Court had occasion to consider the concept of civil rights embodied in the Fourteenth Amendment:
'What is this but declaring that the law in the States shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the States, and, in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color? The words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity, or right, most valuable to ***292** the colored race,-the right to exemption from unfriendly legislation against them distinctively as colored,-exemption from legal discriminations, implying inferiority in civil society, lessening the security of their enjoyment of the rights which others enjoy, and discriminations which are steps towards reducing them to the condition of a subject race.' Id., 100 U.S. at 307-308.
'The Fourteenth Amendment makes no attempt to enumerate the rights it designed to protect. It speaks in general terms, and those are as comprehensive as possible. Its language is prohibitory; but every prohibition implies the existence of rights and immunities, prominent among which is an immunity from inequality of legal protection, either for life, liberty, or property.' Id., at 310. (Emphasis added.)

The Fourteenth Amendment was in part designed to provide a firm constitutional basis for the Civil Rights Act of 1866, 14 Stat. 27, and to place that legislation beyond the power of congressional repeal. FN7 The origins of subsequently proposed ****1851** amendments and legislation lay in the 1866 bill and in a companion measure, the Freedmen's ***293** Bureau bill. FN8 The latter was addressed to States 'wherein, in consequence of any State or local law, * * * custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right * * * to have full and equal benefit of all laws and proceedings for the security of person and estate, are refused or denied to negroes * * *.' Cong.Globe, 39th Cong., 1st Sess., 318. A review of the relevant congressional debates reveals that the concept of civil rights which lay at the heart both of the contemporary legislative proposals and of the Fourteenth Amendment encompassed the right to equal treatment in public places-a right explicitly recognized to be a 'civil' rather than a 'social' right. It was repeatedly emphasized 'that colored persons shall enjoy the same civil rights as white persons,' FN9 that the colored man should have the right 'to go where he pleases,' FN10 that he should have 'practical' freedom, [FN11] ***294** and that he should share ****1852** 'the rights and guarantees of the good old common law.'FN12

Cong.Globe, 39th Cong., 1st Sess., at 2459, 2462, 2465, 2467, 2538; Flack, op. cit., supra, note 1, at 94; Harris, op. cit., supra, note 1, at 30-40; McKitrick, Andrew Johnson and Reconstruction (1960), 326-363; Gressman, The Unhappy History of Civil Rights Legislation, 50 Mich.L.Rev. 1323, 1328-1332 (1952). A majority of the courts that considered the Act of 1866 had accepted its constitutionality. United States v. Rhodes, 27 Fed.Cas. p. 785 (No. 16,151); In re Turner, 24 Fed.Cas. p. 337 (No. 14,247); Smith v. Moody, 26 Ind. 299; Hart v. Hoss & Elder, 26 La.Ann. 90. Contra, People v. Brady, 40 Cal. 198 (compare People v. Washington, 36 Cal. 658); Bowlin v. Commonwealth, 65 Ky. 5.

As MR. JUSTICE BLACK pointed out in the Appendix to his dissent in Adamson v. California, 332 U.S. 46, 68, 107-108, 67 S.Ct. 1672, 1704, 91 L.Ed. 1903:
'Both proponents and opponents of s 1 of the (Fourteenth) amendment spoke of its relation to the Civil Rights Bill which had been previously passed over the President's veto. Some considered that the amendment settled any doubts there might be as to the constitutionality of the Civil Rights Bill. Cong.Globe (39th Cong., 1st Sess.,) 2511, 2896. Others maintained that the Civil Rights Bill would be unconstitutional unless and until the amendment was adopted. Cong.Globe, 2461, 2502, 2506, 2513, 2961, 2513. Some thought that amendment was nothing but the Civil Rights (Bill) 'in another shape.' Cong.Globe, 2459, 2462, 2465, 2467, 2498, 2502.'

FN9. Cong.Globe, 39th Cong., 1st Sess., at 684 (Senator Sumner).

Id., at 322 (Senator Trumbull). The recurrent

references to the right 'to go and come at pleasure' as being 'among the natural rights of free men' reflect the common understanding that the concepts of liberty and citizenship embraced the right to freedom of movement, the effective right to travel freely. See id., 41-43, 111, 475. Blackstone had stated that the 'personal liberty of individuals' embraced 'the power of locomotion, of changing situation, or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint, unless by due course of law.' 1 Blackstone, Commentaries (Lewis ed. 1902), 134. This heritage was correctly described in Kent v. Dulles, 357 U.S. 116, 125-127, 78 S.Ct. 1113, 1118, 2 L.Ed.2d 1204:
'The right to travel is a part of the 'liberty' of which the citizen cannot be deprived without due process of law under the Fifth (and Fourteenth Amendments). * * * In Anglo-Saxon law that right was emerging at least as early as the Magna Carta. * * * Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values. See Crandall v. State of Nevada, 6 Wall. 35, 44, 18 L.Ed. 744; Williams v. Fears, 179 U.S. 270, 274, 21 S.Ct. 128, 129, 45 L.Ed. 186; Edwards v. People of State of California, 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119.' See also Aptheker v. Secretary of State, 378 U.S. 500, 84 S.Ct. 1659.
This right to move freely has always been thought to be and is now more than ever inextricably linked with the right of the citizen to be accepted and to be treated equally in places of public accommodation. See the opinion of MR. JUSTICE DOUGLAS, ante, at 1827-1828.

FN11. Cong.Globe, 39th Cong., 1st Sess., at 474 (Senator Trumbull).

FN12. Id., at 111 (Senator Wilson). See infra, at note 17.

In the debates that culminated in the acceptance of the Fourteenth Amendment, the theme of granting 'civil,' as distinguished from 'social,' rights constantly recurred.FN13 Although it was commonly recognized that in some areas the civil-social distinction was misty, the critical fact is that it was generally understood that 'civil rights' certainly included the right of access to places of public accommodation for these were most clearly places and areas of life where the relations of men were traditionally regulated by governments. FN14 Indeed, the opponents both *295 of the Freedmen's Bureau bill and of the Civil Rights Act of 1866 frequently complained, without refutation or contradiction, that these measures would grant Negroes the right to equal treatment in places of public accommodation. Thus, for example, Senator Davis of Kentucky, in opposing the Freedmen's Bureau bill, protested that 'commingling with (white persons) in hotels, theaters, steamboats, and other civil rights and privileges, were always forbid to free negroes, until * * *' recently granted by Massachusetts.FN15

FN13. E.g., id., at 476, 599, 606, 1117-1118, 1151, 1157, 1159, 1264.

FN14. Frank and Munro, supra, note 4, at 148-149:
'One central theme emerges from the talk of 'social equality': there are two kinds of relations of men, those that are controlled by the law and those that are controlled by purely personal choice. The former involves civil rights, the latter social rights. There are statements by proponents of the Amendment from which a different definition could be taken, but this seems to be the usual one.' See infra, at notes 16, 32.

FN15. Cong.Globe, 39th Cong., 1st Sess., 936. (Emphasis added.) See also id., at 541, 916, App. 70.

An 1873 decision of the Supreme Court of Iowa clearly reflects the contemporary understanding of the meaning of the Civil Rights Act of 1866. In Coger v. North West. Union Packet Co., 37 Iowa 145, a colored woman sought damages for assault and battery occurring when the officers of a Mississippi River steamboat ordered that she be removed from a dining table in accordance with a practice of segregation in the main dining room on the boat. In giving judgment for the plaintiff, the Iowa Supreme Court quoted the Civil Rights Act of 1866 and concluded that:
'Under this statute, equality in rights is secured to the negro. The language is comprehensive and includes the right to property and all rights growing out of contracts. It includes within its broad terms

every right arising in the affairs of life. The right of the passenger under the contract of transportation with the carrier is included therein. The colored man is guarantied equality and equal protection*296 of the laws with his white neighbor. These are the rights secured to him as a citizen of the United States, without regard to his color, and constitute his privileges, which are secured by (the Fourteenth Amendment).' Id., at 156.

The Court then went on to reject the contention that the rights asserted were 'social, and * * * not, therefore, secured by the constitution and statutes, either of the State or of the United States.' Id., at 157. FN16

FN16. The court continued: 'Without doubting that social rights and privileges are not within the protection of the laws and constitutional provisions in question, we are satisfied that the rights and privileges which were denied plaintiff are not within that class. She was refused accommodations equal to those enjoyed by white passengers. * * * She was unobjectionable in deportment and character. * * * She complains not because she was deprived of the society of white persons. Certainly no one will claim that the passengers in the cabin of a steamboat are there in the character of members of what is called society. Their companionship as travelers is not esteemed by any class of our people to create social relations. * * * The plaintiff * * * claimed no social privilege, but substantial privileges pertaining to her property and the protection of her person. It cannot be doubted that she was excluded from the table and cabin * * * because of prejudice entertained against her race * * *. The object of the amendments of the federal constitution and of the statutes above referred to, is to relieve citizens of the black race from the effects of this prejudice, to protect them in person and property from its spirit. The Slaughter House Cases (16 Wall. 36, 21 L.Ed. 394). We are disposed to construe these laws according to their very spirit and intent, so that equal rights and equal protection shall be secured to all regardless of color or nationality.' Id., at 157-158. See also Ferguson v. Gies, 82 Mich. 358, 46 N.W. 718, 9 L.R.A. 589.

Underlying the congressional discussions, and at the heart of the Fourteenth Amendment's guarantee of equal protection,**1853 was the assumption that the State by statute or by 'the good old common law' was obligated to guarantee all citizens access to places of public accommodation. This obligation was firmly rooted in ancient *297 Anglo-American tradition. In his work on bailments, Judge Story spoke of this tradition:

'An innkeeper is bound * * * to take in all travellers and wayfaring persons, and to entertain them, if he can accommodate them, for a reasonable compensation; and he must guard their goods with proper diligence. * * * If an innkeeper improperly refuses to receive or provide for a guest, he is liable to be indicted therefor. * * *' Story, Commentaries on the Law of Bailments (Schouler, 9th ed., 1878) s 476.FN17

FN17. The treatise defined an innkeeper as 'the keeper of a common inn for the lodging and entertainment of travellers and passengers * * *.' Story, Commentaries on the Law of Bailments (Schouler, 9th ed., 1878), s 475. 3 Black-stone, op. cit., supra, note 10, at 166, stated a more general rule:

'(I)f an inn-keeper, or other victualler, hangs out a sign and opens his house for travelers, it is an implied engagement to entertain all persons who travel that way; and upon this universal assumpsit an action on the case will lie against him for damages if he, without good reason, refuses to admit a traveler.' (Emphasis added.) In Tidswell, The Innkeeper's Legal Guide (1864), p. 22, a 'victualling house' is defined as a place 'where people are provided with food and liquors, but not with lodgings,' and in 3 Stroud, Judicial Dictionary (1903), as 'a house where persons are provided with victuals, but without lodging.'

Regardless, however, of the precise content of state common-law rules and the legal status of restaurants at the time of the adoption of the Fourteenth Amendment, the spirit of the common law was both familiar and apparent. In 1701 in Lane v. Cotton, 12 Mod. 472, 484-485, Holt, C.J., had declared:

'(W)herever any subject takes upon himself a public trust for the benefit of the rest of his fellow-subjects, he is eo ipso bound to serve the subject in all the things that are within the reach and comprehension of such an office, under pain of an action against him * * *. If on the road a shoe fall off my horse, and I come to a smith to have one put on, and the smith refuse to do it, an action will lie against him, because he has made profession of a trade which is for the public good, and has thereby exposed and vested an interest of himself in all the

king's subjects that will employ him in the way of his trade. If an inn-keeper refuse to entertain a guest where his house is not full, an action will lie against him and so against a carrier, if his horses be not loaded, and he refuse to take a packet proper to be sent by a carrier * * *. If the inn be full, or the carrier's horses laden, the action would not lie for such refusal; but one that has made profession of a public employment, is bound to the utmost extent of that employment to serve the public.' See Munn v. Illinois, 94 U.S. 113, 126-130, 24 L.Ed. 77 (referring to the duties traditionally imposed on one who pursues a public employment and exercises 'a sort of public office').

Furthermore, it should be pointed out that the Framers of the Fourteenth Amendment, and the men who debated the Civil Rights Acts of 1866 and 1875, were not thinking only in terms of existing common-law duties but were thinking more generally of the customary expectations of white citizens with respect to places which were considered public and which were in various ways regulated by laws. See infra, at 1853-1857. Finally, as the Court acknowledged in Strauder v. West Virginia, 100 U.S. 303, 310, 25 L.Ed. 664, the 'Fourteenth Amendment makes no attempt to enumerate the rights it designed to protect,' for those who adopted it were conscious that a constitutional 'principle, to be vital, must be capable of wider application than the mischief which gave it birth.' Weems v. United States, 217 U.S. 349, 373, 30 S.C. 544, 551, 54 L.Ed. 793. See infra, at 1863.

*298 'The first and most general obligation on (carriers of passengers) is **1854 to carry passengers whenever they offer themselves, and are ready to pay for their transportation. This results from their setting themselves up, like innkeepers, and common carriers of goods, for a common public employment on hire. They are no more at liberty to refuse a passenger, if they have sufficient room and accommodations, than an innkeeper is to refuse suitable room and accommodations to a guest. * * *' Id., at ss 590, 591.

It was in this vein that the Supreme Court of Mississippi spoke when in 1873 it applied the equal accommodations *299 provisions of the State's civil rights bill to a Negro refused admission to a theater: 'Among those customs which we call the common law, that have come down to us from the remote past, are rules which have a special application to those who sustain a quasi public relation to the community. The wayfarer and the traveler had a right to demand food and lodging from the inn-keeper; the common carrier was bound to accept all passengers and goods offered for transportation, according to his means. So, too, all who applied for admission to the public shows and amusements, were entitled to admission, and in each instance, for a refusal, an action on the case lay, unless sufficient reason were shown. The statute deals with subjects which have always been under legal control.' Donnell v. State, 48 Miss. 661, 680-681.

In a similar manner, Senator Sumner, discussing the Civil Rights Act of 1875, referred to and quoted from Holingshed, Story, Kent and Parsons on the common-law duties of innkeepers and common carriers to treat all alike. Cong.Globe, 42d Cong., 2d Sess., 382-383. With regard to 'theaters and places of public amusement,' the Senator observed that:'Theaters and other places of public amusement, licensed by law, are kindred to inns or public conveyances, though less noticed by jurisprudence. But, like their prototypes, they undertake to provide for the public under sanction of law. They are public institutions, regulated if not created by law, enjoying privileges, and in consideration thereof, assuming duties not unlike those of the inn and the public conveyance. From essential reason, the rule should be the same with all. As the inn cannot close its *300 doors, or the public conveyance refuse a seat to any paying traveler, decent in condition, so must it be with the theater and other places of public amusement. Here are institutions whose peculiar object is the 'pursuit of happiness,' which has been placed among the equal rights of all.' Id., at 383. FN18

FN18. Similarly, in 1874, Senator Pratt said: 'No one reading the Constitution can deny that every colored man is a citizen, and as such, so far as legislation may go, entitled to equal rights and privileges with white people. Can it be doubted that for a denial of any of the privileges or accommodations eumerated in the bill (proposed supplement to the Civil Rights Act of 1866) he could maintain a suit at common law against the inn-keeper, the public carrier, or proprietor or lessee of the theater who withheld them? Suppose a colored man presents himself at a public inn, kept for the accommodation of the public, is decently clad and behaves himself well and is ready to pay the customary charges for rest and refreshment, and is

either refused admittance or treated as an inferior guest-placed at the second table and consigned to the garret, or compelled to make his couch upon the floor-does any one doubt that upon an appeal to the courts, the law if justly administered would pronounce the inn-keeper responsible to him in damages for the unjust discrimination? I suppose not. Prejudice in the jury-box might deny him substantial damages; but about the law in the matter there can be no two opinions. The same is true of public carriers on land or water. Their engagement with the public is to carry all persons who seek conveyance on their cars or boats to the extent of their facilities for certain established fares, and all persons who behave themselves and are not afflicted with any contagious disease are entitled to equal accommodations where they pay equal fares.
'But it is asked, if the law be as you lay it down, where the necessity for this legislation, since the courts are open to all? My answer is, that the remedy is inadequate and too expensive, and involves too much loss of time and patience to pursue it. When a man is traveling, and far from home, it does not pay to sue every innkeeper who, or railroad company which, insults him by unjust discrimination. Practically the remedy is worthless.' 2 Cong.Rec. 4081-4082.

**1855 The first sentence of s 1 of the Fourteenth Amendment, the spirit of which pervades all of the Civil War Amendments, *301 was obviously designed to overrule Dred Scott v. Sandford, 19 How. 393, 15 L.Ed. 691, and to ensure that the constitutional concept of citizenship with all attendant rights and privileges would henceforth embrace Negroes. It follows that Negroes as citizens necessarily became entitled to share the right, customarily possessed by other citizens, of access to public accommodations. The history of the affirmative obligations existing at common law serves partly to explain the negative-'deny to any person'-language of the Fourteenth Amendment. For it was assumed that under state law, when the Negro's disability as a citizen was removed, he would be assured the same public civil rights that the law had guaranteed white persons. This view pervades the opinion of the Supreme Court of Michigan in Ferguson v. Gies, 82 Mich. 358, 46 N.W. 718, decided in 1890. That State had recently enacted a statute prohibiting the denial to any person, regardless of race, of 'the full and equal accommodations * * * and privileges of * * * restaurants * * * and all other places of public accommodation and amusement * * *.'FN19 A Negro plaintiff brought an action for damages arising from the refusal of a restaurant owner to serve him at a row of tables reserved for whites. In upholding the plaintiff's claim, the Michigan court observed:

FN19. The statute specifically referred to 'the full and equal accommodations, advantages, facilities, and privileges of inns, restaurants, eating-houses, barber-shops, public conveyances on land and water, theaters, and all other places of public accommodation and amusement, subject only to the conditions and limitations established by law, and applicable alike to all citizens.' 82 Mich. 358, 364, 46 N.W. 718, 720.

'The negro is now, by the Constitution of the United States, given full citizenship with the white man, and all the rights and privileges of citizenship attend him wherever he goes. Whatever right a white man *302 has in a public place, the black man has also, because of such citizenship.' Id., 82 Mich. at 364, 46 N.W., at 720.
**1856 The court then emphasized that in light of this constitutional principle the same result would follow whether the claim rested on a statute or on the common law:
'The common law as it existed in this State before the passage of this statute, and before the colored man became a citizen under our Constitution and laws, gave to the white man a remedy against any unjust discrimination to the citizen in all public places. It must be considered that, when this suit was planted, the colored man, under the common law of this State, was entitled to the same rights and privileges in public places as the white man, and he must be treated the same there; and that his right of action for any injury arising from an unjust discrimination against him is just as perfect and sacred in the courts as that of any other citizen. This statute is only declaratory of the common law, as I understand it now to exist in this State.' Id., 82 Mich. at 365, 46 N.W., at 720.FN20

FN20. The court also emphasized that the right under consideration was clearly a 'civil' as distinguished from a 'social' right. See 82 Mich., at 363, 367-368, 46 N.W., at 720-721; see also supra, at notes 13-14, 16 and infra, at note 32.

Evidence such as this demonstrates that Mr. Justice Harlan, dissenting in the Civil Rights Cases, 109 U.S. 3, 26, 3 S.Ct. 18, 27 L.Ed. 835, was surely correct when he observed:
'But what was secured to colored citizens of the United States-as between them and their respective States-by the national grant to them of State citizenship? With what rights, privileges, or immunities did this grant invest them? There is one, if there be no other-exemption from race discrimination in respect of any civil right belonging to citizens of the *303 white race in the same State. That, surely, is their constitutional privilege when within the jurisdiction of other States. And such must be their constitutional right, in their own State, unless the recent amendments be splendid baubles, thrown out to delude those who deserved fair and generous treatment at the hands of the nation. Citizenship in this country necessarily imports at least equality of civil rights among citizens of every race in the same State. It is fundamental in American citizenship that, in respect of such rights, there shall be no discrimination by the State, or its officers, or by individuals or corporations exercising public functions or authority, against any citizen because of his race or previous condition of servitude.' Id., 109 U.S., at 48, 3 S.Ct., at 48.

The Framers of the Fourteenth Amendment, reacting against the Black Codes, FN21 made certain that the States could not frustrate the guaranteed equality by enacting discriminatory legislation or by sanctioning discriminatory treatment. At no time in the consideration of the Amendment was it suggested that the States could achieve the same prohibited result by withdrawing the traditional right of access to public places. In granting Negroes citizenship and the equal protection of the laws, it **1857 was never thought that the States could permit the proprietors of inns and public places to restrict their general invitation to the public and to citizens in order to exclude *304 the Negro public and Negro citizens. The Fourteenth Amendment was therefore cast in terms under which judicial power would come into play where the State withdrew or otherwise denied the guaranteed protection 'from legal discriminations, implying inferiority in civil society, lessening the security of (the Negroes') enjoyment of the rights which others enjoy * * *.' Strauder v. West Virginia, 100 U.S., at 308.

FN21. After the Civil War, Southern States enacted the so-called 'Black Codes' imposing disabilities reducing the emancipated Negroes to the status of 'slaves of society,' even though they were no longer the chattels of individual masters. See Cong.Globe, 39th Cong., 1st Sess., 39, 516-517; opinion of MR. JUSTICE DOUGLAS, ante, at 1826, n. 3. For the substance of these codes, see 1 Fleming, Documentary History of Reconstruction (1906), 273-312; McPherson, The Political History of the United States During the Period of Reconstruction (1871), 29-44.

Thus a fundamental assumption of the Fourteenth Amendment was that the States would continue, as they had for ages, to enforce the right of citizens freely to enter public places. This assumption concerning the affirmative duty attaching to places of public accommodation was so rooted in the experience of the white citizenry that law and custom blended together indistinguishably. FN22 Thus it seemed natural for the Supreme Court of Mississippi, considering a public accommodations provision in a civil rights statute, to refer to 'those customs which we call the common law, that have come down to us from the remote past,' Donnell v. State, 48 Miss., at 680, *305 and thus it seems significant that the various proposals for federal legislation often interchangeably referred to discriminatory acts done under 'law' or under 'custom.'FN23 In sum, then, it was understood that under the Fourteenth Amendment the duties of the proprietors of places of public accommodation would remain as they had long been and that the States would now be affirmatively obligated to insure that these rights ran to Negro as well as white citizens.

FN22. See Lewis, supra, note 5, at 146: 'It was assumed by more than a few members of Congress that theaters and places of amusement would be or could be opened to all as a result either of the Equal Protection Clause or the Privileges and Immunities Clause. Why would the framers believe this? Some mentioned the law's regulation of such enterprises, but this is not enough. Some other standard must delineate between the regulated who must offer equal treatment and those who need not. Whites did not have a legal right to demand admittance to (such) enterprises, but they were admitted. Perhaps this observed conduct was confused with required conduct, just as the observed status of the citizens of all free governments-the governments that

Washington, J., could observe-was mistaken for inherent rights to the status. The important point is that the framers or some of them, believed the Amendment would open places of public accommodation, and study of the debates reveals this belief to be the observed expectations of the majority, tantamount in practice to legal rights. * * *'

FN23. E.g., The Supplementary Freedmen's Bureau Act, Cong.Globe, 39th Cong., 1st Sess., 318; The Civil Rights Act of 1866, 14 Stat. 27; The Enforcement Act of 1870, 16 Stat. 140; The Civil Rights Act of April 20, 1871, 17 Stat. 13; 42 U.S.C. s 1983. See also the language of the Civil Rights Cases, 109 U.S. 3, 17, 3 S.Ct. 18 (quoted infra, at note 25).

The Civil Rights Act of 1875, enacted seven years after the Fourteenth Amendment, specifically provided that all citizens must have 'the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement * * *.' 18 Stat. 335. The constitutionality of this federal legislation was reviewed by this Court in 1883 in the Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18. The dissent in the present case purports to follow the 'state action' concept articulated in that early decision. There the Court had declared that under the Fourteenth Amendment:
'It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the amendment. It has a deeper and **1858 broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due *306 process of law, or which denies to any of them the equal protection of the laws.' 109 U.S., at 11, 3 S.Ct., at 21. (Emphasis added.)

Mr. Justice Bradley, writing for the Court over the strong dissent of Mr. Justice Harlan, held that a proprietor's racially motivated denial of equal access to a public accommodation did not, without more, involve state action. It is of central importance to the case at bar that the Court's decision was expressly predicated:'on the assumption that a right to enjoy equal accommodation and privileges in all inns, public conveyances, and places of public amusement, is one of the essential rights of the citizen which no State can abridge or interfere with.' Id., 109 U.S., at 19, 3 S.Ct., at 27.

The Court added that:'Innkeepers and public carriers, by the laws of all the States, so far as we are aware,FN24 are bound, to the *307 extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them.' Id., 109 U.S., at 25, 38 S.Ct., at 31. FN25

FN24. Of the five cases involved in the Civil Rights Cases, two concerned theatres, two concerned inns, or hotels and one concerned a common carrier. In United States v. Nichols (involving a Missouri inn or hotel) the Solicitor General said: 'I premise that upon the subject of inns the common law is in force in Missouri * * *.' Brief for the United States, Nos. 1, 2, 4, 460, October Term, 1882, p. 8. In United States v. Ryan (a California theatre) and in United States v. Stanley (a Kansas inn or hotel), it seems that common-law duties applied as well as state antidiscrimination laws. Calif. Laws 1897, p. 137; Kan.Laws 1874, p. 82. In United States v. Singleton (New York opera house) a state statute barred racial discrimination by 'theaters, and other places of amusement.' N.Y.Laws 1873, p. 303; Laws 1881, p. 541. In Robinson v. Memphis (a Tennessee railroad parlor car), the legal duties were less clear. The events occurred in 1879 and the trial was held in 1880. The common-law duty of carriers had existed in Tennessee and, from what appears in the record, was assumed by the trial judge, in charging the jury, to exist at the time of trial. However, in 1875 Tennessee had repealed the common-law rule, Laws 1875, p. 216, and in 1881 the State amended the law to require a carrier to furnish separate but equal first-class accommodations, Laws 1881, p. 211.

FN25. Reasoning from this same basic assumption, the Court said that Congress lacked the power to enact such legislation: '(U)ntil some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the Fourteenth Amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity: for the prohibitions of the amendment are against

State laws and acts done under State authority.' 109 U.S., at 13, 3 S.Ct., at 22. And again: '(I)t is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true * * *; but if not sanctioned in some way by the State * * * his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress.' Id., 109 U.S., at 17, 3 S.Ct., at 25. (Emphasis added.)

The argument of the Attorney General of Mississippi in Donnell v. State, 48 Miss. 661, explicitly related the State's new public accommodations law to the Thirteenth and Fourteenth Amendments. He stated that the Amendments conferred a national 'power to enforce, 'by appropriate legislation,' these rights, privileges and immunities of citizenship upon the newly enfranchised class * * *'; he then concluded that 'the legislature of this state has sought, by this (antidiscrimination) act, to render any interference by congress unnecessary.' Id., at 668. This view seems to accord with the assumption underlying the Civil Rights Cases.

This assumption, whatever its validity at the time of the 1883 decision, has proved to be unfounded. Although reconstruction ended in 1877, six years before the Civil Rights Cases, there was little immediate action in the South to establish segregation, in law or in fact, **1859 in places *308 of public accommodation. FN26 This benevolent, or perhaps passive, attitude endured about a decade and then in the late 1880's States began to enact laws mandating unequal treatment in public places. FN27 Finally, three-quarters of a century later, after this Court declared such legislative action invalid, some States began to utilize and make available their common law to sanction similar discriminatory treatment.

FN26. Woodward, The Strange Career of Jim Crow (1955), 15-26, points out that segregation in its modern and pervasive form is a relatively recent phenomenon. Although the speed of the movement varied, it was not until 1904, for example, that Maryland, the respondent in this case, extended Jim Crow legislation to railroad coaches and other common carriers. Md.Laws 1904, c. 110, p. 188; Md.Laws 1908, c. 248, p. 88. In the 1870's Negroes in Baltimore, Maryland, successfully challenged attempts to segregate transit facilities. See Fields v. Baltimore City Passenger R. Co., reported in Baltimore American, Nov. 14, 1871, p. 4 col. 3; Baltimore Sun, Nov. 13, 1871, p. 4, col. 2.

FN27. Not until 1887 did Florida, the appellee in Robinson v. Florida, 378 U.S. 153, 84 S.Ct. 1693, enact a statute requiring separate railroad passenger facilities for the two races, Fla.Laws 1887, c. 3743, p. 116. The State, in following a pattern that was not unique, had not immediately repealed 346-347, 25 L.Ed. 676; American Federation Fla.Digest 1881, c. 19, pp. 171-172; See Fla.Laws 1891, c. 4055, p. 92; Fla.Rev.Stat.1892, p. viii.

A State applying its statutory or common lawFN28 to deny rather than protect the right of access to public accommodations has clearly made the assumption of the opinion *309 in the Civil Rights Cases inapplicable and has, as the author of that opinion would himself have recognized, denied the constitutionally intended equal protection. Indeed, in light of the assumption so explicitly stated in the Civil Rights Cases, it is significant that Mr. Justice Bradley, who spoke for the Court, had earlier in correspondence with Circuit Judge Woods expressed the view that the Fourteenth Amendment 'not only prohibits the making or enforcing of laws which shall abridge the privileges of the citizen; but prohibits the states from denying to all persons within its jurisdiction the equal protection of the laws.'FN29 In taking **1860 this position, which is consistent with his opinion and the assumption in the Civil Rights Cases,FN30 he concluded that: 'Denying includes inaction as well as action. And denying the equal protection of the laws includes the omission to protect, as well as the omission *310 to pass laws for protection.'FN31 These views are fully consonant with this Court's recognition that state conduct which might be described as 'inaction' can nevertheless *311 constitute responsible 'state action' within the meaning of the Fourteenth Amendment. See, e.g., Marsh v. Alabama, 326 U.S. 501, 66 S.Ct. 276, 90 L.Ed. 265; Shelley v. Kraemer, 334 U.S. 1, 68 S.Ct. 836, 92 L.Ed. 1161; Terry v. Adams, 345 U.S. 461, 73 S.Ct. 809, 97

L.Ed. 1152; Barrows v. Jackson, 346 U.S. 249, 73 S.Ct. 1031, 97 L.Ed. 1586.

FN28. This Court has frequently held that rights and liberties protected by the Fourteenth Amendment prevail over state common-law, as well as statutory, rules. 'The fact that (a State's) policy is expressed by the judicial organ * * * rather than by the legislature we have repeatedly ruled to be immaterial. * * * '(R)ights under (the Fourteenth) amendment turn on the power of the state, no matter by what organ it acts.' State of Missouri v. Dockery, 191 U.S. 165, 170-171, 24 S.Ct. 53, 54, 48 L.Ed. 133.' Hughes v. Superior Court, 339 U.S. 460, 466-467, 70 S.Ct. 718, 722, 94 L.Ed. 985. See also Ex parte Virginia, 100 U.S. 339, 346-347, 25 L.Ed. 676; American Federation of Labor v. Swing, 312 U.S. 321, 61 S.Ct. 568, 85 L.Ed. 855; New York Times Co. v. Sullivan, 376 U.S. 254, 265, 84 S.Ct. 710, 718, 11 L.Ed.2d 686.

FN29. Letter from Justice Bradley to Circuit Judge (later Justice) William B. Woods (unpublished draft), Mar. 12, 1871, in the Bradley Papers on file, The New Jersey Historical Society, Newark, New Jersey; Supplemental Brief for the United States as Amicus Curiae, Nos. 6, 9, 10, 12 and 60, October Term, 1963, pp. 75-76. For a convenient source of excerpts, see Roche, Civil Liberty in the Age of Enterprise, 31 U. of Chi.L.Rev. 103, 108-110 (1963). See notes 30-31, infra.

FN30. A comparison of the 1871 Bradley-Woods correspondence (and the opinion that Judge Woods later wrote, see note 31, infra) with Justice Bradley's 1883 opinion in the Civil Rights Cases indicates that in some respects the Justice modified his views. Attached to a draft of a letter to Judge Woods was a note, apparently written subsequently, by Justice Bradley stating that: 'The views expressed in the foregoing letters were much modified by subsequent reflection, so far as relates to the power of Congress to pass laws for enforcing social equality between the races.' The careful wording of this note, limiting itself to 'the power of Congress to pass laws,' supports the conclusion that Justice Bradley had only modified, not abandoned, his fundamental views and that the Civil Rights Cases should be read, as they were written, to rest on an explicit assumption as to the legal rights which the States were affirmatively protecting.

FN31. The background of this correspondence and the subsequent opinion of Judge Woods in United States v. Hall, 26 Fed.Cas. p. 79 (Cas. No. 15,282), are significant. The correspondence on the subject apparently began in December 1870 when Judge Woods wrote Justice Bradley concerning the constitutional questions raised by an indictment filed by the United States under the Enforcement Act of 1870, 16 Stat. 140. The indictment charged that the defendants 'did unlawfully and feloniously band and conspire together, with intent to injure, oppress, threaten and intimidate' certain citizens in their exercise of their 'right of freedom of speech' and in 'their free exercise and enjoyment of the right and privilege to peaceably assemble.' The prosecution was instituted in a federal court in Alabama against private individuals whose conduct had in no way involved or been sanctioned by state action.
In May of 1871, after corresponding with Justice Bradley, Judge Woods delivered an opinion upholding the federal statute and the indictment. The judge declared that the rights allegedly infringed were protected under the Privileges and Immunities Clause of the Fourteenth Amendment: 'We think * * * that the right of freedom of speech, and the other rights enumerated in the first eight articles of amendment to the constitution of the United States, are the privileges and immunities of citizens of the United States, that they are secured by the constitution * * *.' 26 Fed.Cas., at p. 82. This position is similar to that of Justice Bradley two years later dissenting in the Slaughter-House Cases, 16 Wall. 36, 111, 118-119, 21 L.Ed. 394. More important for present purposes, however, is the fact that in analyzing the problem of 'private' (nonstate) action, Judge Woods' reasoning and language follow that of Justice Bradley's letters. The judge concluded that under the Fourteenth Amendment Congress could adopt legislation: 'to protect the fundamental rights of citizens of the United States against unfriendly or insufficient state legislation, for the fourteenth amendment not only prohibits the making or enforcing of laws which shall abridge the privileges of the citizen, but prohibits the states from denying to all persons within its jurisdiction the equal protection of the laws. Denying includes inaction as well as action, and denying the equal protection of the laws includes the omission to protect, as well as the omission to pass laws for protection.' 26 Fed.Cas., at p. 81.

In the present case the responsibility of the judiciary in applying the principles of the Fourteenth Amendment is clear. The State of Maryland has failed to protect petitioners' constitutional right to public accommodations and is now **1861 prosecuting them for attempting to exercise that right. The decision of Maryland's highest court in sustaining these trespass convictions cannot be described as 'neutral,' for the decision is as affirmative in effect as if the State had enacted an unconstitutional law explicitly authorizing racial discrimination in places of public accommodation. A State, obligated under the Fourteenth Amendment to maintain a system of law in which Negroes are not denied protection in their claim to be treated as equal members of the community, may not use its criminal trespass laws to frustrate the constitutionally granted right. Nor, it should be added, may a State frustrate this right by legitimating a proprietor's attempt at self-help. To permit self-help would be to disregard the principle that '(t)oday, no less that 50 years ago, the solution to the problems growing out of race relations 'cannot be promoted by depriving citizens of their constitutional rights and privileges,' Buchanan v. Warley * * * 245 U.S. (60), at 80-81, 38 S.Ct. (16), at 20, 62 L.Ed. 149.' Watson v. City of Memphis, 373 U.S. 526, 539, 83 S.Ct. 1314, 1322, 10 L.Ed.2d 529. As declared in Cooper v. Aaron, 358 U.S. 1, 16, 78 S.Ct. 1401, 1409, 3 L.Ed.2d 5, 19 'law and order are not * * * to be preserved by depriving the Negro * * * of (his) constitutional rights.'

In spite of this, the dissent intimates that its view best comports with the needs of law and order. Thus it is said: 'It would betray our whole plan for a tranquil and orderly society to say that a citizen, because of hispersonal *312 prejudices, habits, attitudes, or beliefs, is cast outside the law's protection and cannot call for the aid of officers sworn to uphold the law and preserve the peace.' Post, at 1869. This statement, to which all will readily agree, slides over the critical question: Whose conduct is entitled to the 'law's protection'? Of course every member of this Court agrees that law and order must prevail; the question is whether the weight and protective strength of law and order will be cast in favor of the claims of the proprietors or in favor of the claims of petitioners. In my view the Fourteenth Amendment resolved this issue in favor of the right of petitioners to public accommodations and it follows that in the exercise of that constitutionally granted right they are entitled to the 'law's protection.' Today, as long ago, '(t)he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws * * *.' Marbury v. Madison, 1 Cranch 137, 163, 2 L.Ed. 60.

IV.

My Brother DOUGLAS convincingly demonstrates that the dissent has constructed a straw man by suggesting that this case involves 'a property owner's right to choose his social or business associates.' Post, at 1877. The restaurant involved in this case is concededly open to a large segment of the public. Restaurants such as this daily open their doors to millions of Americans. These establishments provide a public service as necessary today as the inns and carriers of Blackstone's time. It should be recognized that the claim asserted by the Negro petitioners concerns such public establishments and does not infringe upon the rights of property owners or personal associational interests.

Petitioners frankly state that the 'extension of constitutional guarantees to the authentically private choices of man is wholly unacceptable, and any constitutional *313 theory leading to that result would have reduced itself to absurdity.' Indeed, the constitutional protection extended to privacy and private association assures against the imposition of social equality. As noted before, the Congress that enacted the Fourteenth Amendment was particularly conscious that the 'civil' rights of man should be distinguished **1862 from his 'social' rights.FN32 Prejudice and bigotry in any form are regrettable, but it is the constitutional right of every person to close his home or club to any person or to choose his social intimates and business partners solely on the basis of personal prejudices including race. These and other rights pertaining to privacy and private association are themselves constitutionally protected liberties.

FN32. The approach is reflected in the reasoning stated by the Supreme Court of Michigan in 1890: 'Socially people may do as they please within the law, and whites may associate together, as may blacks, and exclude whom they please from their dwellings and private grounds; but there can be no

separation in public places between people on account of their color alone which the law will sanction.
'The man who goes either by himself or with his family to a public place must expect to meet and mingle with all classes of people. He cannot ask, to suit his caprice or prejudice or social views, that this or that man shall be excluded because he does not wish to associate with them. He may draw his social line as closely as he chooses at home, or in other private places, but he connot (sic) in a public place carry the privacy of his home with him, or ask that people not as good or great as he is shall step aside when he appears.' Ferguson v. Gies, 82 Mich., at 363, 367-368, 46 N.W., at 720, 721. See supra, at notes 13-14.

We deal here, however, with a claim of equal access to public accommodations. This is not a claim which significantly impinges upon personal associational interests; nor is it a claim infringing upon the control of private property not dedicated to public use. A judicial ruling on this claim inevitably involves the liberties and freedoms ***314** both of the restaurant proprietor and of the Negro citizen. The dissent would hold in effect that the restaurant proprietor's interest in choosing customers on the basis of race is to be preferred to the Negro's right to equal treatment by a business serving the public. The history and purposes of the Fourteenth Amendment indicate, however, that the Amendment resolves this apparent conflict of liberties in favor of the Negro's right to equal public accommodations. As the Court said in Marsh v. Alabama, 326 U.S. 501, 506, 66 S.Ct. 276, 278, 90 L.Ed. 265: 'The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it.'FN33 The broad acceptance of the public in this and in other restaurants clearly demonstrates that the proprietor's interest in private or unrestricted association is slight. FN34 The relationship between the modern innkeeper or restaurateur and the customer is relatively impersonal and evanescent. This is highlighted by cases such as Barr v. City of Columbia, 378 U.S. 146, 84 S.Ct. 1734; Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697, and Robinson v. Florida, 378 U.S. 153, 84 S.Ct. 1693, in which Negroes are invited into all departments of the store but nonetheless ordered, in the name of private association or property rights, not to purchase and eat food, as other customers do, on the premises. As the history of the common law ***315** and, indeed, of our own times graphically illustrates, the interests of proprietors of places of public ****1863** accommodation have always been adapted to the citizen's felt need for public accommodations, a need which is basic and deep-rooted. This history and the purposes of the Fourteenth Amendment compel the conclusion that the right to be served in places of public accommodation regardless of color cannot constitutionally be subordinated to the proprietor's interest in discriminatorily refusing service.

FN33. Cf. Munn v. Illinois, 94 U.S. 113, 125-126, 24 L.Ed. 77: 'Looking, then, to the common law, from whence came the (property) right which the Constitution protects, we find that when private property is 'affected with a public interest, it ceases to be juris privati only.' This was said by Lord Chief Justice Hale more than two hundred years ago, in his treatise De Portibus Maris, 1 Harg.Law Tracts, 78, and has been accepted without objection as an essential element in the law of property ever since. Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large.'

FN34. See Lewis, supra, note 5, at 148.

Of course, although the present case involves the right to service in a restaurant, the fundamental principles of the Fourteenth Amendment apply with equal force to other places of public accommodation and amusement. Claims so important as those presented here cannot be dismissed by asserting that the Fourteenth Amendment, while clearly addressed to inns and public conveyances, did not contemplate lunch counters and soda fountains. Institutions such as these serve essentially the same needs in modern life as did the innkeeper and the carrier at common law.FN35 It was to guard against narrow conceptions that Chief Justice Marshall admonished the Court never to forget 'that it is a constitution we are expounding * * * a constitution intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.' M'Culloch v. Maryland, 4 Wheat. 316, 407, 415, 4 L.Ed. 579. Today, as throughout the history of the Court, we should remember that 'in determining whether a provision of the Constitution applies to a

new subject matter, it is of little significance that it is one with which the framers were not familiar. For in setting up an enduring framework of government they undertook to carry out for the indefinite future and in all the vicissitudes of the changing affairs of men, those fundamental purposes which the instrument itself discloses.' United States v. Classic, 313 U.S. 299, 316, 61 S.Ct. 1031, 1038, 85 L.Ed. 1368.

FN35. See supra, at note 17.

*316 V.

In my view the historical evidence demonstrates that the traditional rights of access to places of public accommodation were quite familiar to Congressmen and to the general public who naturally assumed that the Fourteenth Amendment extended these traditional rights to Negroes. But even if the historical evidence were not as convincing as I believe it to be, the logic of Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873, based as it was on the fundamental principle of constitutional interpretation proclaimed by Chief Justice Marshall,FN36 requires that petitioners' claim be sustained.

FN36. See Bickel, The Original Understanding and the Segregation Decision, 69 Harv.L.Rev. 1 (1955).

In Brown, after stating that the available history was 'inconclusive' on the specific issue of segregated public schools, the Court went on to say:
'In approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when Plessy v. Ferguson was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.' 347 U.S., at 492-493, 74 S.Ct., at 691.

The dissent makes no effort to assess the status of places of public accommodation 'in the light of' their 'full development and * * * present place' in the life of American citizens. In failing to adhere to that approach the dissent ignores a pervasive principle of constitutional adjudication and departs from the ultimate**1864 logic of Brown. As Mr. Justice Holmes so aptly said:'(W)hen we are dealing with words that also are a constituent act, like the Constitution of the United *317 States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago.' Missouri v. Holland, 252 U.S. 416, 433, 40 S.Ct. 382, 383, 64 L.Ed. 641.

CONCLUSION.

The constitutional right of all Americans to be treated as equal members of the community with respect to public accommodations is a civil right granted by the people in the Constitution-a right which 'is too important in our free society to be stripped of judicial protection.' Cf. Wesberry v. Sanders, 376 U.S. 1, 7, 84 S.Ct. 526, 529, 11 L.Ed.2d 481; Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663. This is not to suggest that Congress lacks authority under s 5 of the Fourteenth Amendment, or under the Commerce Clause, Art. I, s 8, to implement the rights protected by s 1 of the Fourteenth Amendment. In the give-and-take of the legislative process, Congress can fashion a law drawing the guidelines necessary and appropriate to facilitate practical administration and to distinguish between genuinely public and private accommodations. In contrast, we can pass only on justiciable issues coming here on a case-to-case basis.

It is, and should be, more true today than it was over a century ago that '(t) he great advantage of the Americans is that * * * they are born equal' FN37 and that in the eyes of the law they 'are all of the same estate.' The *318 first Chief Justice of the United States, John Jay, spoke of the 'free air' of American life. The great purpose of the Fourteenth Amendment is to keep it free and equal. Under the Constitution no American can, or should, be denied rights fundamental to freedom and citizenship. I therefore join in reversing these trespass convictions.

FN37. 2 De Tocqueville, Democracy in America

(Bradley ed. 1948), 101.

Mr. Justice BLACK, with whom Mr. Justice HARLAN and Mr. Justice WHITE, join, dissenting.

This case does not involve the constitutionality of any existing or proposed state or federal legislation requiring restaurant owners to serve people without regard to color. The crucial issue which the case does present but which the Court does not decide is whether the Fourteenth Amendment, of itself, forbids a State to enforce its trespass laws to convict a person who comes into a privately owned restaurant, is told that because of his color he will not be served, and over the owner's protest refuses to leave. We dissent from the Court's refusal to decide that question. For reasons stated, we think that the question should be decided and that the Fourteenth Amendment does not forbid this application of a State's trespass laws.

The petitioners were convicted in a Maryland state court on a charge that they 'unlawfully did enter upon and cross over the land, premises and private property' of the Hooper Food Co., Inc., 'after having been duly notified by Albert Warfel, who was then and there the servant and agent for Hooper Food Co.,' not to do so, in violation of Maryland's criminal trespass statute. FN1 The ***319** conviction ****1865** was based on a record showing in summary that:

'Any person or persons who shall 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 shall be deemed guilty of a misdemeanor * * *.' Md.Code, Art. 27, s 577.

A group of fifteen to twenty Negro students, including petitioners, went to Hooper's Restaurant to engage in what their counsel describes as a 'sit-in protest' because the restaurant would not serve Negroes. The hostess, on orders of Mr. Hooper, the president of the corporation owning the restaurant, FN2 told them, 'solely on the basis of their color,' that she would not serve them. Petitioners refused to leave when requested by the hostess and the manager; instead they went to tables, took seats, and refused to leave, insisting that they be served. On orders of the owner the police were called, but they advised the manager that a warrant would be necessary before they could arrest petitioners. The manager then went to the police station and swore out the warrants. Petitioners had remained in the restaurant in all an hour and a half, testifying at their trial that they had stayed knowing they would be arrested- that being arrested was part of their 'technique' in these demonstrations.

Mr. Hooper testified this as to his reasons for adopting his policy:

'I set at the table with him and two other people and reasoned and talked to him why my policy was not yet one of integration and told him that I had two hundred employees and half of them were colored. I thought as much of them as I did the white employees. I invited them back in my kitchen if they'd like to go back and talk to them. I wanted to prove to them it wasn't my policy, my personal prejudice, we were not, that I had valuable colored employees and I thought just as much of them. I tried to reason with these leaders, told them that as long as my customers were deciding who they wanted to eat with, I'm at the mercy of my customers. I'm trying to do what they want. If they fail to come in, these people are not paying my expenses, and my bills. They didn't want to go back and talk to my colored employees because every one of them are in sympathy with me and that is we're in sympathy with what their objectives are, with what they are trying to abolish * * *.'

***320** The Maryland Court of Appeals affirmed the convictions, rejecting petitioners' contentions urged in both courts that Maryland had (1) denied them equal protection and due process under the Fourteenth Amendment by applying its trespass statute to enforce the restaurant owner's policy and practice of racial discrimination, and (2) denied them freedom of expression guaranteed by the Constitution by punishing them for remaining at the restaurant, which they were doing as a protest against the owner's practice of refusing service to Negroes. FN3 This case, Barr v. City of Columbia, 378 U.S. 146, 84 S.Ct. 1734, and Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697, all raised these same two constitutional questions, which we granted certiorari to decide. FN4 The Solicitor General has filed amicus briefs and participated in oral argument in these cases; while he joins in asking reversal of all the convictions, his arguments vary in significant respects from those of the petitioners. We would reject the contentions of the petitioners and of the Solicitor General in this case

and affirm the judgment of the Maryland court.

FN3. 227 Md. 302, 176 A.2d 771 (1962).

374 U.S. 805, 83 S.Ct. 1691, 10 L.Ed.2d 1030 (1963). Probable jurisdiction was noted in Robinson v. Florida, 374 U.S. 803, 83 S.Ct. 1692, 10 L.Ed.2d 1029 (1963), rev'd, 378 U.S. 153, 84 S.Ct. 1693. Certiorari had already been granted in Griffin v. Maryland, 370 U.S. 935, 82 S.Ct. 1577, 8 L.Ed.2d 805 (1962), rev'd, 378 U.S. 130, 84 S.Ct. 1770.

****1866** I.

On the same day that petitioners filed the petition for certiorari in this case, Baltimore enacted an ordinance forbidding privately owned restaurants to refuse to serve Negroes because of their color. FN5 Nearly a year later Maryland, without repealing the state trespass law petitioners violated, passed a law applicable to Baltimore and some other localities making such discrimination by restaurant ***321** owners unlawful. FN6 We agree that the general judicial rule or practice in Maryland and elsewhere, as pointed out in the Court's opinion, is that a new statute repealing an old criminal law will, in the absence of a general or special saving clause, be interpreted as barring pending prosecutions under the old law. Although Maryland long has had a general saving clause clearly declaring that prosecutions brought under a subsequently repealed statute shall not be barred, the Court advances many arguments why the Maryland Court of Appeals could and perhaps would, so the Court says, hold that the new ordinance and statute nevertheless bar these prosecutions. On the premise that the Maryland court might hold this way and because we could thereby avoid passing upon the constitutionality of the State's trespass laws, the Court, without deciding the crucial constitutional questions which brought this case here, instead sends the case back to the state court to consider the effect of the new ordinance and statute.

FN5. Ordinance No. 1249, June 8, 1962, adding s 10A to Art. 14A, Baltimore City Code (1950 ed.).

FN6. Md.Acts 1963, c. 227, Art. 49B Md.Code s 11 (enacted March 29, 1963, effective June 1, 1963). A later accommodations law, of state-wide coverage, was enacted, Md.Acts 1964, Sp.Sess., c. 29, s 1, but will not take effect unless approved by referendum.

We agree that this Court has power, with or without deciding the constitutional questions, to remand the case for the Maryland Court of Appeals to decide the state question as to whether the convictions should be set aside and the prosecutions abated because of the new laws. But as the cases cited by the Court recognize, our question is not one of power to take this action but of whether we should. And the Maryland court would be equally free to give petitioners the benefit of any rights they have growing out of the new law whether we upheld the trespass statute and affirmed, or refused to pass upon its validity at this time. For of course our affirmance of the state court's holding that the Maryland trespass ***322** statute is constitutional as applied would in no way hamper or bar decision of further state questions which the Maryland court might deem relevant to protect the rights of the petitioners in accord with Maryland law. Recognition of this power of state courts after we affirm their holdings on federal questions is a commonplace occurrence. See, e.g., Piza Hermanos v. Caldentey, 231 U.S. 690, 692, 34 S.Ct. 253, 58 L.Ed. 439 (1914); Fidelity Ins. Trust & Safe Deposit Co. v. McClain, 178 U.S. 113, 114, 20 S.Ct. 774, 775, 44 L.Ed. 998 (1900).

Nor do we agree that because of the new state question we should vacate the judgment in order to avoid deciding the constitutionality of the trespass statute as applied. We fully recognize the salutary general judicial practice of not unnecessarily reaching out to decide constitutional questions. But this is neither a constitutional nor a statutory requirement. Nor does the principle properly understood and applied impose a rigid, arbitrary, and inexorable command that courts should never decide a constitutional question in any single case if subtle ingenuity can think up any conceivable technique that might, if utilized, offer a distant possibility of avoiding decision. Here we believe the constitutionality of this trespass statute should be decided.

This case is but one of five involving the same kind of sit-in trespass problems ****1867** we selected out of a large and growing group of pending cases to decide this very question. We have today granted certiorari in two more of this group of cases. FN7

We know that many similar cases are now on the way and that many others are bound to follow. We *323 know, as do all others, that the conditions and feelings that brought on these demonstrations still exist and that rights of private property owners on the one hand and demonstrators on the other largely depend at this time on whether state trespass laws can constitutionally be applied under these circumstances. Since this question is, as we have pointed out, squarely presented in this very case and is involved in other cases pending here and others bound to come, we think it is wholly unfair to demonstrators and property owners alike as well as against the public interest not to decide it now. Since Marbury v. Madison, 1 Cranch 137 (1803), it has been this Court's recognized responsibility and duty to decide constitutional questions properly and necessarily before it. That case and others have stressed the duty of judges to act with the greates caution before frustrating legislation by striking it down as unconstitutional. We should feel constrained to decide this question even if we thought the state law invalid. In this case, however, we believe that the state law is a valid exercise of state legislative power, that the question is properly before us, and that the national interest imperatively calls for an authoritative decision of the question by this Court. Under these circumstances we think that it would be an unjustified abdication of our duty to leave the question undiscussed. This we are not willing to do. So we proceed to state our views on the merits of the constitutional challenges to the Maryland law.

FN7. Hamm v. City of Rock Hill, 377 U.S. 988, 84 S.Ct. 1902; Lupper v. Arkansas, 377 U.S. 989, 84 S.Ct. 1906. The same question was presented but is not decided in seven other cases which the Court today disposes of in various ways. See Drews v. Maryland, 378 U.S. 547, 84 S.Ct. 1900; Williams v. North Carolina, 378 U.S. 548, 84 S.Ct. 1900; Fox v. North Carolina, 378 U.S. 587, 84 S.Ct. 1901; Mitchell v. City of Charleston, 378 U.S. 551, 84 S.Ct. 1901; Ford v. Tennessee, 377 U.S. 994, 84 S.Ct. 1901; Green v. Virginia, 378 U.S. 550, 84 S.Ct. 1910; Harris v. Virginia, 378 U.S. 552, 84 S.Ct. 1923.

II.

Although the question was neither raised nor decided in the courts below, petitioners contend that the Maryland statute is void for vagueness under the Due Process Clause of the Fourteenth Amendment because its language gave no fair warning that 'sit-ins' staged over a restaurant owner's protest were prohibited by the statute. *324 The challenged statutory language makes it an offense for any person 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 * * *.' Petitioners say that this language plainly means that an entry upon another's property is an offense only if the owner's notice has been given before the intruder is physically on the property; that the notice to petitioners that they were not wanted was given only after they had stepped from the street into the restaurant; and that the statute as applied to them was void either because (1) there was no evidence to support the charge of entry after notice not to do so, or because (2) the statute failed to warn that it could be violated by remaining on property after having been told to leave. As to (1), in view of the evidence and petitioners' statements at the trial it is hard to take seriously a contention that petitioners were not fully aware, before they ever entered the restaurant, that it was the restaurant owner's firmly established policy and practice not to serve Negroes. The whole purpose of the 'sit-in' was to **1868 protest that policy. (2) Be that as it may, the Court of Appeals of Maryland held that 'the statutory references to 'entry upon or crossing over,' cover the case of remaining upon land after notice to leave,' and the trial court found, with very strong evidentiary support, that after unequivocal notice to petitioners that they would not be seated or served they 'persisted in their demands and, brushing by the hostess, took seats at various tables on the main floor and at the counter in the basement.' We are unable to say that holding this conduct barred by the Maryland statute was an unreasonable interpretation of the statute or one which could have deceived or even surprised petitioners or others who *325 wanted to understand and obey it. It would certainly be stretching the rule against ambiguous statutes very far indeed to hold that the statutory language misled these petitioners as to the Act's meaning, in the face of evidence showing a prior series of demonstrations by Negroes, including some of petitioners, and in view of the fact that the group which included petitioners came prepared to picket Hooper and actually courted arrest, the better to protest his refusal to serve colored people.

We reject the contention that the statute as construed is void for vagueness. In doing so, we do not overlook or disregard the view expressed in other cases that statutes which, in regulating conduct, may indirectly touch the areas of freedom of expression should be construed narrowly where necessary to protect that freedom. FN8 And we do not doubt that one purpose of these 'sit-ins' was to express a vigorous protest against Hooper's policy of not serving Negroes. FN9 But it is wholly clear that the Maryland statute here is directed not against what petitioners said but against what they did-remaining on the premises of another after having been warned to leave, conduct which States have traditionally prohibited in this country. FN10 And none of our prior cases has held that a person's right to freedom of expression carries with it a right to force a private property owner to furnish his property as a platform to criticize the property owner's use of that property. Cf. Giboney v. Empire Storage & Ice Co., 336 U.S. 490, 69 S.Ct. 684, 93 L.Ed. 834 (1949). We believe that the statute as construed and applied is not void for vagueness.

FN8. Winters v. New York, 333 U.S. 507, 512, 68 S.Ct. 665, 668, 92 L.Ed. 840 (1948); Cantwell v. Connecticut, 310 U.S. 296, 307-308, 60 S.Ct. 900, 904-905, 84 L.Ed. 1213 (1940).

See Garner v. Louisiana, 368 U.S. 157, 185, 82 S.Ct. 248, 262, 7 L.Ed.2d 207 (1961) (Harlan, J., concurring).

FN10. See Martin v. City of Struthers, 319 U.S. 141, 147 and n. 10, 63 S.Ct. 862, 865, 87 L.Ed. 1313 (1943).

***326 III.**

Section 1 of the Fourteenth Amendment provides in part:
'No State shall * * * deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'

This section of the Amendment, unlike other sections,FN11 is a prohibition against certain conduct only when done by a State-'state action' as it has come to be known-and 'erects no shield against merely private conduct, however discriminatory or wrongful.' Shelley v. Kraemer, 334 U.S. 1, 13, 68 S.Ct. 836, 842 (1948).FN12 This well-established interpretation of section 1 of the Amend**1869 ment-which all the parties here, including the petitioners and the Solicitor General, accept-means that this section of the Amendment does not of itself, standing alone, in the absence of some cooperative state action or compulsion,FN13 forbid property holders, including restaurant owners, to ban people from entering or remaining upon their premises, even if the owners act out of racial prejudice. But 'the prohibitions of the amendment extend to all action of the State denying equal protection of the laws' whether 'by its legislative, its executive, or its judicial authorities.' Virginia v. Rives, 100 U.S. 313, 318, 25 L.Ed. 667 (1880). The Amendment thus forbids all kinds of state action, by all state agencies and officers, that discriminate *327 against persons on account of their race.FN14 It was this kind of state action that was held invalid in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), Peterson v. City of Greenville, 373 U.S. 244, 83 S.Ct. 1133 (1963), Lombard v. Louisiana, 373 U.S. 267, 83 S.Ct. 1122 (1963), and Griffin v. County School Board, 377 U.S. 218, 84 S.Ct. 1226 (1964), and that this Court today holds invalid in Robinson v. Florida, 378 U.S. 153, 84 S.Ct. 1693.

FN11. E.g., s 5: 'The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.'

FN12. Citing Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835 (1883); United States v. Harris, 106 U.S. 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883); United States v. Cruikshank, 92 U.S. 542, 23 L.Ed. 588 (1876).

FN13. See Burton v. Wilmington Parking Authority, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961).

FN14. See Shelley v. Kraemer, supra, 334 U.S., at 14-15, 68 S.Ct. at 842-843 (1948), particularly notes 13 and 14.

Petitioners, but not the Solicitor General, contend that their conviction for trespass under the state statute was by itself the kind of discriminatory state action forbidden by the Fourteenth Amendment. This contention, on its face, has plausibility when considered along with general statements to the

effect that under the Amendment forbidden 'state action' may be that of the Judicial as well as of the Legislative or Executive Branch of Government. But a mechanical application of the Fourteenth Amendment to this case cannot survive analysis. The Amendment does not forbid a State to prosecute for crimes committed against a person or his property, however prejudiced or narrow the victim's views may be. Nor can whatever prejudice and bigotry the victim of a crime may have be automatically attributed to the State that prosecutes. Such a doctrine would not only be based on a fiction; it would also severely handicap a State's efforts to maintain a peaceful and orderly society. Our society has put its trust in a system of criminal laws to punish lawless conduct. To avert personal feuds and violent brawls it was led its people to believe and expect that wrongs against them will be vindicated in the courts. Instead of attempting to take the law into their own hands people have been taught to call for police protection to protect their rights wherever possible. FN15 It would ***328** betray our whole plan for a tranquil and orderly society to say that a citizen, because of his personal prejudices, habits, attitudes, or beliefs, is cast outside the law's protection and cannot call for the aid of officers ****1870** sworn to uphold the law and preserve the peace. The worst citizen no less than the best is entitled to equal protection of the laws of his State and of his Nation. None of our past cases justifies reading the Fourteenth Amendment in a way that might well penalize citizens who are law-abiding enough to call upon the law and its officers for protection instead of using their own physical strength or dangerous weapons to preserve their rights.

FN15. The use in this country of trespass laws, both civil and criminal, to allow people to substitute the processes of the law for force and violence has an ancient origin in England. Land law was once bound up with the notion of 'seisin,' a term connoting 'peace and quiet.' 2 Pollock and Maitland, The History of English Law Before the Time of Edward I (2d ed. 1909), 29, 30. As Coke put it, 'he who is in possession may sit down in rest and quiet * * *.' 6 Co.Rep. 57b. To vindicate this right to undisturbed use and enjoyment of one's property, the law of trespass came into being. The leading historians of the early English law have observed the constant interplay between 'our law of possession and trespass' and have concluded that since 'to allow men to make forcible entries on land * * * is to invite violence,' the trespass laws' protection of possession 'is a prohibition of self-help in the interest of public order.' 2 Pollock and Maitland, supra, at 31, 41.

In contending that the State's prosecution of petitioners for trespass is state action forbidden by the Fourteenth Amendment, petitioners rely chiefly on Shelley v. Kraemer, supra. That reliance is misplaced. Shelley held that the Fourteenth Amendment was violated by a State's enforcement of restrictive covenants providing that certain pieces of real estate should not be used or occupied by Negroes, Orientals, or any other non-Caucasians, either as owners or tenants, and that in case of use or occupancy by such proscribed classes the title of any person so using or occupying it should be divested. Many briefs were filed in that case by the parties and by amici curiae. To support the holding that state ***329** enforcement of the agreements constituted prohibited state action even though the agreements were made by private persons to whom, if they act alone, the Amendment does not apply, two chief grounds were urged: (1) This type of agreement constituted a restraint on alienation of property, sometimes in perpetuity, which, if valid, was in reality the equivalent of and had the effect of state and municipal zoning laws, accomplishing the same kind of racial discrimination as if the State had passed a statute instead of leaving this objective to be accomplished by a system of private contracts, enforced by the State. See Marsh v. Alabama, 326 U.S. 501, 66 S.Ct. 276, 90 L.Ed. 265 (1946); Terry v. Adams, 345 U.S. 461, 73 S.Ct. 809, 97 L.Ed. 1152 (1953); cf. Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886); Nashville, C. & St. L.R. Co. v. Browning, 310 U.S. 362, 60 S.Ct. 968, 84 L.Ed. 1254 (1940). FN16 (2) Nearly all the briefs in Shelley which asked invalidation of the restrictive covenants iterated and reiterated that judicial enforcement of this system of covenants was forbidden state action because the right of a citizen to own, use, enjoy, occupy, and dispose of property is a federal right protected by the Civil Rights Acts of 1866 and 1870, validly passed pursuant to congressional power authorized by section 5 of the Fourteenth Amendment.FN17 This ***330** argument was buttressed by citation of many cases, some of which are referred to in this Court's opinion in Buchanan v. Warley, 245 U.S. 60, 38 S.Ct. 16 (1917). In

that case this Court, acting under the Fourteenth Amendment and the Civil Rights Acts of 1866 and 1870, struck down a city ordinance which zoned property on the basis of race, stating, 245 U.S., at 81, 38 S.Ct. at 20, 'The right ****1871** which the ordinance annulled was the civil right of a white man to dispose of his property if he saw fit to do so to a person of color and of a colored person to make such disposition to a white person.' Buchanan v. Warley was heavily relied on by this Court in Shelley v. Kraemer, supra, where this statement from Buchanan was quoted: 'The Fourteenth Amendment and these statutes (of 1866 and 1870) enacted in furtherance of its purpose operate to qualify and entitle a colored man to acquire property without state legislation discriminating against him solely because of color.' 334 U.S. at 11-12, 68 S.Ct. at 841. And the Court in Shelley went on to cite with approval two later decisions of this Court which, relying on Buchanan v. Warley, had invalidated other city ordinances. FN18

FN16. On this subject the Solicitor General in his brief says: 'The series of covenants becomes in effect a local zoning ordinance binding those in the area subject to the restriction without their consent. Cf. Buchanan v. Warley, 245 U.S. 60, 38 S.Ct. 16, 62 L.Ed. 149. Where the State has delegated to private persons a power so similar to law-making authority, its exercise may fairly be held subject to constitutional restrictions.'

FN17. 42 U.S.C. s 1982, deriving from 14 Stat. 27, s 1 (1866), provides: 'All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.' 42 U.S.C. s 1981, deriving from 16 Stat. 144, s 16(1870), provides: 'All persons within the jurisdiction of the United States shall have the same right * * * to make and enforce contracts * * * as is enjoyed by white citizens * * *.' The constitutionality of these statutes was recognized in Virginia v. Rives, 100 U.S. 313, 317-318, 25 L.Ed. 667 (1880), and in Buchanan v. Warley, 245 U.S. 60, 79-80, 38 S.Ct. 16, 19-20 (1917).

FN18. Harmon v. Tyler, 273 U.S. 668, 47 S.Ct. 471, 71 L.Ed. 831 (1927); Richmond v. Deans, 281 U.S. 704, 50 S.Ct. 407, 74 L.Ed. 1128 (1938).

It seems pretty clear that the reason judicial enforcement of the restrictive covenants in Shelley was deemed state action was not merely the fact that a state court had acted, but rather that it had acted 'to deny to petitioners, on the grounds of race or color, the enjoyment of property rights in premises which petitioners are willing and financially able to acquire and which the grantors are willing to sell.' 334 U.S., at 19, 68 S.Ct. at 845. In other words, this Court held that state enforcement of the covenants had the effect of denying to the parties their federally guaranteed right to own, occupy, enjoy, and use their property without regard to race or color. Thus, the line of cases from Buchanan through Shelley establishes these ***331** propositions: (1) When an owner of property is willing to sell and a would-be purchaser is willing to buy, then the Civil Rights Act of 1866, which gives all persons the same right to 'inherit, purchase, lease, sell, hold, and convey' property, prohibits a State, whether through its legislature, executive, or judiciary, from preventing the sale on the grounds of the race or color of one of the parties. Shelley v. Kraemer, supra, 334 U.S., at 19, 68 S.Ct. at 845. (2) Once a person has become a property owner, then he acquires all the rights that go with ownership: 'the free use, enjoyment, and disposal of a person's acquisitions without control or diminution save by the law of the land.' Buchanan v. Warley, supra, 245 U.S., at 74, 38 S.Ct. at 18. This means that the property owner may, in the absence of a valid statute forbidding it, sell his property to whom he pleases and admit to that property whom he will; so long as both parties are willing parties, then the principles stated in Buchanan and Shelley protect this right. But equally, when one party is unwilling, as when the property owner chooses not to sell to a particular person or not to admit that person, then, as this Court emphasized in Buchanan, he is entitled to rely on the guarantee of due process of law, that is, 'law of the land,' to protect his free use and enjoyment of property and to know that only by valid legislation, passed pursuant to some constitutional grant of power, can anyone disturb this free use. But petitioners compelled-though no statute said he the absence of any valid statute restricting the use of his property, the owner of Hooper's restaurant in Baltimore must not be accorded the same federally guaranteed right to occupy, enjoy, and use property given to the parties in Buchanan and Shelley; instead, petitioners would have us say that Hooper's

federal right must be cut down and he must be compelled-though not statute said he must-to allow people to force their way into his restaurant and remain there over his protest. We cannot subscribe to *332 such a mutilating, one-sided interpretation of federal guarantees the very heart of which is equal treatment under law to all. We must never forget that the **1872 Fourteenth Amendment protects 'life, liberty, or property' of all people generally, not just some people's 'life,' some people's 'liberty,' and some kinds of 'property.'

In concluding that mere judicial enforcement of the trespass law is not sufficient to impute to Maryland Hooper's refusal to serve Negroes, we are in accord with the Solicitor General's views as we understand them. He takes it for granted
'that the mere fact of State intervention through the courts or other public authority in order to provide sanctions for a private decision is not enough to implicate the State for the purposes of the Fourteenth Amendment. * * * Where the only State involvement is color-blind support for every property-owner's exercise of the normal right to choose his business visitors or social guests, proof that the particular property-owner was motivated by racial or religious prejudice is not enough to convict the State of denying equal protection of the laws.'

The Solicitor General also says:
'The preservation of a free and pluralistic society would seem to require substantial freedom for private choice in social, business and professional associations. Freedom of choice means the liberty to be wrong as well as right, to be mean as well as noble, to be vicious as well as kind. And even if that view were questioned, the philosophy of federalism leaves an area for choice to the States and their people, when the State is not otherwise involved, instead of vesting the only power of effective decision in the federal courts.'

*333 We, like the Solicitor General, reject the argument that the State's protection of Hooper's desire to choose customers on the basis of race by prosecuting trespassers is enough, standing alone, to deprive Hooper of his right to operate the property in his own way. But we disagree with the contention that there are other circumstances which, added to the State's prosecution for trespass, justify a finding of state action. There is no Maryland law, no municipal ordinance, and no official proclamation or action of any kind that shows the slightest state coercion of, or encouragement to, Hooper to bar Negroes from his restaurant.FN19 Neither the State, the city, nor any of their agencies has leased publicly owned property to Hooper. FN20 It is true that the State and city regulate the restaurants-but not by compelling restaurants to deny service to customers because of their race. License fees are collected, but this licensing has no relationship to race. Under such circumstances, to hold that a State must be held to have participated in prejudicial conduct of its licensees is too big a jump for us to take. Businesses owned by private persons do not become agencies of the State because they are licensed; to hold that they do would be completely to negate all our private ownership concepts and practices.

FN19. Compare Robinson v. Florida, 378 U.S. 153, 84 S.Ct. 1693; Peterson v. City of Greenville, 373 U.S. 244, 83 S.Ct. 1133 (1963); Lombard v. Louisiana, 373 U.S. 267, 83 S.Ct. 1122 (1963).

FN20. Compare Burton v. Wilmington Parking Authority, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961).

Neither the parties nor the Solicitor General, at least with respect to Maryland, has been able to find the present existence of any state law or local ordinance, and state court or administrative ruling, or any other official state conduct which could possibly have had any coercive influence on Hooper's racial practices. Yet despite a complete absence of any sort of proof or even respectable *334 speculation that Maryland in any way instigated or encouraged Hooper's refusal to serve Negroes, it is argued at length **1873 that Hooper's practice should be classified as 'state action.' This contention rests on a long narrative of historical events, both before and since the Civil War, to show that in Maryland, and indeed in the whole South, state laws and state actions have been a part of a pattern of racial segregation in the conduct of business, social, religious, and other activities. This pattern of segregation hardly needs historical references to prove it. The argument is made that the trespass conviction should be labeled 'state action' because the 'momentum' of Maryland's 'past legislation' is still substantial in the realm of public accommodations. To that extent, the Solicitor General argues, 'a State which has drawn a color line may not suddenly assert that

it is color blind.' We cannot accept such an ex post facto argument to hold the application here of Maryland's trespass law unconstitutional. Nor can we appreciate the fairness or justice of holding the present generation of Marylanders responsible for what their ancestors did in other daysFN21-even if we had the right to substitute our own ideas of what the Fourteenth Amendment ought to be for what it was written and adopted to achieve.

FN21. In fact, as pointed out in Part I of this opinion, Maryland has recently passed a law prohibiting racial discrimination in restaurants in Baltimore and some other parts of the State, and Baltimore has enacted a similar ordinance. Still another Maryland antidiscrimination law, of statewide application, has been enacted but is subject to referendum. See note 6, supra.

There is another objection to accepting this argument. If it were accepted, we would have one Fourteenth Amendment for the South and quite a different and more lenient one for the other parts of the country. Present 'state action' in this area of constitutional rights would *335 be governed by past history in the South-by present conduct in the North and West. Our Constitution was not written to be read that way, and we will not do it.

IV.

Our Brother GOLDBERG in his opinion argues that the Fourteenth Amendment, of its own force and without the need of congressional legislation, prohibits privately oowned restaurants from discriminating on account of color or race. His argument runs something like this: (1) Congress understood the 'Anglo-American' common law, as it then existed in the several States, to prohibit owners of inns and other establishments open to the public from discriminating on account of race; (2) in passing the Civil Rights Act of 1866 and other civil rights legislation, Congress meant access to such establishments to be among the 'civil rights' protected; (3) finally, those who framed and passed the Fourteenth Amendment intended it, of its own force, to assure persons of all races equal access to privately owned inns and other accommodations. In making this argument, the opinion refers us to three state supreme court cases and to congressional debates on various post-Civil War civil rights bills. However, not only does the very material cited furnish scant, and often contradictory, support for the first two propositions (about the common law and the Reconstruction era statutes), but, even more important, the material furnishes absolutely none for the third proposition, which is the issue in the case.

In the first place, there was considerable doubt and argument concerning what the common law in the 1860's required even of carriers and innkeepers and still more concerning what it required of owners of other establishments. For example, in Senate debates in 1864 on a proposal to amend the charter of the street railway company in the District of Columbia to prohibit it from excluding *336 any person from its cars on account of color-a debate cited in Mr. Justice GOLDBERG'S opinion-one Senator thought that the common law would give a remedy to any Negro excluded from a **1874 street car,FN22 while another argued that 'it was universally conceded that railroad companies, steamboat proprietors, coach lines, had the right to make this regulation' requiring Negroes to ride in separate cars.FN23 Senator Sumner of Massachusetts, one of the chief proponents of legislation of this type, admitted that there was 'doubt' both as to what the street railway's existing charter required and as to what the common law required; therefore he proposed that, since the common law had 'fallen into disuse' or 'become disputable,' Congress should act: '(L) et the rights of colored persons be placed under the protection of positive statute * * *.'FN24

FN22. Cong. Globe, 38th Cong., 1st Sess., 1159 (1864) (Senator Morrill).

FN23. Id., at 1157-1158 (Senator Saulsbury).

FN24. Id., at 1158. In response to a question put by Senator Carlile of Virginia, Sumner stated that it had taken a statute to assure Negroes equal treatment in Massachusetts:
'That whole question, after much discussion in Massachusetts, has been settled by legislation, and the rights of every colored person are placed on an equality with those of white persons. They have the same right with white persons to ride in every public conveyance in the Commonwealth. It was done by positive legislation twenty-one years ago.' Ibid. (Emphasis supplied.)
A few minutes later, Senator Davis of Kentucky asked Sumner directly if it was not true that what

treatment was extended to colored people by 'public hotels' incorporated by the Commonwealth of Massachusetts was left to 'the judgment and discretion of the proprietors and managers of the hotels.' Sumner, who had answered immediately preceding statements by Davis, left this one unchallenged. Id., at 1161.

Second, it is not at all clear that in the statutes relied on-the Civil Rights Act of 1866 and the Supplementary Freedmen's Bureau Act-Congress meant for those statutes to guarantee Negroes access to establishments *337 otherwise open to the general public.FN25 For example, in the House debates on the Civil Rights bill of 1866 cited, not one of the speakers mentioned privately owned accommodations. [FN26] **1875 Neither the text of the bill,FN27 *338 nor, for example, the enumeration by a leading supporter of the bill of what 'civil rights' the bill would protect,FN28 even mentioned inns or other such facilities. Hence we are pointed to nothing in the legislative history which gives rise to an inference that the proponents of the Civil Rights Act of 1866 meant to include as a 'civil right' a right to demand service at a privately owned restaurant or other privately owned establishment. And, if the 1866 Act did impose a statutory duty on innkeepers and others, then it is strange indeed that Senator Sumner in 1872 thought that an Act of Congress was necessary to require hotels, carriers, theatres, and other places to receive all races,FN29 and even more strange that Congress felt obliged in 1875 to pass the Civil Rights Act of that year explicitly prohibiting discrimination by inns, conveyances, theatres, and other places of public amusement.FN30

FN25. A number of the remarks quoted as having been made in relation to Negroes' access to privately owned accommodations in fact dealt with other questions altogether. For example, Senator Trumbull of Illinois is quoted, ante, p. 1851, as having said that the Negro should have the right 'to go where he pleases.' It is implied that such remarks cast light on the question of access to privately owned accommodations. In fact, the statement, made in the course of a debate on a bill (S. 60) to enlarge the powers of the Freedmen's Bureau, related solely to Black Laws that had been enacted in some of the Southern States. Trumbull attacked the 'slave codes' which 'prevented the colored man going from home,' and he urged that Congress nullify all laws which would not permit the colored man 'to go where he pleases.' Cong. Globe, 39th Cong., 1st Sess., 322 (1866). Similarly, in another debate, on a bill (S. 9) for the protection of freedmen, Senator Wilson of Massachusetts had just told the Senate about such laws as that of Mississippi which provided that any freedman who quit his job 'without good cause' during the term of his employment should, upon affidavit of the employer, be arrested and carried back to the employer. Speaking of such relics of slavery, Wilson said that freedmen were 'as free as I am, to work when they please, to play when they please, to go where they please * * *.' Id., at 41. Senator Trumbull then joined the debate, wondering if S. 9 went far enough and saying that to prevent States 'from enslaving, under any pretense,' the freedmen, he might introduce his own bill to ensure the right of freedmen to 'go and come when they please.' Id., at 43. It was to the Black Laws-and not anything remotely to do with accommodations-that Wilson, Trumbull, and others addressed their statements. Moreover, in the debate on S. 9, Senator Trumbull expressly referred to the Thirteenth Amendment as the constitutional basis both for the pending bill and for his own bill, ibid., showing that the Senate's concern was with state laws restricting the movement of, and in effect re-enslaving, colored people.

FN26. Cong. Globe, 39th Cong., 1st Sess., 474-476 (1866) (Trumbull of Illinois), 599 (Trumbull), 606 (Trumbull), 1117 (Wilson of Iowa), 1151 (Thayer of Pennsylvania), 1154 (Thayer), 1157 (Thornton of Minnesota), 1159 (Windom of Minnesota).

FN27. See id., at 211-212.

FN28. Id., at 1151 (Thayer).

FN29. Cong. Globe, 42d Cong., 2d Sess., 381-383 (1872).

FN30. 18 Stat. 335.

Finally, and controlling here, there is nothing whatever in the material cited to support the proposition that the Fourteenth Amendment, without congressional legislation, prohibits owners of restaurants and other places to refuse service to Negroes. We are cited, only in passing, to general statements made in the House of Representatives to

the effect that the Fourteenth Amendment was meant to incorporate the 'principles' of the Civil Rights Act of 1866.FN31 Whether 'principles' are the same thing as 'provisions,' we are not told. But we have noted the serious doubt that the Civil Rights Act of 1866 even dealt with access to privately owned facilities. And it is revealing that in not one of the passages cited from the debates on the Fourteenth Amendment did any speaker suggest that the, Amendment was designed, *339 of itself to assure all races equal treatment at inns and other privately owned establishments.

FN31. Cong. Globe, 39th Cong., 1st Sess., 2459, 2462, 2465, 2467, 2538 (1866).

Apart from the one passing reference just mentioned above to the debates on the Fourteenth Amendment, a reference which we have shown had no relevance whatever to whom restaurants should serve, every one of the passages cited deals entirely with proposed legislation-not with the Amendments. FN32 It should be obvious that what may have been proposed in connection with passage of one statute or another is altogether irrelevant to the question of what the Fourteenth Amendment does in the absence of legislation. It is interesting to note that in 1872, some years after the passage of the Fourteenth Amendment, Senator Sumner, always an indefatigable proponent of statutes of this kind, proposed in a debate to which we are cited a bill to give all **1876 citizens, regardless of color, equal enjoyment of carriers, hotels, theatres, and certain other places. He submitted that, as to hotels and carriers (but not as to theatres and places of amusement), the bill 'simply reenforce(d)' the common law;FN33 it is *340 significant that he did not argue that the bill would enforce a right already protected by the Fourteenth Amendment itself-the stronger argument, had it been available to him. Similarly, in an 1874 debate on a bill to give all citizens, regardless of color, equal enjoyment of inns, public conveyances, theatres, places of public amusement, common schools, and cemeteries (a debate also cited), Senator Pratt argued that the bill gave the same rights as the common law but would be a more effective remedy.FN34 Again, it is significant that, like Sumner in the 1872 debates, Pratt suggested as precedent for the bill only his belief that the common law required equal treatment; he never intimated that the Fourteenth Amendment laid down such a requirement.

FN32. Cong. Globe, 38th Cong., 1st Sess., 839 (1864) (debate on bill to repeal law prohibiting colored persons from carrying the mail); Cong. Globe, 38th Cong., 1st Sess., 1156-1157 (1864) (debate on amending the charter of the Metropolitan Railroad Co.); Cong. Globe, 39th Cong., 1st Sess., 322, 541, 916, 936 (1866) (debate on bill to amend the Freedmen's Bureau Act, S. 60); Cong. Globe, 39th Cong., 1st Sess., 474-476, 599, 606, 1117-1118, 1151, 1154, 1157, 1159, 1263 (1866) (debate on the Civil Rights Act of 1866, S. 61); Cong. Globe, 39th Cong., 1st Sess., 41, 111 (1866) (debate on bill for the protection of freedmen from Black Codes, S. 9); Cong. Globe, 42d Cong., 2d Sess., 381-383 (1872) (debate on Sumner's amendment to bill removing political and civil disabilities on ex-Confederates, H.R. 380); 2 Cong.Rec. 4081-4082 (1874) (debate on bill to give all citizens equal enjoyment of inns, etc., S. 1). On cited passage, Cong. Globe, 39th Cong., 1st Sess., 684 (1866), consists of remarks made in debate on a proposed constitutional amendment having to do with apportionment of representation, H.R. 51.

FN33. Cong. Globe, 42d Cong., 2d Sess., 383 (1872).

FN34. 2 Cong.Rec. 4081 (1874).

We have confined ourselves entirely to those debates cited in Brother GOLDBERG'S opinion the better to show how, even on its own evidence, the opinion's argument that the Fourteenth Amendment without more prohibits discrimination by restaurants and other such places rests on a wholly inadequate historical foundation. When read and analyzed, the argument is shown to rest entirely on what speakers are said to have believed bills and statutes of the time were meant to do. Such proof fails entirely when the question is, not what statutes did, but rather what the Constitution does. Nor are the three state casesFN35 relied on any better evidence, for all three *341 dealt with state antidiscrimination statutes; not one purported to interpret the Fourteenth Amendment.FN36 And, if we are to speak of cases decided at that time, we should recall that this Court, composed of Justices appointed by Presidents Lincoln, Grant, Hayes, Garfield, and Arthur, held in a series of constitutional interpretations beginning with the Slaughter-House Cases, 16 Wall. 36 (1873), that the Amendment of itself was directed at state action only and that it did

not displace the power of the state and federal legislative bodies to regulate the affairs of privately owned businesses. FN37

FN35. Donnell v. State, 48 Miss. 661 (1873); Coger v. North West. Union Packet Co., 37 Iowa 145 (1873); Ferguson v. Gies, 82 Mich. 358, 46 N.W. 718, 9 L.R.A. 589 (1890). The Mississippi case does contain this observation pertinent to a court's duty to confine itself to deciding cases and interpreting constitutions and statutes and to leave the legislating to legislatures:
'Events of such vast magnitude and influence now and hereafter, have gone into history within the last ten years, that the public mind is not yet quite prepared to consider them calmly and dispas(s)ionately. To the judiciary, which ought at all times to be calm, deliberate and firm, especially so when the public thought and sentiment are at all excited beyond the normal tone, is committed the high trust of declaring what are the rules of conduct and propriety prescribed by the supreme authority, and what are the rights of individuals under them. As to the policy of legislation, the judiciary have nothing to do. That is wisely left with the lawmaking department of the government.' 48 Miss., at 675.

FN36. The Attorney General of Mississippi is quoted as having argued in Donnell v. State, 48 Miss. 661 (1873), that the Mississippi Legislature had 'sought, by this (antidiscrimination) act, to render any interference by congress unnecessary.' Ante, p. 1859, n. 25. This very statement shows that the Mississippi Attorney General thought in 1873, as we believe today, that the Fourteenth Amendment did not of itself guarantee access to privately owned facilities and that it took legislation, such as that of Mississippi, to guarantee such access.

FN37. Brother GOLDBERG'S opinion in this case relies on Munn v. Illinois, 94 U.S. 113, 24 L.Ed. 77 (1877), which discussed the common-law rule that 'when private property is devoted to a public use, it is subject to public regulation.' Id., 94 U.S. at 130. This statement in Munn related, of course, to the extent to which a legislature constitutionally can regulate private property. Munn therefore is not remotely relevant here, for in this case the problem is, not what legislatures can do, but rather what the Constitution itself does. And in fact this Court some years ago rejected the notion that a State must depend upon some rationalization such as 'affected with a public interest' in order for legislatures to regulate private businesses. See Nebbia v. New York, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940 (1934).

****1877** We are admonished that in deciding this case we should remember that 'it is a constitution we are expounding.'FN38

FN38. McCulloch v. Maryland, 4 Wheat. 316, 407, 4 L.Ed. 579 (1819). (Emphasis in original.)

***342** We conclude as we do because we remember that it is a Constitution and that it is our duty 'to bow with respectful submission to its provisions.' FN39 And in recalling that it is a Constitution 'intended to endure for ages to come,'FN40 we also remember that the Founders wisely provided the means for that endurance: changes in the Constitution, when thought necessary, are to be proposed by Congress or conventions and ratified by the States. The Founders gave no such amending power to this Court. Cf. Exparte parte Virginia, 100 U.S. 339, 345-346 (1880). Our duty is simply to interpret the Constitution, and in doing so the test of constitutionality is not whether a law is offensive to our conscience or to the 'good old common law,' FN41 but whether it is offensive to the Constitution. Confining ourselves to our constitutional duty to construe, not to rewrite or amend, the Constitution, we believe that Section 1 of the Fourteenth Amendment does not bar Maryland from enforcing its trespass laws so long as it does so with impartiality.

FN39. Cohens v. Virginia, 6 Wheat. 264, 377, 5 L.Ed. 257 (1821).

FN40. McCulloch v. Maryland, 4 Wheat. 316, 415 (1819).

FN41. That the English common law was not thought altogether 'good' in this country is suggested by the complaints of the Declaration of Independence, by the Virginia and Kentucky Resolutions, and by observations of Thomas Jefferson. The Jeffersonian Cyclopedia 163 (Foley ed. 1900).

This Court has done much in carrying out its solemn duty to protect people from unlawful discrimination.

And it will, of course, continue to carry out this duty in the future as it has in the past.FN42 But the Fourteenth ***343** Amendment of itself does not compel either a black man or a white man running his own private business to trade with anyone else against his will. We do not believe that Section 1 of the Fourteenth Amendment was written or designed to interfere with a storekeeper's right to choose his customers or with a property owner's right to choose his social or business associates, so long as he does not run counter to valid stateFN43 or federal regulation. The case before us does not involve the power of the Congress to pass a law compelling privately owned businesses to refrain from discrimination****1878** on the basis of race and to trade with all if they trade with any. We express no views as to the power of Congress, acting under one or another provision of the Constitution, to prevent racial discrimination in the operation of privately owned businesses, nor upon any particular form of legislation to that end. Our sole conclusion is that Section 1 of the Fourteenth Amendment, standing alone, does not prohibit privately owned restaurants from choosing their own customers. It does not destroy what has until very recently been universally recognized in this country as the unchallenged right of a man who owns a business to run the business in his own way so long as some valid regulatory statute does not tell him to do otherwise. FN44

FN42. It is said that our holding 'does not do justice' to a Constitution which is color blind and to this Court's decision in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686 (1954). Ante, p. 1848. We agree, of course, that the Fourteenth Amendment is 'color blind,' in the sense that it outlaws all state laws which discriminate merely on account of color. This was the basis upon which the Court struck down state laws requiring school segregation in Brown v. Board of Education, supra. But there was no possible intimation in Brown or in any other of our past decisions that this Court would construe the Fourteenth Amendment as requiring restaurant owners to serve all races. Nor has there been any intimation that the Court should or would expand the Fourteenth Amendment because of a belief that it does not in our judgment go far enough.

FN43. Cf. Colorado Anti-Discrimination Comm'n v. Continental Air Lines, Inc., 372 U.S. 714, 83 S.Ct. 1022, 10 L.Ed.2d 84 (1963).

FN44. The opinion of our Brother GOLDBERG characterizes our argument as being that the Constitution 'permits' Negroes to be denied access to restaurants on account of their color. We fear that this statement might mislead some readers. Precisely put, our position is that the Constitution of itself does not prohibit discrimination by those who sell goods and services. There is of course a crucial difference between the argument-which we do make-that that Constitution itself does not prohibit private sellers of goods or services from choosing their own customers, and the argument-which we do not make-that the Constitution affirmatively creates a right to discriminate which neither state nor federal legislation could impair.

***344** V.

Petitioners, but not the Solicitor General, contend that their convictions for trespass deny them the right of freedom of expression guaranteed by the Constitution. They argue that their 'expression (asking for service) was entirely appropriate to the time and place at which it occurred. They did not shout or obstruct the conduct of business. There were no speechers, picket signs, handbills or other forms of expression in the store possibly inappropriate to the time and place. Rather they offered to purchase food in a place and at a time set aside for such transactions. Their protest demonstration was a part of the 'free trade in ideas' (Abrams v. United States, 250 U.S. 616, 630, (40 S.Ct. 17, 22, 63 L.Ed. 1173) Holmes, J., dissenting) * * *.'

Their argument comes down to this: that since petitioners did not shout, obstruct Hooper's business (which the record refutes), make speeches, or display picket signs, handbills, or other means of communication, they had a perfect constitutional right to assemble and remain in the restaurant, over the owner's continuing objections, for the purpose of expressing themselves by language and 'demonstrations' bespeaking their hostility to Hooper's refusal to serve Negroes. This Court's prior cases do not support such a privilege growing out of the constitutional rights of speech and assembly. Unquestionably petitioners ***345** had a constitutional right to express these views wherever they had an unquestioned legal right to be. Cf.

Marsh v. Alabama, supra. But there is the rub in this case. The contention that petitioners had a constitutional right to enter or to stay on Hooper's premises against his will because, if there, they would have had a constitutional right to express their desire to have restaurant service over Hooper's protest, is a bootstrap argument. The right to freedom of expression is a right to express views-not a right to force other people to supply a platform or a pulpit. It is argued that this supposed constitutional right to invade other people's property would not mean that a man's home, his private club, or his church could be forcibly entered or used against his will-only his store or place of business which he has himself 'opened to the public' by selling goods or services for money. In the first place, that argument assumes that Hooper's restaurant had been opened to the public. But the whole quarrel of petitioners with Hooper was that instead of being open to **1879 all, the restaurant refused service to Negroes. Furthermore, legislative bodies with power to act could of course draw lines like this, but if the Constitution itself fixes its own lines, as is argued, legislative bodies are powerless to change them, and homeowners, churches, private clubs, and other property owners would have to await case-by-case determination by this Court before they knew who had a constitutional right to trespass on their property. And even if the supposed constitutional right is confined to places where goods and services are offered for sale, it must be realized that such a constitutional rule would apply to all businesses and professions alike. A statute can be drafted to create such exceptions as legislators think wise, but a constitutional rule could as well be applied to the smallest business as to the largest, to the most personal professional relationship as to the most impersonal business, *346 to a family business conducted on a man's farm or in his home as to business carried on elsewhere.

A great purpose of freedom of speech and press is to provide a forum for settlement of acrimonious disputes peaceably, without resort to intimidation, force, or violence. The experience of ages points to the inexorable fact that people are frequently stirred to violence when property which the law recognizes as theirs is forcibly invaded or occupied by others. Trespass laws are born of this experience. They have been, and doubtless still are, important features of any government dedicated, as this country is, to a rule of law. Whatever power it may allow the States or grant to the Congress to regulate the use of private property, the Constitution does not confer upon any group the right to substitute rule by force for rule by law. Force leads to violence, violence to mob conflicts, and these to rule by the strongest groups with control of the most deadly weapons. Our Constitution, noble work of wise men, was designed-all of it-to chart a quite different course: to 'establish Justice, insure domestic Tranquility * * * and secure the Blessings of Liberty to ourselves and our Posterity.' At times the rule of law seems too slow to some for the settlement of their grievances. But it is the plan our Nation has chosen to preserve both 'Liberty' and equality for all. On that plan we have put our trust and staked our future. This constitutional rule of law has served us well. Maryland's trespass law does not depart from it. Nor shall we.

We would affirm.

U.S.Md. 1964.
Bell v. State of Md.
378 U.S. 226, 84 S.Ct. 1814, 12 L.Ed.2d 822

END OF DOCUMENT

Exhibit 10

ANNUAL REPORT

of the

COMMISSION ON

INTERRACIAL PROBLEMS AND RELATIONS

to the

GOVERNOR AND GENERAL ASSEMBLY

of

MARYLAND

January, 1957

on Pulaski Highway; The Yellow Bowl Restaurant, 1234 Greenmount Avenue; Y.W.C.A. dining rooms; The Coffee Shop of the Central Branch Y.M.C.A.; the Snack Shop of the Young Men's Hebrew Association; Manhattan Drug Store, Monument Street and Rutland Avenue; Ansell's Pharmacy, St. Paul and Madison Streets, and perhaps countless others whose policies have come about quietly and have not been publicized.

Recommendation

It appears necessary and highly desirable that legislation should be enacted in this area which would make it possible for private management to change existing policies and practices to conform to the democratic processes which are prevailing in other areas of day-to-day living.

THEATERS

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 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 had 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 every 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. 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 on 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 Commissions 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 and 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 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 one particular theater owner would suffer a loss of business.

Accordingly, the Commissions directed their Executive Secretary to arrange a conference with owners of these theaters in the Northeast Baltimore area:

Arcade	Rex
Boulevard	Earle
Cameo	Senator
Harford	Vilma
Northwood	Waverly
Paramount	

The initial meeting date was scheduled for April 4, later rescheduled for April 18, and again scheduled for April 20. Unfortunately, only one theater owner, Mr. Fred Perry, Cameo Theater, found it convenient to attend either of these scheduled meetings. Individual contact then followed and those conferences indicated that three theater 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 theater owners representing four theaters in this area were unavailable for comment. In general, those in favor and those opposed felt that a change of policy would result in a financial loss to them unless the change was made by all of the owners involved.

Recommendation

The Commissions feel 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.

WILL IT STIR UP TROUBLE?

No! We don't need to rely upon mere predictions because we have the experience of a number of states and cities to answer the question. The successful operation of these laws over a period of twelve years is a convincing refutation of earlier fears that such legislation would disturb rather than promote intergroup relations.

IS THIS ORDINANCE FAIR TO PRIVATE BUSINESS?

Yes. Many, many owners and operators of busines establishments have asked for support of this kind, and all Anti-Discrimination Commissions have reported great progress in the acceptance of their Public Accommodations Laws. Social habits growing out of our racial traditions in Baltimore require legislation to aid owners of business to implement policy changes in their establishments.

IS IT POSSIBLE TO PROVE DISCRIMINATION?

Yes. But we do not want to prove discrimination. We desire to provide equality of opportunity for all persons in places of public accommodation. Experience in other Cities has indicated clearly that, with an effective law prohibiting discrimination, the responsibility of proving discrimination is seldom necessary.

CAN WE LEGISLATE AGAINST PREJUDICE?

Not directly. Ordinance 1653 does not prohibit any attitudes. It does prevent prejudice from being expressed in acts of discrimination which deprive people of full and equal accommodation in public places.

WHAT CAN YOU DO TO HELP?

Have your organization pass a resolution supporting the Ordinance and inform the Mayor and City Council of your action. In addition, the individuals in your organization and your friends should ask their Councilmen to support the measure—ORDINANCE No. 1 6 5 3.

YOU SHOULD KNOW THIS ABOUT EQUAL RIGHTS AND PRIVILEGES OF ALL PERSONS IN PUBLIC PLACES

ORDINANCE No. 1 6 5 3

AMERICANS FOR DEMOCRATIC ACTION
AFL - CIO BALTIMORE COUNCIL
CATHOLIC INTERRACIAL COUNCIL
BALTIMORE COMMISSION ON HUMAN RELATIONS
BALTIMORE URBAN LEAGUE
BALTIMORE JEWISH COUNCIL
BALTIMORE N.A.A.C.P.
DEPARTMENT OF CHRISTIAN SOCIAL RELATIONS OF THE COUNCIL OF CHURCHES
and
CITIZENS COMMITTEE FOR CIVIL RIGHTS LEGISLATION

Invite Your Participation
In Support Of This Democratic Legislation
Now Pending Before The
City Council Of Baltimore

WHAT DOES THE ORDINANCE DO?

It entitles all persons to full and free access to any place of public accommodation within the City of Baltimore.

WHO ARE THE SUPPORTERS OF THIS ORDINANCE?

In Baltimore there are a great many religious, labor and civic organizations supporting the Ordinance. These organizations are being led by the AFL-CIO, the Catholic Interracial Council, the Commission on Human Relations, the Urban League, the Baltimore Jewish Council, the Department of Christian Social Relations of the Council of Churches, the N.A.A.C.P. and the Citizens Committee for Civil Rights Legislation. Such legislation has the support of a great many national organizations including the National Council of Churches of Christ (Protestant), the National Catholic Welfare Conference, and the American Jewish Congress.

WHERE HAS IT BEEN TRIED?

There are similar Public Accommodations Laws in 25 States affecting over 150 cities. Seven cities have acts exclusive of or in addition to state law.

IS IT NECESSARY IN BALTIMORE?

Yes. Many harmful effects result from all people being denied equal facilities for reasons of race, creed, color or national origin. First, it's such a striking contrast to Washington, D. C. Washington has recently had activated, by Executive Order of the President, an Ordinance dating back to 1875. Experiences of this change in D. C. have indicated signs of promoting healthy intergroup relations. Second, Baltimore's economic growth is stymied by the discriminatory policies of the owners or operators of places of public accommodation. Third, as one of the 10 largest cities of the Nation, Baltimore is the only one not covered by legislation of this kind. Fourth, irreparable damage is done to our reputation for hospitality when visitors to our City are victims of our discriminatory practices. Fifth, these practices are not consistent with the principles on which our democratic society was founded.

HOW DO WE KNOW THERE IS DISCRIMINATION?

Actual studies and surveys* recently completed in Baltimore show that 91% of all public accommodation establishments practice discrimination.

IS EDUCATION PREFERABLE TO LEGISLATION?

We don't need to choose. We can have both with the Public Accommodations Act. Education alone has not and cannot do the job. Eight states and 5 cities in the last decade have strengthened their Public Accommodations laws by providing enforcement provisions. Voluntary compliance through an educational program without enforcement power has not been effective.

DOES ORDINANCE 1653 BENEFIT ONLY MINORITY GROUPS?

Everyone benefits. Ordinance 1653 protects every person equally. All Baltimoreans will benefit from increased business attracted to the City by policy changes incorporated in this ordinance. Dozens of national organizations will hold conventions in Baltimore when such changes are made.

CAN BALTIMORE AFFORD A FAIR PUBLIC ACCOMMODATIONS LAW?

We can't afford to be without it.

Discrimination costs money—it's bad business!

Cursory estimates place Baltimore's business loss at several million dollars per year because of its public accommodations policies.

*Baltimore Community Self-Survey-1955.

An American City In Transition

The Baltimore Community Self-Survey

of Inter-Group Relations

MARYLAND COMMISSION ON
INTERRACIAL PROBLEMS AND RELATIONS

BALTIMORE COMMISSION ON
HUMAN RELATIONS

1955

CHAPTER VII

PUBLIC ACCOMMODATIONS

PUBLIC ACCOMMODATIONS

This area of the study was defined as those agencies of the community which are engaged in rendering services to the general public. These are essentially commercial establishments providing goods and services on a profit-making basis; additional aspects of community services are included among other fields of the self-survey, particularly the section concerning health and welfare services. We are dealing here with an extremely large variety of commercial establishments; but for purposes of convenience the study has focussed upon a few major types: hotels, restaurants and taverns, theaters and amusement centers, and department stores. Not only are these the principal purveyors of goods and services to the public, but they are likewise the sensitive areas of public life around which issues of racial discrimination have long existed. Thus, they provide a logical and necessary point of concern in this general effort to assess the status of community intergroup practices.

An important characteristic of the public establishments is that they are part of the great marketplace which is at the heart of city life and process. Large segments of the public are in daily contact and association through the necessity of refurbishing needs of food, clothing and recreation. Therefore, they are not merely profit-making enterprises, they are *public* institutions in a fundamental sense. More than any other aspect of city life perhaps, these establishments provide the stage for current and daily race relationships. In the setting of the marketplace, these relations are informal and impersonal, but the important thing is that they give character to what may be the dominant and unique quality of intergroup relations of a given city.

The kind of policies and practices which public accommodations establishments maintain with respect to the Negro public in Baltimore is the single objective of this study. Here we are dealing with practices that are well-known by the public at large, in terms of the complete exclusion of Negroes from the services and facilities, or in terms of segregation. But it is valuable to describe what may be obvious and commonly known, for it can aid in giving clear definition to the problems involved. There is additional merit here because problems in public accommodations are placed in the larger context of general community practices affecting intergroup relations. Moreover, this is an aspect of community life which has undergone improvement and change. Description of a sample group of practices in different aspects of public accommodation, therefore, can aid in assessing these changes and pointing to the crucial areas still encrusted with exclusionary policy.

Coverage

The original plan of coverage called for drawing a sample of public accommodations establishments from listings in the telephone on the following basis: 20 percent of the 1,300 restaurants and taverns; 50 percent of the hotels and motels; 50 percent of the theaters, and 50 percent of the department stores. Additional types were also included, involving smaller numbers of establishments — garages, office buildings, bowling alleys, rinks and pool rooms. For practical reasons, this plan could not be carried out in full. It was necessary, because a number of the interviewers could not remain throughout the study, to limit our sample to the four major areas covered in our report: Restaurants and Taverns, Hotels, Theaters and Movie Houses, Department Stores. The following numbers of establishments were finally covered, and the percentage that the sample involved to the total number listed in the directory is given:

Type of Establishment	*Number Covered*	*Percentage of Telephone Listing*
Restaurants and taverns	105	8
Hotels	27	40
Theaters and Movie Houses	38	30
Department stores	21	24

In all cases, the places selected for interview were taken from alphabetized lists of the different types of establishments in random fashion. However, since many of the interviewers encountered refusals or were given continuous postponements in efforts to talk with a responsible person, it is reasonable to assume that our actual respondent group is somewhat weighted in the direction of the more liberal practice and attitude.

Taking the entire 191 public establishments as a group, they break down percentage-wise into the following parts of the sample:

Restaurants and taverns	55.0
Hotels	14.1
Theaters and Movie Houses	19.9
Department stores	11.1

As to procedure, volunteer interviewers contacted the manager or other authorized representatives of each public place by telephone. The interviewer then identified himself by name but not by race, and expressed the intention of using the particular facilities at some near date for a group of his friends which included Negroes. The respondent was asked to state the policies of his establishment governing the situation. The replies were recorded on specially prepared forms designed to elicit comparative data according to the type of accommodation.

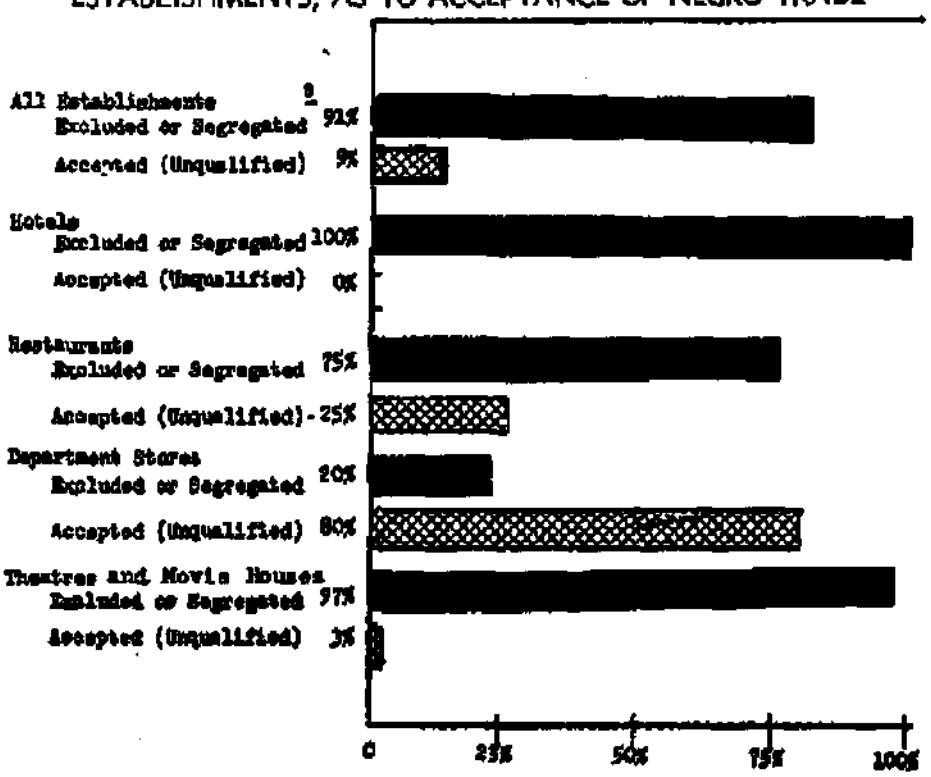
The responses of all of the establishments to the basic policy question as to whether or not Negro trade was accepted are summarized in Figure 2. In cases where the answer was in the affirmative and no qualifications were made involving segregation or special arrangement, the replies are grouped in the category "accepted unqualified." In those instances where the answer was in the negative or some modified basis of serving Negro clients was involved, the replies are grouped under the heading "excluded or segregated." Thirteen of the 191 establishments declined to answer the question of policy concerning service to Negro patrons.

As can be seen from the first bar which takes all of the public accommodations places as a whole, the overwhelming policy governing services to Negroes is in terms of some type of *exclusionary or segregation practice*; 91 percent of the establishments fell into this category as compared with about eight percent which accepted Negro clients without any qualification whatsoever.

It should be mentioned that where the respondents refused to answer the policy question or avoided committing themselves, we treated the answer as in the negative category of reply.

FIGURE 2

SUMMARY OF POLICIES OF PUBLIC ACCOMMODATIONS ESTABLISHMENTS, AS TO ACCEPTANCE OF NEGRO TRADE



Expressed Policies and Practices

In the specific areas of public accommodations services, the responses portray the variations of practice which exist generally in this field. The hotels represent the most extreme defection from a complete democratic public policy, with 100 percent of the establishments classified in the "excluded or segregated" category. Here, as a matter of fact, only 12 of the hotels were willing to state their policies at all, and those which refused to do so had to be classed with those indicating that they either excluded Negroes or only served them on a basis of segregation. The types of qualifications which were made in this connection are given in *Table 1*.

Further as to policy, the Theaters and Places of Amusement fall next in line as to the extreme of racial "exclusion or segregation;" 97 percent express this type of policy as compared with three percent which accept Negroes on the same basis as all other clients.

The restaurants and taverns rank next with 75 percent of the establishments in the "excluded or segregated" class and 25 percent in the "accepted unqualified" group. Insofar as the department stores are concerned, they appear, in general, to be relatively more democratic policy-wise in comparison with other types of public accommodation, with only 20 percent of their number in the "excluded or segregated" category and 80 percent in the "accepted unqualified" classification. Certainly this must be registered as a relatively more open basis of service to the Negro public. On the other hand however, still about one of every five stores have exclusionary or segregated services. And when it is considered that race relationships in the department store situation are quite impersonal, the continuance of an exclusionary racial policy by a fifth of the establishments gives additional caution.

Further light is thrown upon these statements of general policy by the kinds of qualifications which the different types of establishments place upon their services to Negro patrons. These can be seen in *Table 1* which follows. With the hotel situation, apparently there is one establishment which will go so far as permitting a Negro overnight guest — but only with the qualification that he or she is a member of a visiting team or special group for which the hotel is obligated. All of the other qualifications in the hotel area limit Negro services to special meetings, conventions and related matters — all on the basis of attendance and not as overnight guests.

TABLE 1

TYPES OF QUALIFICATIONS MADE FOR SERVING NEGROES BY PUBLIC ACCOMMODATIONS ESTABLISHMENTS

Type of Establishment and Qualifications	*Number of Establishments*	*Percent*
HOTELS	27	100.0
As overnight guest with teams only	1	3.0
Meetings or other special occasions	4	15.0
Not accepted at all	7	26.0
Declined to commit practice	15	56.0
RESTAURANTS AND TAVERNS	105	100.0
No restrictions	21	20.0
To carry out	37	35.2
Other special arrangements	3	2.8
No service to Negroes at all	21	20.0
Declined to commit practice	23	22.0
THEATERS AND MOVIE HOUSES	38	100.0
No restrictions	7	18.4
Segregated	2	5.3
Not accepted at all	8	21.1
Declined to commit practice	21	55.2
DEPARTMENT STORES	21	100.0
All departments with no restrictions	12	57.1
All departments with restrictions	3	14.3
Declined to commit practice	6	28.6

The major qualification which the restaurants and taverns make in regard to Negro clientele is that they carry the food or other purchase outside, as the percentages reflect. Even though the general policy of the department stores was more favorable than with the other types of public accommodations, several kinds of limitations were placed upon services to Negro customers. Of the limitations mentioned, two stores indicated that some sales to Negro customers were final and goods could not be returned. In two other instances, Negro women patrons were not permitted to try on foundation garments; and in one store they were not allowed to try on the hats they wished to buy.

In addition to these qualifications of service to Negro customers, the department stores also reported that some of their facilities were not available to Negro customers. Of the 24 replies to a multiple choice question regarding the store facilities, 18 or about 38 percent showed that some type of store facility was excluded from use by Negroes, while 62 percent were not

restrictive. The accommodations provided by the stores which were mentioned as restricted against Negro use included beauty shops, restaurants and rest rooms. It would thus seem that about 80 percent of the department stores are open in their basic policy with regard to serving Negro customers. At the same time, however, about one-fifth of them place limitations of some sort in giving ordinary sales services, and exclusion of Negroes from some type of store facility is indicated in almost four out of ten instances.

Opinions Looking Toward Changed Policy

Along with the primary matters of policy and practice regarding Negro clientele, the public accommodations establishments were also queried as to whether they favored changes looking toward the elimination of racial restrictions. These questions were asked in the context of developments in the nearby city of Washington, D. C. as well as the more democratic practices which had recently taken place with a few establishments in Baltimore. Both questions were asked with the common policy matter in mind, in order that they might be used as a basis of assessing the potentialities for change. The questions stated the following:

1. With the rapid increase in policies favorable to accepting Negroes without qualification by hotels, restaurants, theaters and other places of public service and accommodation as shown in the nearby city of Washington, D. C., do you favor adoption of similar practices for Baltimore?

2. Recent experiences in Baltimore have shown, in the case of the bus and railway stations and in eating facilities of several retail stores, that racial restrictions can be dropped with ease, and with acceptance by the public at large. Do you consider this trend wholesome and desirable for the community?

Responses by the entire group of establishments are summarized in the following table.

TABLE 2

OPINIONS OF PROPRIETORS OF PUBLIC ACCOMMODATIONS ESTABLISHMENTS REGARDING DESIRABILITY OF DROPPING RACIAL RESTRICTIONS

Type of Question	*Number*	*Responses Percent*
Re: favorability of following Washington, D. C. in dropping racial restrictions		
All	160	100.0
Yes	49	30.6
No	53	33.1
Uncommitted	58	36.3

Re: Whether beginning trend of dropping racial restrictions in Baltimore is desirable		
All	157	100.0
Yes	54	34.4
No	41	26.1
Uncommitted	62	39.5

The responses in these instances are quite interesting. On the whole the replies to the two questions carry about the same proportion of favorable responses, although when the desirability of the present trend toward dropping racial restrictions is mentioned in the specific context of Baltimore, a slight excess of "yes" over "no" responses takes place. At the same time, a larger proportion of the replies fall into the "uncommitted" category.

It can be seen that about 31 percent of the respondents favor following the example of Washington in dropping racial restrictions and 34 percent consider that present developments in this direction in Baltimore are desirable. In the first instance, there is a slight excess of negative answers and in the second, a slight advantage to the affirmative replies. In both instances however, there is a relatively large category of opinion which remains uncommitted about the matter. Presumably these are persons who might neither oppose nor advocate changes but would probably follow developments that would occur. If these "neutral" opinions are added to those giving an affirmative reply, then one can say that better than 66 percent of the opinions with respect to the first question give a favorable prognosis for possible democratic change in racial practices, and about 74 percent in the case of the second question.

But even if the uncommitted replies are not taken into account, the opinions indicate a rather favorable potential toward eliminating racial restrictions in public accommodations practice. The amount of favorable opinions is about equal to that which may be considered unfavorable; and certainly there is no heavy expression of sentiment against following the Washington or recent Baltimore experience. Admittedly the questions are structured somewhat on the optimistic side, but, on the whole, they are factual in content, drawing upon trends of change which are familiar to a wide public.

Looked at from still another angle, the opinion replies are even more striking and provocative. How, for example, do the responses on favoring or disfavoring elimination of racial restriction compare with the trends shown by actual policies and practices by these establishments? In other words, how does actual practice measure up against these theoretical attitude-opinions about change?

In the entire group of public accommodations establishments, it will be remembered, about 92 percent were involved in some type of racially restrictive or exclusionary practice and eight percent were open in their services to Negroes. On the other hand, in terms of following the Washington experience and the desirability of the Baltimore trend of eliminating discriminatory practices, the opinions were about equally divided between those favoring and not favoring. If these expressions of racial good-will were translated into actual practice, it would mean that instead of only eight percent of the public accommodations establishments having an open and unqualified practice of serving Negro customers, many times this number would be engaged in doing so. And if the neutral and uncommitted replies were added to the picture, somewhere between two-thirds and three-fourths of the facilities might well be operating on the side of a full democratic public practice.

Even if these trends are expressed conservatively, they strongly suggest: (1) that there is widespread recognition of the trend toward democratic racial practice in the area of public services; and (2) that they are considered somewhat inevitable, if not desirable, in the reordering of community racial practices consistent with this trend. Where this group of respondents is concerned, there is indication of rather general readiness toward implementing changes in racial practice to a degree which is probably not expected. The problem, of course, is to give opportunity and implementation to this rather encouraging concensus. Recognition that so many of their associates are inclined toward these favorable changes may be a factor which would encourage a greater amount of integration than is now in existence in current practices. In facing these possibilities however, it must be recognized that about one-third of the establishments represent what appears to be the "hard core of resistance."

Discussion — Change and New Opportunity

If one takes even a hurried glance at developments toward democratic practice in the use of public accommodations and service, a picture of significant but uneven and partial change emerges. Listing of community experiences toward the elimination of racial discrimination and those still segregatory gives the following appearance:[1]

Credit	*Debit*
Unqualified use of eating and other facilities in *Railway Stations*	General Pattern of Segregation and Exclusion in practically all other

[1]Since these instances are public knowledge, we give names.

Unqualified use of eating and other facilities in *Bus Stations*	restaurants and taverns, with the few exceptions of atypical situations
Accessibility of Lunch Counters in *Woolworths*, unsegregated.	
Accessibility of Lunch Counters in *Kresges*, unsegregated	
Accessibility of Lunch Counters in *Grants*, unsegregated	
Accessibility of Lunch Counters in *Schulte United*, unsegregated	
Accessibility of Lunch Counters in *McCrory, unsegregated*	
One hotel does not bother about percentage of Negroes which may come to luncheon or dinner meetings; even though it still does not take Negro overnight guests.	All hotels exclude Negro overnight guests, with the exception of one or two who will admit in unusual cases. All hotel facilities limited to special occasions and on quota basis.
Ford's Theater: No discrimination in audience or on stage.	Only with occasional exceptions, all theaters, movie houses and commercial recreation establishments maintain older pattern of exclusion or segregation.
Lyric Theater: No discrimination in audience and in two recent instances Negro performers.	
Two movie houses became interracial and unsegregated in practice	
All Public Golf Courses desegregated	"White only" practice in private concession at Patapsco park
Space for interracial baseball games allotted in some public parks	General practice of segregated areas still in existence in public parks, beaches and other public recreational facilities.
Employment of Negro drivers aids unqualified use of taxicab services and relieves bottleneck at railway station	Some taxicab companies still have no Negro drivers. General hesitancy by taxicabs in "mixing" loads, even in emergency situations of shortage and persons going to same area of destination.

Credit	*Debit*
	Liquor Board licensing rules give sanction against mixing of Negro and white clientele. Reports indicate even those establishments which would accept all people must do so under possible danger of losing license.
Large Department stores drop racial limitations in children's, boys and men's wear; make further concessions in gloves, suits and coats in women's wear.	Department store practices involving hats, under-garments, store facilities for eating and resting remain only partially modified.

This list could, of course, be expanded to other situations and developments; but it is indicative of some of the major gains which have been made, as well as of the shortcomings. These changes have involved a considerable effort by a number of leadership groups of the community over a relatively long period of activity. The Governor's and Mayor's Commissions, N.A.A.C.P., Urban League, Committee on Racial Equality, Fellowship House, to mention only a few, have been represented among these groups. On occasion, support by the office of the Governor of the State has been given, both as additional persuasion and as an expression of interest by the highest executive branch of state government in the implementation of a fully democratic public policy. Mention could be made of the clear-cut role which has been discharged by the state executive in supporting the United States Supreme Court decision on school segregation; but this falls into the educational aspects of the survey. A recent case of official intercession however, involved practices of local hotels. In view of the presence of interracial professional basketball and baseball teams and the visiting of similar groups to Baltimore; and in the light of increasing necessity for democratic use of hotel facilities by the population at large, a special conference was arranged in the Governor's office by the two Commissions. This symbolizes the importance which attaches to the area of hotel accommodations; it has come to be what is probably the major testing ground for next steps toward a full democratic practice by establishments serving the public need and convenience.

The following item would normally be added as a footnote to the above analysis; but since it represents a significant break in the policy and practice of the hotel field, opportunity is given for a final optimistic word.

While the findings of the survey were being evaluated, one of the largest local hotels, the Sheraton Belvedere, announced the inauguration of a completely integrated racial policy. This means, in substance, that as of now all Negro guests will be treated on the same basis as any other person seeking accommodations, and that older qualifications upon meetings and other uses of facilities no longer apply. Without doubt, this is an important signpost of change, for it comes in what has been the most difficult and sensitive area of public accommodations.

Summary and Conclusion

The policies and practices which public accommodations establishments maintain in Baltimore with respect to the Negro public was the major objective of this phase of the survey. A secondary matter included an effort to assess the general potential for change toward eliminating racial distinctions in public services, as seen through the opinion-attitudes of proprietors about trends already in evidence in that direction, both in Baltimore and the neighboring city of Washington, D. C. A total of 191 public accommodations were covered, 55 percent of which were restaurants and taverns, 14.1 percent hotels, 19.9 percent theaters and moving picture houses, and 11.1 percent department stores. The places covered were taken at random from alphabetized telephone listings, and the sample included 8 percent of all restaurants and taverns; 40 percent of the hotels; 30 percent of the theaters and movie houses; and 24 percent of the department stores. In all cases, the method of investigation was by a telephone interview with a responsible official of the establishment. The regular procedure was for the interviewer to identify himself by name but not by race, and then to express intention of using the facilities or services of the establishment at some near date for a group of friends which included Negroes. Responses were recorded on prepared questionnaire forms, with the name of the responding firm left anonymous in the final reporting of the data.

Taking the entire sample as a group, the vast majority were found to have policies which either excluded services to Negroes or placed segregatory limitations upon them; 91 percent of the establishments fell into this category of policy, while 9 percent accommodated Negro clients without any qualifications whatsoever. With the different types of public establishments, all of the hotels excluded or segregated Negro clients as did 75 percent of the restaurants and taverns, 97 percent of the theaters and movie houses, and 20 percent of the department stores. Since the original coverage and the preparation of this report, however, one of the major and largest hotels has announced a change in its racial policy. It will now

accept Negro guests on the same basis as other persons and quota limitations in the use of its other facilities for meetings and special occasions no longer apply. Even with this important exception, the hotel field remains the most acutely restricted aspect of Baltimore's public accommodations. The theaters and moving pictures rank a close second, while taverns and restaurants and the department stores follow.

In general policy orientation the department stores have made the more liberal advances in racial policy. At the same time however, the maintenance of racial restrictions in the impersonal situation of buying and selling still exists. Two of the responding stores indicated that their sales to Negro customers are final and goods could not be returned. In two other instances, Negro women patrons were not permitted to try on foundation garments, and in another case they could not try on hats. Furthermore, a conspicuous amount of the stores had placed racial limitations upon the use of some store facility; 38 percent of those responding to this item did so. The accommodations most commonly mentioned in this connection were beauty shops, restaurant facilities and restrooms.

Two basic questions were asked the proprietors as the basis of assessing possibilities for the elimination of racial restrictions in public accommodations. In substance, the questions were (1) whether the respondent favored the adoption of policies now operating in the hotels, restaurants and theaters of Washington, D. C. which accept Negroes without qualifications, and (2) whether trends in this direction now apparent in Baltimore are considered wholesome and desirable by the respondent. Approximately 31 percent of the establishments favored having Baltimore follow the trend of eliminating racial restrictions which has begun in Washington, D. C. And in response to the second question 34 percent thought that changes now underway in Baltimore were wholesome and desirable. On the negative side of these matters, 33 percent replied to the first question and 26 percent to the second. In both instances significant proportions of the respondent group remained "neutral" or uncommitted — 36 percent to the matter of following Washington's experience, and 39.5 percent as to the desirability of present changes in Baltimore.

These results are interpreted on the whole as representing a favorable potential for implementing racial desegregation in public accommodations services and facilities. Even though it would be too optimistic to count all of the neutral replies on the side favoring desegregation, certainly they suggest a class of opinion which would go along with changes and not seek to obstruct them. Moreover, the favorable and unfavorable replies are about equally divided. Since the respondents have a considerable vested interest in the status quo which their own present policies represent, the

fact that the proportion favoring the elimination of racial restriction is about equal to that against is all the more encouraging. The 31 and 34 percent of establishments favoring change is strikingly better than the present pattern of practice in which case 91 percent of the group make racial distinctions. Even conservatively expressed, these trends suggest (1) widespread recognition of a general trend toward democratic racial practice in public accommodations services, and (2) appraisal of these changes as being somewhat inevitable, if not altogether desirable. In facing the possibilities for implementing non-restrictive practices in this area however, it should be recognized that about one-third of the establishments represent what may be termed the "hard core of resistance."

BALTIMORE COMMUNITY SELF-SURVEY

GOVERNOR THEODORE R. MCKELDIN

MARYLAND COMMISSION ON
INTERRACIAL PROBLEMS AND RELATIONS

MAYOR THOMAS D'ALESANDRO, JR.

BALTIMORE COMMISSION ON
HUMAN RELATIONS

CO-SPONSORING ORGANIZATIONS

Advertising Club of Baltimore
A. M. E. Zion Church
American Council on Human Rights
Americans for Democratic Action
American Jewish Committee
American Jewish Congress
American Legion, [redacted]
Americans Veterans Committee
Baltimore Area--The Methodist Church
Baltimore Council of Church Women
Baltimore Council of Social Agencies
Baltimore Ethical Society
Baltimore Federation of Labor
Baltimore Fellowship
Baltimore Jewish Council
Baltimore League of Women Voters
Baltimore Urban League
B'nai B'rith Menorah Lodge
B'nai B'rith, Women of
Business and Professional Women's Club
Catholic Interracial Council of Baltimore
Catholic War Veterans
Citizens Planning and Housing Association
Congress of Industrial Organizations
Co-Operative Women's Civic League
Council of Churches
Department of Recreation
Eastside Community Committee, Inc.
Education, Catholic, Department of
Education, Baltimore City Department of
Education, State Department of
Education, Board of Jewish
Enoch Pratt Library
Evangelical and Reformed, Potomac Synod
Federation of Jewish Women's Organization of Maryland
First Church of God
First Unitarian Church
Friends, Homewood Meeting
Friends, Religious Society, Stony Run
Frontiers of America
Interdenominational Ministers Alliance
International Federation of Catholic Alumnae
Jewish Community Center
Jewish Religious Council
Jewish War Veterans
Junior Association of Commerce
Knights of Pythias
Lutheran United, Maryland Synod
Maryland Civil Liberties Committee
Maryland League of Women's Clubs
Mental Hygiene Society of Maryland
Morgan State College
Most Worshipful Hiram Grand Lodge, A. F. & A. M.
Most Worshipful Prince Hall Grand Lodge, F. & A. M.
National Association for the Advancement of Colored People
National Conference of Christians and Jews
National Council of Jewish Women, Baltimore Section
Northwest Community Council
Presbytery of Baltimore
Retail Merchants Association
St. Joseph Society of the Sacred Heart, The Josephite Fathers
St. Vincent de Paul Society
United Baptist Missionary Convention of Maryland
Veterans of Foreign Wars
Young Men's Christian Association—Druid Hill Avenue Branch—
Young Women's Christian Association — Metropolitan Office
Young Women's Christian Association — Madison Avenue Branch—

COMMUNITY SELF-SURVEY COMMITTEE

RABBI ISRAEL M. GOLDMAN, CHAIRMAN
DR. OTTO F. KRAUSHAAR
MRS. JOHN B. RAMSAY
MR. WILLIAM C. ROGERS
MR. EDWARD N. WILSON

CONSULTANTS

DR. HERMAN H. LONG
MR. GALEN WEAVER
MR. JOHN HOPE, II

OPERATING COMMITTEES

EDUCATION
DR. DWIGHT O. W. HOLMES, CHAIRMAN

EMPLOYMENT
MR. ROBERT FREEDMAN, CHAIRMAN

HOUSING
MR. FRANCIS JENCKS, CHAIRMAN

RELIGIOUS AND CIVIC ORGANIZATIONS
DR. LEON SACHS, CHAIRMAN

PUBLIC ACCOMMODATIONS
MR. WILLIAM PASBANO, CHAIRMAN

SOCIAL WELFARE
MRS. HENRY E. CORNER, CHAIRMAN

VOLUNTEERS
Mrs. JOHN B. RAMSAY, CHAIRMAN

The Membership of the
MARYLAND COMMISSION ON INTERRACIAL PROBLEMS AND RELATIONS
*also a member of the BALTIMORE COMMISSION ON HUMAN RELATIONS.

*William C. Rogers, Sr., Chairman
*Rabbi Israel M. Goldman, Vice Chairman
*Rev. W. Waldemar W. Argow, Vice Chairman
Charles E. Cornish
Dr. Otto F. Kraushaar
*Clinton K. Macsherry
*Mrs. John B. Ramsay
*Dr. Furman L. Templeton
*Edward N. Wilson

Staff

Ward D. Yerby, Executive Secretary of the Maryland Commission on Interracial Problems And Relations

Thomas J. S. Waxter, Executive Secretary of the Baltimore Commission On Human Relations

Rosa C. James, Secretary

EDUCATION COMMITTEE

Mrs. Bruce H. Alleyne
Dr. Harry Bard
Dorothy Boose
Sidney Chernak
Dr. Virgil A. Clift
Mrs. Helen M. Clark
Mrs. Jonas Cohen
Mrs. R. Harris Cooper
George M. Crawford
Mrs. Flossie M. Dedmond
Wilmer A. Dehuff
Dean Wilbur Devilbiss
Daniel Ellison
John H. Fischer
Mrs. Maurice P. Freelander
Marion Hawes
Mrs. Elsie F. Herman
Mary L. Huber
Paul E. Huffington
Dr. Houston R. Jackson
Charles C. Kujawa
Mrs. George Lerner
Richard K. Marshall
Levi B. Miller
Mrs. Lucille Miser
Robert Miser
Rev. James L. Moore
Mrs. Lillian M. Parrott
Howard F. Reiss
Mrs. Charles R. Rouse
Mrs. Stephen Rushmore
Dr. J. M. Stephens
Mrs. Irene R. Templeton
Roszel Thomsen
Robert B. Watts
Mrs. Edward N. Wilson
Dr. Theodore H. Wilson
Mrs. Wilson Wing
Dr. Cyril Witte
Mrs. Portia Yerby

EMPLOYMENT COMMITTEE

Michael F. Bonadio
Herbert Deem
F. DeGuckert
Luther Heuerman
Sidney Hollander, Jr.
William Howell
Bowen K. Jackson
Dr. Martin D. Jenkins
Mrs. Charlotte M. Jessups
Mrs. Katherine Judge
Edward H. Johns
Daniel Klein
Rabbi Morris Lieberman
Anna Martin
Charles Mills
Rev. Jentry E. McDonald
Fred Z. Nichols
George A. Plaut
Saul M. Purdue
Mrs. Morris Rothholz
Herbert Shuger
Mrs. Audrey Smid
Dr. Alexander J. Walker
Miss M. Wells
Leon Wolf
Ruth L. Yost
Patrick Zembower

HOUSING COMMITTEE

J. R. Butler
Mrs. Augusta T. Chisell
Rev. W. L. Clayton
Richard Emory
Edgar M. Ewing
Herbert L. Fedder
Rev. William J. Gibbons
Mrs. Walter Hartman
Truly Hatchett
Morton Hoffman
Dr. Robert L. Jackson
M. Margaret Johnson
Lillian M. Kloppel
Linwood Koger
Phillip Larman
Daniel Lindley
Frances H. Morton
Fred H. Ohrenschall

Melvyn Pugatch
Soloman Rogers
James Rouse
Dudley Shoemaker
Mrs. Frances Smith
Rev. Hiram E. Smith
Mrs. Beryl W. Williams
Rev. John E. Wise, S. J.

INTERFAITH COMMITTEE

Rev. Waldemar W. Argow
Rev. J. Timothy Boddie
Samuel M. Bunn
Rev. Edward V. Casserly
Dr. Rose Clinchy
Rev. Walter R. Cremeans
Rev. Marlin Dawson
Rev. G. M. Edwards
Rev. J. Frank Fife
Dr. Willis Ford
Benjamin Freeland
Milton L. Halle
Mrs. Murray Kaufman
Rev. Keese
Harry J. Kassner
Joseph Leiter
Bishop Edgar A. Love
W. Gordon MacGregor
Bernard Manekin
Roy Patterson
Rev. Hollis S. Pistole
Patrick Roche
Rabbi Samuel Rosenblatt
Mrs. Jack Sokolsky
Dr. Guthrie Speers
William H. Spencer
Mrs. E. Estelle Thomas
Rev. J. L. Tilley
Gerald S. Wise

PUBLIC ACCOMMODATIONS COMMITTEE

Rev. Marion C. Bascom
Joel Chaseman
A. J. Cleaver
Ralph E. Edwards
Ben Everinghim
W. R. Ewald
C. D. Fornwald
Mrs. Edna Over Gray
Mary L. Huber
Albert D. Hutzler
Francis N. Iglehart, Jr.
Harry J. Kassner
Leon W. Kish
Mrs. Lena King Lee
Robert R. Lee
C. W. Mackay
Mrs. Bruce H. McDonald
Jefferson Miller
Mrs. Juanita J. Mitchell
Leonard Novagrad
Cornell Taylor
Mrs. T. J. S. Waxter

SOCIAL WELFARE COMMITTEE

Theodore Brown
Mrs. James C. Browne
Rev. Samuel M. Carter
Mora Crossman
Mrs. Hugo Dalsheimer
Dr. Edward Davens
Rev. David L. Dorsch
Mrs. James Foster
Mrs. Mae R. Gellman
Isaac S. George
Isaac Hamburger
John H. Henderson
Robert S. Hoyt
Rev. Kelly L. Jackson
Frank A. Kaufman
Mrs. Esther M. Kirkpatrick
William H. Land
Esther Lazarus
Abraham Makofsky
Gordon Manser
Clark Mock
Clara McGovern

Exhibit 11

News-Post
March 19, 1959

Integration Movement Sets Northwood Goal

By JOYCE LEWIS

A movement, calm but determined, is being pushed by some 400 persons to integrate Northwood Shopping Center.

So calm is the movement that demonstrators and pickets call police beforehand.

The determination is conveyed in the words of the leader of the movement, Aubrey Edwards, also president of Morgan State College's student government. He says:

"Our goal is to integrate Northwood Shopping Center. We will not stop until we reach our goal."

The movement is known as the Civic Interest Group. Edwards says it is composed of 75 per cent Morgan students along with white students from other schools in the area; members of the Congress on Racial Equality and the Integrated Northeast Intergroup Council. Members of the clergy also are supporting the movement, Edwards says.

SPECIFICALLY, the Civic Interest Group is interested in Negroes being served at the Hecht Co.'s Roof Top Restaurant and Arundel's Ice Cream Store and admission to the Northwood movie theater.

Tuesday night some 100 Negroes entered the restaurant and sat down at tables. Another 60 did the same thing at the ice cream store.

Police Lt. Louis Howard of Northeastern District reported that at 6.42 P. M. radio car 26 was dispatched to the shopping center. Cars 27 and 28 also responded.

Both places refused service.

The students sat.

Edwards and other leaders of the movement conferred with store officials.

The restaurant closed at 7.45. The ice cream store at 8.20.

The students headed back to the campus.

Police reported no disorder.

SUNDAY pickets with placards appeared at the movie theater at 12.40 P. M., police noted.

At 2 P. M., according to the police log, 32 Negro males and females assembled in small groups in the 4100 block Hillen Rd., held a short discussion, then departed.

Capt. Millard Horton of Northeastern District reported that last Friday Edwards called him saying he and others would attempt to purchase tickets at the theater and if refused, they would picket.

At 6.45 some 400 persons arrived and were refused admission by George E. Burger, Sr., theater manager, police said.

Most left after a short time while about 20 Negroes and five white persons picketed until 10.

Capt. Horton says such demonstrations have been occurring with regularity. In most instances, he says, those picketing have given advance notice.

No incident has been disorderly, he adds.

EDWARDS says Arundel's now serves Negroes at its Northwood store. George F. Kerchner, manager of Arundel stores in Baltimore, confirms this.

The service began yesterday at noon, says Edwards, with seven Morgan students.

They are Clifton Henry, 1132 W. Lexington St., a sophomore; Anna Brown, Long Island, N. Y.; Hazel Jenkins, of Maryland, a senior living on campus and majoring in business administration.

Also Frank W. Green, New York, one of the movement's leaders and a senior living on campus majoring in history; Wayne Gunthorpy, a freshman from New York City; Evelyn Snowden of Maryland and Barbara Terrell of New York; both freshman and living on campus.

As for the college's position, James Carter, assistant to the president, says, "The college is neutral. The students are acting in their capacity as citizens."

Edwards says there are "truces with the restaurant and theater."

He says Frank Eichelberger, executive of the Hecht-May Co., has told him he will take the matter up with the company's executive board in St. Louis.

A meeting is set for 2 P. M. Monday with the theater owners, Jerome and Joseph Grant.

What if the restaurant and theater won't serve Negroes?

"We will continue our demonstrations and picketing," says Edwards.

News-Post
March 19, 1959

Integration Movement Sets Northwood Goal

"A movement, calm but determined, is being pushed by some 400 persons to integrate Northwood Shopping Center... Specifically, the Civic Interest Group is interested in Negroes being served in the Hecht Company's Roof Top Restaurant and Arundel's Ice Cream Store and admission to the Northwood movie theater... Tuesday night some 100 Negroes entered the restaurant and sat at tables. Another 60 did the same thing at the ice cream store... Sunday pickets with placards appeared at the movie theater at 12:40 P. M.. At 6:45 P.M. some 400 persons arrived and were refused admission[at the Northwood Theater]."

Arundel's Ice Cream Store later capitulated.(News-Post, March 19, 1959).

...more Afro-American ★★★★★★★
BALTIMORE, MD., MARCH 21, 1959 LATE CITY EDITION 32 Pages Price 15 Cents

Sit-Down Wins

Northwood Arundel is open to all

Student pickets say they will continue until all places open

"I want you to know that you have as much right to come in here and be served as anyone else.

"Whenever you come here, you will be treated just like any other customer, and if any one refuses to serve you, just notify me and it will be taken care of."

Those words of welcome were extended Wednesday to Morgan State College students. They marked victory No. one in their campaign to desegregate a movie and eating places in nearby Northwood shopping center.

The words came from George F. Kerchner, supervisor of the Arundel Ice Cream Company in the center.

Groups of college students sometimes numbering 450 had been picketing the theatre and sitting-in at the ice cream company and the Roof-top cafe of the Hecht Company at the Northwood center since Friday evening.

The shopping center is two blocks from the Morgan campus.

• • •

FRANK GREENE, a student leader present with the group when Mr. Kerchner made his statement and saw that students were actually served, told the AFRO:

"We now have one place open to us. Our other objectives are the Northwood Theatre and the Hecht Company's roof-top restaurant.

"We intend to keep the picketing up until they are open to us, also."

On Wednesday, the AFRO learned that picketing of the theatre had been called off pending the outcome of a meeting to be held on Monday afternoon with members of the Commission on Interracial Problems and Relations and the theatre's management.

However, late Thursday evening, 20 picketers, disregarding "Private Property" signs, started marching in front of the theatre.

"We called police. We hope to be be arrested so that we can test in court the private property signs against picketing," a spokesman said as the students went into action.

Later Thursday night the report came:—

"The police are standing by. They won't arrest anyone as long as they behave themselves. This has made a farce of the no-picketing thing."

The theatre is owned by Jerome and Joseph Grant.

• • •

MEANTIME, on Thursday afternoon a group of students stood by ready to resume the sit-in at the Hecht company's restaurant at an afternoon meeting with the company's Board of Trustees and a regional representative failed to result in a desegregation policy.

"If this stalling has to occur, we will fill all vacant seats," commented James M. Springs.

(Continued on Page 3)

—Sit-down wins

(Continued from Page 1)

a student leader from Baltimore.

Other student leaders include Aubrey Edwards and Nathaniel Pierson. All are from New York except Mr. Springs.

• • •

Miss Joyce Mitchell, a freshman from Washington, commented:—

"One reason the campus students want these places opened to them is because they're the only place in the neighborhood to rany sort of recreation.

"Now, if we want to go to the movies, we have to go all the way in town.

"I see no reason why we can't go to the Northwood Theatre."

Wayne Gunthropy, a freshman from Mt. Vernon, N.Y., added:—

"It's not so much the fact that we're dying to get in there as it is the principle of the thing. I don't think that any person should be discriminated against."

SINCE THEY started the campaign to desegregate the theatre and eating places in the center, which are the only ones so close to the college campus, the students have held a series of mass meetings which have attracted large numbers.

On Monday a crowd jammed the meeting place to hear inspirational messages from Mrs. Daisy Bates, Little Rock, Ark. NAACP leader; Dr. Lillie M. Jackson, president of the local NAACP, and Lenny Moore, Colt star.

There was an atmosphere of friendliness in the Arundel Ice Cream company on Wednesday as the management agreed to serve colored patrons.

Students placed their orders and were served in their booths.

Six police cars and a patrol wagon were outside the store on the parking lot during the sit-in. Several policemen were inside or just outside the place but they found the group orderly.

• • •

INSIDE THE STORE, Mr. Kerchner told the students:

"The only thing that I ask is that when you come in here, conduct yourselves in an orderly fashion and don't try to monopolize the place.

"That is, if you aren't buying anything, don't come in just to take up the space that a buying customer could be using."

An AFRO reporter noted one blond youth purchasing ice cream for a Morgan student and they sat together, chatting as they ate.

Others were observed offering cigarettes to the students.

One student said a policeman chastized another blond youth who bought a soft drink for one of the students.

• • •

THE STUDENTS received congratulations from several white patrons in the places where they demonstrated for their peaceful protest against what one of the patrons called, "shameful" exclusion.

One told Mr. Greene she hoped he wasn't hungry and the youthful leader replied, "I have been hungry for 200 years."

"She then complimented us and said she hoped we were that we were the only ones in the place who could hold our heads up," Mr. Greene added.

• • •

THE STUDENTS have organized their protest in mass meetings and arranged to have shifts of picketers or sit-in teams.

At a meeting on Tuesday for a sit-in at the Hecht restaurant, the students decided first to send in two white looking colored girls.

Later, when the teams arrived, they found that these two girls had been served. They filed in, moved quietly to fill every empty seat in the place.

A man who identified himself as a photographer for a daily newspaper was overheard advising a waitress to turn out the lights until the students depart then open the place again.

Most of the patrons apparently did not realize what was happening.

One of the two advanced girls who had been served, was told "I'm sorry," by a waitress when she asked her to serve her friends.

The sit-down movement in the Northwood Area is sponsored by the Civic Interest Group.

The group is composed of Morgan students, and white students in the area, and members of the Congress on Racial Equality and the Northeast Intergroup Council.

A number of ministers have also supported the group.

Robert Watts, attorney, has given them legal advice.

Baltimore Afro-American
Late City Edition
March 21, 1959

PATIENCE PAYS OFF — Photo made Tuesday in Arundel Ice Cream Store in Northwood Shopping Center shows students who staged sit-down. On Wednesday, five days after demonstration began, Arundel management said company would welcome all customers regardless of color.

VICTORY NO. 1—Photo made inside Arundel Ice Cream Co.'s Northwood Store shows students enjoying sodas. They were served for first time Wednesday following five-day sit-down demonstration in public places in the area which refuse service to colored people. Pictured here are Morgan students, Anna Brown, freshman, Baltimore; Clifton Henry, junior, Baltimore; Joyce Mitchell, freshman, Washington, and Frank Greene, senior, NYC. Greene is one of the leaders in the Civic Interest Group which sparked the Northwood demonstrations.

Exhibit 12

Baltimore Afro-American
March 28, 1959

Easter no holiday on picket line

The Civic Interest Group, made up predominantly of Morgan State College students, will spend part of the Easter holiday season on the picket line in Northwood Shopping Center.

Ramon Wright, a vice president of the CIG, said Thursday groups of from 15-20 would take 30-minute shifts, marching before the Northwood Theatre throughout the holiday season.

The pickets will be on duty from 1 p.m., when the theatre opens, until the last movie starts about 9:30, Mr. Wright said.

"We intend to be there every hour the theatre is open until the management agrees to open its doors to any patron," Mr. Wright said.

This is PART of a campaign launched three weeks ago by the CIG, headed by Aubrey Edwards and supported by numerous community organizations and leaders, aimed at opening the theatre and eating places to colored.

The theatre is the only one of the three at which the picket demonstration will continue throughout the holidays.

Arundel Ice Cream Company, operated by George F. Kerbe

(Continued on Page 1)

Picketing

(Continued from Page 1)

or, has started serving all patrons in its store.

This decision came a few days after CIG members staged sit-down sessions at tables and at the counter.

The sit-down campaign at the other place, the roof-top restaurant operated by the Hecht Company, is still suspended pending the outcome of negotiations about the service policy.

• • •

OFFICIALS OF THE CIG are apparently optimistic about the prospects that the Hecht Company will agree to serve all. They expect a decision early next week.

A proposed conference on the policy of the theatre failed to materialize Monday when neither Joseph nor Jerome Grant, theatre operators, appeared for the meeting.

Meantime, the CIG has scheduled another mass meeting for Monday. These meetings have had in the past such speakers as Mrs. Daisy Bates, school desegregation leader from Little Rock, Ark., and A. Philip Randolph, labor leader.

Jackie Robinson, former baseball great, is expected to address a meeting in the near future if the campaign continues for any prolonged period.

ONE VISIT to the Hecht Company's roof top restaurant in the Northwood shopping center is all that the Civic Interest Group has made so far in its effort to get the company to serve all in its restaurant. The sit-down effort there has been suspended pen outcome of negotiations on the policy. Meanwhile, pickets con march in front of the Northwe atre. The Arundel Ice Crea has started serving all patro

Northwood Rooftop restaurant wide

Exhibit 13

"Our major premise is that even if the Hecht Company has a right to keep people out because of their race, as the law is now constituted, the State is prohibited under the Fourteenth Amendment [of the United States Constitution] to use its power to arrest through the Police Department, and its subsequent power of conviction to aid the private individual in his private discrimination...."

The case demonstrated a denial of due process and equal protection under the law, as guaranteed by the Fourth Amendment.

Attorney Robert B. Watts
(The Sun, Sunday, March 7,
1960, pages 40 and 35)

Exhibit 14

The Sun March 16, 1960
page 11

Refused Service, 100 Sit For Hour in Hecht's Northwood restaurant.

Refused Service, 100 Sit For Hour

About 100 persons, mostly Negro students from Morgan State College, sat for an hour in Hecht's Northwood restaurant last night after being refused service.

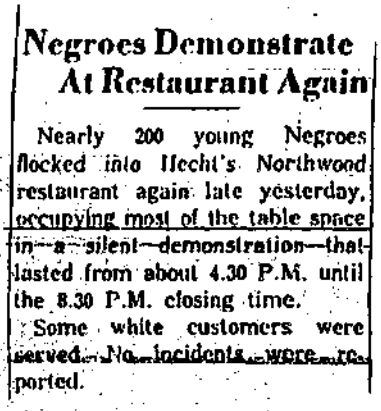
Another group of 25 students picketed in front of the Northwood Theater in the same shopping center. There was no violence, and white customers entered both establishments during the demonstrations. Several months ago there were demonstrations at the same places.

The theater picketers carried signs that read: "Must Northwood Be Southward?" "We're Together in Wartime, Why Not in Peacetime?" and "Why Not Equality For All Americans?"

The theater picketers[CIG/Morgan student]carried signs that read: "Must Northwood Be Southward?" "We Are Together In War Time, Why Not In Peace Time?" and "Why Not Equality For All American?" (The Sun, March 16, 1960, page 11).

The Sun, March 17, 1960
page 36

Negroes Demonstrate At Restaurant Again



Negroes Demonstrate At Restaurant Again

Nearly 200 young Negroes flocked into Hecht's Northwood restaurant again late yesterday, occupying most of the table space in a silent demonstration that lasted from about 4.30 P.M. until the 8.30 P.M. closing time.

Some white customers were served. No incidents were reported.

"Nearly 200 young Negroes flocked into Hecht's Northwood restaurant again late yesterday, occupying most of the table space in a silent demonstration that lasted from about 4:30 P.M. until the 8:30 closing time." (The Sun, March 17, 1960, page 36).

The Sun, March 19, 1960
page 28

2 Are Arrested At Restaurant-Anti-Segregation Demonstration Was In Progress

2 ARE ARRESTED AT RESTAURANT

Anti - Segregation Demonstration Was In Progress

Two persons were arrested late yesterday afternoon in the four-day-old anti-segregation demonstration at Hecht's Northwood restaurant, and the restaurant closed for the day soon afterward.

The two arrested, both on complaints of others, were a Morgan State College student and the manager of the restaurant.

John M. Hite, 22, Negro, the student, of the 2700-block Roslyn avenue, was charged with pushing Karen Swink, 6, of the 2900 block Cornwall road. Karen's father, William Swink, who was at the restaurant with his wife and two children, brought the complaint.

Hearing Due Today

Joseph Daschbach, 50, the restaurant manager, of the first block Centre place, Towson Estates, was charged with pushing Miss Bernice Evans, 21, Negro, another Morgan student, of East Elmhurst, N.Y.

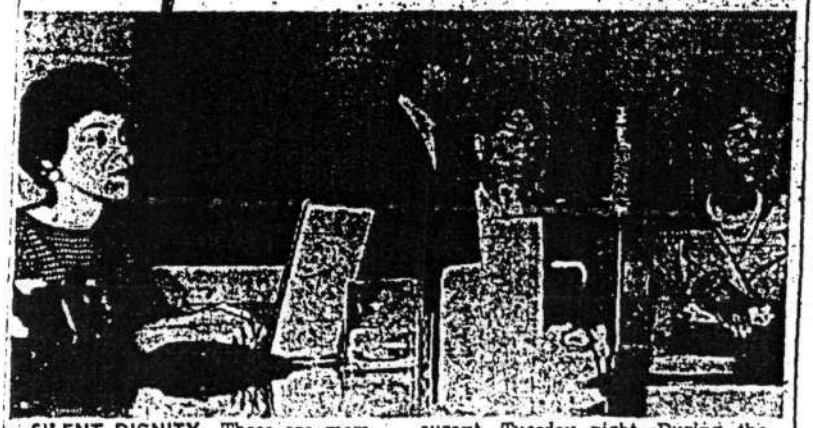
Hite and Daschbach each posted $101.70 collateral in Northeastern Police Station pending a hearing at 4 P.M. today. Their arrests were the first since the restaurant sit down demonstration, carried on mostly by young Negroes, began Tuesday.

Daschbach said last night a decision on reopening the restaurant would be made this morning.

"Two persons were arrested late yesterday afternoon in the four day-old anti-segregation demonstration at Hecht's Northwood restaurant and the restaurant closed for the day soon afterwards."(The Sun, March 19, 1960, page 28).

Afro-American
March 19, 1960

MENU BUT NO FOOD — Two typical student demonstrators check menu while waiting for food that never came. They are among the group of Morgan College students staging sit-in protests against the Hecht-May Roof Top Restaurant. Sit-ins at the eating place have increased from one per day by 200 students to four-hour periods by teams operating on relay basis.



SILENT DIGNITY—These are members of the Civic Interest Group. The Morgan College student group were staging a sit-in demonstration at the Hecht-May Company's Roof Top Restaurant, Tuesday night. During the weeklong demonstrations, conduct and appearance of student have been beyond reproach.

Exhibit 14

The Sun, March 19, 1960
page 28

2 Are Arrested At Restaurant-Anti-Segregation Demonstration Was In Progress

2 ARE ARRESTED AT RESTAURANT

Anti - Segregation Demonstration Was In Progress

Two persons were arrested late yesterday afternoon in the four-day-old anti-segregation demonstration at Hecht's Northwood restaurant, and the restaurant closed for the day soon afterward.

The two arrested, both on complaints of others, were a Morgan State College student and the manager of the restaurant.

John M. Hite, 22, Negro, the student, of the 2700 block Roslyn avenue, was charged with pushing Karen Swink, 6, of the 2900 block Cornwall road. Karen's father, William Swink, who was at the restaurant with his wife and two children, brought the complaint.

Hearing Due Today

Joseph Daschbach, 50, the restaurant manager, of the first block Centre place, Towson Estates, was charged with pushing Miss Bernice Evans, 21, Negro, another Morgan student, of East Elmhurst, N.Y.

Hite and Daschbach each posted $101.70 collateral in Northeastern Police Station pending a hearing at 4 P.M. today. Their arrests were the first since the restaurant sit down demonstration, carried on mostly by young Negroes, began Tuesday.

Daschbach said last night a decision on reopening the restaurant would be made this morning.

"Two persons were arrested late yesterday afternoon in the four day-old anti-segregation demonstration at Hecht's Northwood restaurant and the restaurant closed for the day soon afterwards."(The Sun, March 19, 1960, page 28).

The Sun, Sunday Morning, March 20, 1960

62 LAWYERS SCAN SIT-INS

N.A.A.C.P. Calls Arrests In South Unconstitutional

Washington, March 19 (AP)—Arrests of Negroes in Southern demonstrations against segregation are unconstitutional and are "in truth state enforcement of private discrimination," attorneys for the demonstrators said today.

Sixty-two Negro and white civil rights lawyers from Southern and border states end a three-day conference here tomorrow.

The meeting was called by Thurgood Marshall, director-counsel of the National Association for the Advancement of Colored People's legal defense and educational fund.

The purpose of the conference is to plan the legal defense of the more than 1,000 Negroes arrested since the current demonstrations began. Most of the demonstrations have been in the form of lunch-counter and restaurant sit-ins to protest segregated eating.

Marshall said today it is too early to predict what legal action the lawyers will adopt. He added in a statement released to newsmen:

"Means" To Discrimination

"These students have been arrested and charged with violating a multitude of laws and ordinances. Some of the students have been accused and tried for trespassing, assault, parading without a license and violating fire regulations by blocking aisles in stores.

Some have even been accused of conspiracy to obstruct commerce. All of these laws and similar laws are in our opinion being used as means to enforce racial discrimination.

"The lawyers are in agreement that use of public force, either in form of arrest by the police or conviction by the courts, is in truth state enforcement of private discrimination and in violation of the Fourteenth Amendment.

"The ways in which this theory will be applied will vary with the circumstance of each case."

"Arrests of Negroes in Southern demonstrations against segregation are unconstitutional and are in truth state enforcement of private discrimination, attorneys for the demonstrators said." (The Sun, Sunday Morning, March 20, 1960

The Sun, March 21, 1960

Four Arrested In Negro Protest-Manager of Restau Northwood Asks Arrest.

FOUR ARRESTED IN NEGRO PROTEST

Manager Of Restaurant In Northwood Asks Arrests

Police arrested four persons of a group of demonstrators at Hecht's Northwood restaurant yesterday.

About 120 Negro men and women, most of them Morgan State College students, milled around the entrance and picketed the restaurant, which will not serve them.

For the past week students have congregated at the restaurant.

Manager Asks Arrests

The manager, Joseph Daschbach, 50, of the first block Centre road, Towson, asked for the arrests. Police booked the four as "unlawfully entering the premises of the restaurant after being warned by the owners' agent to stay out."

Each posted $101.45 collateral at Northeastern Police Station and was released. Their hearing is set for this morning.

The four, all Negroes, are Manuel Deese, 18, a student, of the 4500 block St. Georges avenue; Herman D. Richards, Jr.,

(Continued, Page 21, Column 8)

Fc
I
20, a
Walt
of th
and
3200
Mr
year
reste
shovi
The
Police
urday

"About 120 Negro men and women, most of them students, milled around the entrance and picketed t restaurant, which will not serve them." (The Sun, M 21, 1960, pages 30 and 21).

The Sun, March 21, 1960

Four Arrested In Negro Protest-Manager of Restaurant In Northwood Asks Arrest.

FOUR ARRESTED IN NEGRO PROTEST

Manager Of Restaurant In Northwood Asks Arrests

Police arrested four persons of a group of demonstrators at Hecht's Northwood restaurant yesterday.

About 120 Negro men and women, most of them Morgan State College students, milled around the entrance and picketed the restaurant, which will not serve them.

For the past week students have congregated at the restaurant.

Manager Asks Arrests

The manager, Joseph Daschbach, 50, of the first block Centre road, Towson, asked for the arrests. Police booked the four as "unlawfully entering the premises of the restaurant after being warned by the owners' agent to stay out."

Each posted $101.45 collateral at Northeastern Police Station and was released. Their hearing is set for this morning.

The four, all Negroes, are Manuel Deese, 18, a student, of the 4500 block St. Georges avenue; Herman D. Richards, Jr.,

(Continued, Page 21, Column 3)

Four Arrested In Negro Protest

(Continued from Page 30)

20, a student living at the college; Walter R. Dean, Jr., 25, a student, of the 2300 block Arunah avenue, and Phillip H. Savage, 27, of the 3200 block Carlisle avenue.

Mr. Daschbach, 50, and a 22-year-old Negro student were arrested last week and charged with shoving other persons.

Their hearing in Northeastern Police Court is set for next Saturday.

"About 120 Negro men and women, most of them Morgan students, milled around the entrance and picketed the restaurant, which will not serve them." (The Sun, March 21, 1960, pages 30 and 21).

NO SERVICE HERE Photo made inside Hecht Co. Rooftop Restaurant in Northwood on Tuesday shows students belonging to Civic Interest Group staging sit-down. They were not served although tomers urged waitresses to serve them couraged them to continue demonstratio

Northwood Rooftop restaurant wide

Sit-down resumes at restaurant

The Civic Interest Group resumed its sit - down campaign in the roof - top restaurant of the Hecht Company in the Northwood Center on Wednesday night.

Approximately 50 members of the CIG, which has been campaigning to crack the bars against colored persons at the Northwood Theatre and two eating places in the Northwood Center, took seats in the restaurant.

This was the first time the restaurant had been demonstrated against since the initial sit-down activity there about three weeks ago.

• • •

IN THE MEANTIME CIG, headed by Aubrey Edwards, has said it was awaiting the outcome of conferences which were felt to be leading to a favorable decision from the Hecht Company.

On Thursday, Nathaniel Pierson, another of the CIG leaders, told the AFRO, "we understand that they are sympathetic toward us but it has been quite a while and we want to know if they are pulling our leg."

He said the sit - down demonstration on Wednesday was not full - scale "because we wanted to show them that white patrons would continue to come in if we were there, and they did."

The picketing of the Northwood Theatre continues nightly with from 15-20 CIG members taking part.

The other center place against which the protest was first launched, the Arundel Ice Cream Company, has agreed to admit and serve all orderly patrons.

• • •

CIG LEADERS said on Thursday they did not yet know how often they would repeat the demonstration in the roof - top restaurant of the Hecht Company.

Most of the members of CIG are students at Morgan State College which is about two blocks from the Northwood Shopping Center.

Exhibit 16

69 A

Attorneys	Parties	Date	Proceedings
Weinberg & Green Robert F. Skutch Jr William W. Cahill Jr	The May Department Stores Company, a New York Corporation and Price Candy Company a Delaware Corp.	25	March 1960 Bill of Complaint for a preliminary and permanent Injunction, etc (1) fp
		25	March 1960 Order of Court temporarily enjoining and restraining defendants as herein mentioned, with right to defendants to move for the dissolution or modification of this order on not more than 2 days notice from date of service, order shall expire within 10 days from date hereof unless within that time for good cause shown, it is extended for a like period unless the defendants consent that it may be extended for a longer period, and defendants show cause before the 4 April 1960 why the permanent Injunction and other relief should not be granted, as prayed, provided a copy of the Bill of Complaint and this order be served on the defendants on or before the 28 March 1960 Exhibits A, B and C annexed (2) (Service admitted on behalf of defendants by Robert B. Watts, Solicitor for defendants)
6394-A 4-22-60 10.00 26.00 Def's Cost 10.00 TOTAL 46.00 AMOUNT PAID 46.00 Date Paid 4-25-60 by [signature] DEPUTY CLERK	36762-A ✓	1	April 1960 Order of Court extending temporary injunction for ten days from April 4, 1960 to and including April 14, 1960 (3) fp
	Philip Hezekiah Savage alias James Lee	8	April 1960 Order of Court extending temporary injunction for ten days from April 14, 1960 to and including April 24, 1960 (4) fp.
Robert B. Watts Tucker R. Dearing	Herman Du Bois Richards Jr	22	April 1960 Joint Petition and Order of Court thereon dismissing Bill of Complaint (5) fp.
	Manuel Reese		
	Walter Raleigh Dean Jr		
	John Maynard White		
	Bernice Evans		
	Geraldine Sowell		
	Ronald Merryweather		
	Raymon C. Wright		
	Albert Sangiamo		
	Lloyd C Mitchner		
	Ethel W. Redd		
	Moses Lewis		
	Louis Jones		
	John Doe, Mary Doe Richard Roe, participants collaborators and adherents of the named defendants address unknown		

No. 36762 69 77
19 60

THE MAY DEPT. STORES, CO., ETAL

vs

PHILIP HEZEKIAH SAVAGE, ET AL

Robert F. Skutch, Jr.
William w. Cahill, Jr.
Weinberg & Green
Sol. for Complainant

Sol. for Respondent

No.	Clerk's Memorandum	Date
1	Bill Of Complaint	3-25-60
2	Order Of Court	"
3	" " "	4-1-60
4	" " "	4-8-60

In The Circuit Court No. 2 of Baltimore City

Complaint

Exhibit 17

Filed with me on Mar. 25th 1960
at 1:30 P.M.

THE MAY DEPARTMENT STORES COMPANY :
a New York corporation
Howard and Lexington Streets :
Baltimore, Maryland
:
and
:
PRICE CANDY COMPANY
a Delaware corporation :
Northwood Shopping Center
Baltimore, Maryland :

Plaintiffs :

vs :

PHILIP HEZEKIAH SAVAGE :
alias JAMES DUE
3226 Carlisle Avenue :
Baltimore, Maryland
:
HERMAN DuBOIS RICHARDS, JR. :
Morgan State College
Hillen Road & Cold Spring Lane
Baltimore, Maryland :

MANUEL DEESE :
4522 St. Georges Avenue
Baltimore, Maryland :

WALTER RALEIGH DEAN, JR. :
2309 Arunah Avenue
Baltimore, Maryland :

JOHN MAYNARD HITE :
2710 Roslyn Avenue
Baltimore, Maryland :

BERNICE EVANS :
9802 - 25th Street
East Elmhurst, New York :

GERALDINE SOWELL :
926 Springfield Avenue
Baltimore, Maryland :

RONALD MERRYWEATHER :
807 Radnor Avenue
Baltimore, Maryland :

RAYMON C. WRIGHT :
807 Radnor Avenue
Baltimore, Maryland :

ALBERT SANGIAMO :
2446 Callow Avenue
Baltimore, Maryland :

LLOYD C. MITCHNER :
2231 West Saratoga Street
Baltimore, Maryland :

ESTHER W. REDD :
2414 Lauretta Avenue
Baltimore, Maryland :

IN THE

CIRCUIT COURT NO. 2

OF

BALTIMORE CITY

DOCKET 69A FOLIO 77
CASE No. 36762-A
FILED 3/25/60
(1)

MOSES LEWIS :
3521 Holmes Avenue
Baltimore, Maryland :

LOUIS JONES :
348-A Melvin Avenue
Baltimore, Maryland :

and :

JOHN DOE, MARY DOE, RICHARD ROE, :
participants, collaborators and
adherents of the named Defendants :
address unknown
:

Defendants
:

:

BILL OF COMPLAINT

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Bill of Complaint of The May Department Stores Company, and Price Candy Company, respectfully represents:

1. The Plaintiff, The May Department Stores Company (hereinafter sometimes referred to as "May"), owns and operates a department store in the shopping center known as the Northwood Shopping Center located at the northwest corner of Argonne Drive and Hillen Road in Baltimore City under the trade name or style of "The Hecht Company, Northwood" or "Hecht's Northwood". The Plaintiff, Price Candy Company (hereinafter sometimes referred to as "Price") owns and operates a restaurant in said Northwood Shopping Center under the trade name or style of "Roof Top Restaurant, Northwood". Said restaurant is located on the roof of the department store premises operated by May.

2. The Defendant, Philip Hezekiah Savage, alias James Due, is believed to be a resident of the City of Baltimore, residing at 3226 Carlisle Avenue, Baltimore, Maryland, whose occupation, if any, other than a participant in the activities hereinafter mentioned, is unknown. The Defendant, Herman DuBois Richards, Jr., whose home address is unknown, is a resident student at Morgan State College, Hillen Road and Cold Spring Lane,

Baltimore, Maryland. The Defendant, Manuel Deese, is a resident of the City of Baltimore, is believed to reside at 4522 St. Georges Avenue, Baltimore, Maryland, and is presently a student attending Morgan State College. The Defendant, Walter Raleigh Dean, Jr., is a resident of Baltimore City, residing at 2309 Arunah Avenue, Baltimore, Maryland. The Defendant, John Maynard Hite, is a resident of Baltimore City, residing at 2710 Roslyn Avenue, Baltimore, Maryland, and is believed to be a student attending Morgan State College. The Defendant, Bernice Evans, resides at 9802 - 25th Street, East Elmhurst, New York, and is a student attending Morgan State College. The Defendant, Geraldine Sowell, is a resident of Baltimore City, residing at 926 Springfield Avenue, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Ronald Merryweather, is a resident of Baltimore City, residing at 807 Radnor Avenue, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Raymon C. Wright, is a resident of Baltimore City, residing at 807 Radnor Avenue, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Albert Sangiamo, is a resident of Baltimore City, residing at 2446 Callow Avenue, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Lloyd C. Mitchner, is a resident of Baltimore City, residing at 2331 West Saratoga Street, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Esther W. Redd, is a resident of Baltimore City, residing at 2414 Lauretta Avenue, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Moses Lewis, is a resident of Baltimore City, residing at 3521 Holmes Avenue, Baltimore, Maryland, and is a student attending Morgan State College. The Defendant, Louis Jones, is a resident of Baltimore City, residing at 348-A Melvin Avenue, Baltimore, Maryland, and is a student attending

Morgan State College. The Defendants, John Doe, Mary Doe, Richard Roe, and other persons whose names are unknown to the Plaintiffs, are joined as Defendants in this action as participants, collaborators, associates and coadjutors, jointly as actors in concert with the named Defendants in the activities of the named Defendants hereinafter set forth.

3. For a long time prior to the happening of the events hereinafter set forth, May and its predecessor owned and successfully operated its department store business in the shopping center area known as the Northwood Shopping Center and enjoyed the patronage and good will of the general public residing in the vicinity of said shopping center and elsewhere in Baltimore City and the State of Maryland. Such patronage and good will was developed by May and its predecessor through the expenditure of substantial sums of money, time and effort and the continued existence of such good will has been imperative to the successful operation of May's business.

4. For a long time prior to the happening of the events hereinafter set forth, Price owned and successfully operated its restaurant business in the shopping center known as the Northwood Shopping Center and enjoyed the patronage and good will of the general public residing in the vicinity of said shopping center and elsewhere in the State of Maryland. Such patronage and good will was developed by Price through the expenditure of substantial sums of money, time and effort and the continued existence of such good will has been imperative to the successful operation of Price's business.

5. Beginning on March 15, 1960, and continuing until the time of the filing of this Bill of Complaint, the Defendants, Philip Hezekiah Savage, Herman DuBois Richards, Jr., Manuel Deese, Walter Raleigh Dean, Jr., John Maynard Hite, Bernice Evans, Geraldine Sowell, Ronald Merryweather, Raymon C. Wright, Albert

Sangiamo, Lloyd C. Mitchner, Esther W. Redd, Moses Lewis, Louis Jones, and others whose names are unknown to the Plaintiffs, their agents and representatives, and persons unknown to the Plaintiffs acting in concert with the named Defendants, organized large groups of Negroes who, from time to time during the happening of the events herein enumerated, numbered 118, some of them armed with placards and banners, committed in concert the following unlawful acts:

(a) Beginning on or about March 15, 1960, the Defendants, their agents, representatives, associates, confederates, collaborators and those acting in unlawful concert with them, in large numbers embarked upon a program or course of action of rushing into Price's Roof Top Restaurant in large numbers and seating themselves at tables clearly marked "Reserved" and upon all stools at the counters not occupied by Price's customers, and continuing to occupy said places for long periods of time, even though informed by Price that they would not be served and were requested by Price to leave the premises, thus depriving Price of its lawful right to utilize its restaurant facilities for serving customers and prospective customers whom it desired to serve.

(b) Beginning on March 16, 1960, and continuing through March 18, 1960, the Defendants, their agents, representatives, associates, confederates, collaborators, affiliates and those acting in unlawful concert with them, in large numbers embarked upon a program or course of action of rushing into Price's Roof Top Restaurant and standing behind chairs and counter-stools occupied by Price's customers and rushing for such chairs and counter-stools as soon as Price's customers would vacate the same, sometimes before such customers had actually vacated such places, which course of action by the Defendants produced the unlawful and illegal effect sought by Defendants and those acting

in unlawful concert with them of (i) interfering with Price's right to serve customers of its own choosing, (ii) interfering with Price's customers' right to enjoy the services offered by Price, (iii) causing disturbances which made it impossible to properly serve Price's customers desiring service, and (iv) intimidating, coercing and harrassing prospective customers from entering or patronizing Price's Roof Top Restaurant.

(c) Beginning on or about March 18, 1960, and continuing until the time of the filing of this Bill of Complaint, Defendants, their agents, associates, collaborators, affiliates, and confederates, and those acting in unlawful concert with them, embarked upon a program or course of action of maintaining, during all business hours, a large double picket line, numbering at times as many as 50 to 60 Defendants, each member of which carried a sign or signs bearing such slogans or words as "Northwood Goes South", We'll walk, walk, walk, walk, walk", "We Want Equality", "We will never stop until you end segregation", and the Defendant members of said picket line chanted and yelled in unison while unlawfully marching on the private property of May furnished to Price for its customers' parking, which unlawful picketing, chanting and yelling produced the unlawful and illegal effect sought by Defendants of (i) interfering with the free ingress and egress of Plaintiffs' customers and prospective customers from patronizing Plaintiffs' places of business, (ii) intimidating and coercing Plaintiffs' prospective customers from entering Plaintiffs' places of business, (iii) creating great volumes of noise and confusion, as a result of which the Police Department of Baltimore City stationed large numbers of police officers around the entrances to Plaintiffs' places of business accompanied by at least one police patrol wagon and several police cars, (iv) caused many of Plaintiffs' customers and prospective customers to call Plaintiffs' officers to determine whether or not

a riot was in progress and whether it would be safe to enter Plaintiffs' places of business to shop with Plaintiffs, and (v) made it difficult and at times impossible for prospective customers to get through said picket line and discouraged many prospective customers from doing so, thus depriving Plaintiffs of their lawful right to conduct their businesses without interference from Defendants, and causing Plaintiffs to lose large sums of money from the patronage of such prospective customers which Plaintiffs would otherwise have enjoyed.

(d) On Saturday, March 19, 1960, the Defendant, Philip Hezekiah Savage, alias James Due, illegally and unlawfully pushed his way by the guards at the entrance to Price's Roof Top Restaurant and, although requested to leave by Price immediately, was able to sneak into the kitchen maintained by Price in connection with its restaurant business and talk to Price's employees in charge of preparation of Price's food and beverages, and, upon information and belief, by means of threats, coercion and intimidation, was able to convince all of Price's kitchen employees into then and there quitting their jobs and leaving Price's premises, thus leaving Price in the position where, for a period of time, it had no kitchen help available for preparation of its food and beverages customarily served to its patrons.

6. As a result of the unlawful and illegal acts of Defendants, and those acting in concert with them, the Police Department of Baltimore City has arrested the Defendant John Maynard Hite for assault, the Defendant, Philip Hezekiah Savage, alias James Due, for illegal trespass, the Defendant Herman DuBois Richards, Jr., for illegal trespass, the Defendant Walter Raleigh Dean, Jr., for illegal trespass; the charges against said Defendants are now pending trial before the Northeastern District Police Magistrate. Despite the arrest of said Defendants, however, said Defendants are still participating in the illegal and

unlawful acts hereinbefore enumerated, and will continue to do so unless enjoined by this Honorable Court.

7. Plaintiff May operates and maintains a large roof-top parking area with a capacity for approximately 200 automobile adjacent to Plaintiff Price's Roof Top Restaurant, and on top of Plaintiff May's department store, for the convenience of Plaintiffs' customers and prospective customers. Since on or about March 18, 1960, the Defendants and those acting in illegal and unlawful concert with them, have utilized substantial portion of said private parking lot for the purposes of maintaining Defendants' large picket lines, and in addition, have unlawfully utilized other substantial parts of said private parking lot as a picnic ground for the purpose of feeding Defendants' pickets, and the large crowds of other Negroes who have assembled to encourage said pickets. As a result thereof, many prospective customers of Plaintiffs, observing the large and boisterous crowds marching, yelling and chanting on May's private parking lot, have left without entering the premises of either of the Plaintiffs, as prospective customers of Plaintiffs.

8. As a result of the illegal and unlawful acts of the Defendants and those acting in concert with them, Plaintiff Price's business has decreased more than 49% in comparison with its business for the comparable dates in 1959.

9. As a result of the illegal and unlawful acts of the Defendants and those acting in concert with them, Plaintiff May's business has decreased more than 33% in comparison with its business for the comparable dates in 1959.

10. The Defendants and those acting in unlawful and illegal concert with them, orally and in the signs and placards carried by them, have repeatedly and consistently stated that they will continue to carry on the illegal and unlawful acts hereinbefore enumerated, until they attain their unlawful and

illegal purpose of having Price make its services available to the Defendants and those acting in concert with them, and other members of the Negro race. Plaintiffs believe Defendants and those acting in concert with them will, therefore, continue their illegal and unlawful activities until Plaintiffs' businesses are completely destroyed, unless enjoined from doing so by this Honorable Court.

11. The actions of the Defendants, their agents, confederates, associates and collaborators, and those whom they have organized to carry on the illegal activities hereinbefore enumerated, and the threats to continue said illegal activities, has caused, is causing and will continue to cause a great deal of feeling and tension among the Defendants and those acting in concert with them, and the patrons and prospective patrons of the Plaintiffs and the Plaintiffs' employees, and if permitted to continue unabated, may lead to violence and outbreaks of riotous proportions.

12. There is no employer-employee relationship between Plaintiffs and any of the Defendants or any of the persons acting in concert with Defendants; Plaintiffs have not been or are not now engaged in any labor disputes with Defendants or any of those acting in concert with the Defendants, within the intent and meaning of Article 100, Section 63 to Section 75, inclusive, of the Annotated Code of Maryland, 1957 edition.

13. The unlawful and illegal activities and conduct on the part of the Defendants, their agents, representatives, associates, confederates, collaborators, and those acting in concert with them, has caused, is causing and threatens to continue to cause immediate, substantial, and irreparable injury to Plaintiffs, and, if permitted to continue without restraint, will cause further substantial and irreparable damage to Plaintiffs, before an adversary hearing can be had, for which Plaintiffs have no adequate

remedy at law.

WHEREFORE, Plaintiffs pray:

(a) That this Honorable Court issue a preliminary injunction enjoining and restraining the Defendants and their agents, representatives, associates, confederates, collaborators, and those acting in concert with them, from picketing the places of business of the Plaintiffs, or from in any manner making any threats or committing any acts whatsoever which would in any way tend to coerce or intimidate any persons or interfere with the conduct or operation of the businesses of the Plaintiffs, or impede any persons from free ingress or egress to the businesses conducted by the Plaintiffs.

(b) That this Honorable Court issue a permanent injunction enjoining and restraining the Defendants and their agents, representatives, associates, confederates, collaborators, and those acting in concert with them, from picketing the places of business of the Plaintiffs, or from in any manner making any threats or committing any acts whatsoever which would in any way tend to coerce or intimidate any persons or interfere with the conduct or operation of the businesses of the Plaintiffs, or impede any persons from free ingress or egress to the businesses conducted by the Plaintiffs.

(c) And for such other and further relief as Plaintiffs' case may require.

AND AS IN DUTY BOUND, etc.

THE MAY DEPARTMENT STORES COMPANY

By _____
J. Frank Eichelberger,
~~Vice-President~~ Asst. Secretary

PRICE CANDY COMPANY

By _____
Joseph Daschbach, Manager,
Roof Top Restaurant, Northwood

_____
Robert F. Skutch, Jr.

_____
William W. Cahill, Jr.

_____
Weinberg and Green
1635 Mathieson Building
Baltimore -2, Maryland
LExington 9-2125
Attorneys for Plaintiffs

STATE OF MARYLAND)
) SS
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 24th day of March, 1960, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, personally appeared J. FRANK EICHELBERGER, Assistant Secretary of The May Department Stores Company, who made oath in due form of law that the matters and facts contained in the foregoing Bill of Complaint are true to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Edna M. Steadman
Notary Public

STATE OF MARYLAND)
) SS
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 24th day of March, 1960, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, personally appeared JOSEPH DASCHBACH, Manager of Price Candy Company's Roof Top Restaurant, Northwood, who made oath in due form of law that the matters and facts contained in the foregoing Bill of Complaint are true to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Edna M. Steadman
Notary Public

Service admitted on behalf of Defendants this 25th day of March 1960.

Robert B. Watts
Robert B. Watts
Counsel for Defendants

Exhibit 18

Filed with me on May 25, 1960 at 1 P.M.

THE MAY DEPARTMENT STORES COMPANY, et al

Plaintiffs

vs

PHILIP HEZEKIAH SAVAGE, alias JAMES DUE, et al

Defendants

IN THE

CIRCUIT COURT NO. 2

OF

BALTIMORE CITY

DOCKET 69A FOLIO 77

CASE No. 36762-A

FILED 3/25/60

ORDER OF COURT

Plaintiffs, The May Department Stores Company and Price Candy Company, have filed a Bill of Complaint for an injunction in accordance with Rule 1195 of the Maryland Rules, verified by the affidavits of J. Frank Eichelberger, Asst. Secretary of the Plaintiff, The May Department Stores Company, and Joseph Daschbach, the Manager of the Plaintiff's, Price Candy Company, Roof Top Restaurant, Northwood, wherein it is alleged that Plaintiffs are suffering immediate, substantial and irreparable injury, loss and damages by reason of the unlawful and illegal conduct of the Defendants, Philip Hezekiah Savage, alias James Due, Herman DuBois Richards, Jr., Manuel Deese, Walter Raleigh Dean, Jr., John Maynard Hite, Bernice Evans, Geraldine Sowell, Ronald Merryweather, Raymon C. Wright, Albert Sangiamo, Lloyd C. Mitchner, Esther W. Redd, Moses Lewis, Louis Jones, and those persons whose names are unknown to the Plaintiffs, acting in concert with the named Defendants.

The Plaintiffs have alleged that they are the proprietors of a department store and restaurant located at Argonne Drive and Hillen Road in Baltimore City, that for a period of time prior to March 16, 1960, they have operated their businesses in the shopping center area known as the Northwood Shopping Center, have enjoyed the patronage and good will of the general public residing in that vicinity and elsewhere and have developed such patronage and good will by the expenditure of substantial sums of money, time and

effort, and that the continued existence of such good will is imperative to the successful operation of their businesses. Further, the Plaintiffs have alleged that beginning on March 16, 1960, and continuing until the present time, the Defendants have committed the following unlawful acts:

(1) Occupying seats in Plaintiff's restaurant, although they were informed by the management that they would not be served food or beverages, and although they were requested by the management to leave the premises, thereby depriving the Plaintiff of an opportunity to use the restaurant facilities in the lawful conduct of business;

(2) Crowding into the restaurant and jumping onto chairs, without regard to whether or not the chairs had been vacated by the prior occupant, and so crowding the premises that it was virtually impossible for waitresses to serve customers waiting for their food;

(3) Forming a large picket line, carrying signs demanding equality, chanting and yelling in unison, creating noise and confusion at the entrance to the restaurant and the department store, so that many prospective patrons of the restaurant and department store either left the premises because of this demonstration or were unable to pass through the picket line;

(4) On March 19, 1960, the Defendant, Philip Hezekiah Savage, alias James Due, pushed his way past the guards at the entrance to the restaurant, and although requested to leave, proceeded to the area where food was prepared and by conversation and gesture coerced the kitchen help to leave the place of business, leaving no one available for preparation of food;

(5) On March 21, 1960, formed a picket line at the entrance to the department store on the mall of the Northwood Shopping Center, causing many prospective patrons to leave the premises rather than pass through the picket line.

The Plaintiffs have alleged that as a result of the aforesaid unlawful acts of the Defendants, the Plaintiffs have lost and will continue to lose large and substantial sums of money and loss of good will, and that unless the unlawful acts of the Defendants are restrained, further irreparable damages and losses will result for which there is no adequate remedy at law, and that unless the unlawful acts of the Defendants are restrained, violence and riot may occur at any time.

The Court having requested Robert B. Watts, Counsel for Defendants, to attend the hearing in chambers on the Plaintiffs' prayer for an injunction, and Robert B. Watts having appeared for the Defendants, and the Court having examined the photograph of the entrance to the Roof Top Restaurant attached hereto marked Exhibit "A", and the photograph of the entrance from the mall to The May Department Stores Company attached hereto marked Exhibit "B", and the motion picture taken by Joseph Batchelor of the picketing which took place in front of both the aforesaid entrances on March 22, 1960, as evidenced by the affidavit of Joseph Batchelor attached hereto marked Exhibit "C", and the Court having heard argument of counsel for the parties,

It is, therefore, this 25th day of March, 1960, in the Circuit Court of Baltimore City

ORDERED, ADJUDGED and DECREED:

(1) That the Defendants be, and they are hereby, temporarily enjoined and restrained, for a period of 10 days from the date of this Order, pending hearing and final determination of the Bill of Complaint filed herein, from (a) maintaining more than two pickets at any one time at or near the entrance to the Roof Top Restaurant in the Northwood Shopping Center, more particularly described in the Bill of Complaint, or on the parking lot adjacent thereto, (b) maintaining more than two pickets at any one time at or near the entrance to The May Department Stores Company located on the mall, or within a radius of one hundred feet thereof, in the Northwood Shopping Center, more particularly

described in the Bill of Complaint, and (c) interfering, by physical contact, by gesture, or by oral threats or ~~statements~~ intimidation, with any person entering or leaving the buildings at Northwood Shopping Center occupied by the Plaintiffs, Price Candy Company and The May Department Stores Company.

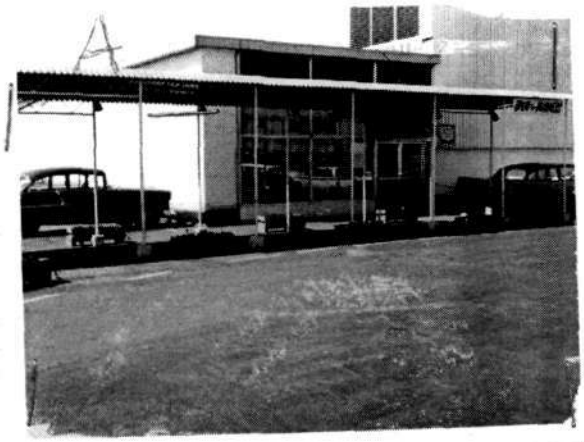
(2) That the Defendants, and each of them, shall have the right to move for the dissolution or modification of this Order on not more than 2 days' notice from the date of service of copies of the Bill of Complaint and this Order, and that this Order shall expire within 10 days from the date hereof unless within that time for good cause shown, it is extended for a like period or unless the Defendants consent that it may be extended for a longer period.

(3) That copies of the Bill of Complaint and this Order shall be served on the Defendants, by service on Robert B. Watts, Esquire, their counsel, with his consent.

(4) That Defendants show cause on or before the 4th day of ~~March~~ April, 1960, why the permanent injunction and other relief should not be granted as prayed, provided a copy of the Bill of Complaint and this Order be served on the Defendants on or before the 28th day of March, 1960.

Joseph C. Fox
Judge

Exhibit 19


A


B

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY that on this 25th day of March, 1960, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, personally appeared JOSEPH BATCHELOR, and made oath in due form of law that the motion pictures of the picketing at the Northwood Shopping Center, exhibited to his Honor Joseph Allen in the Court of Common Pleas, Court Room on March 25, 1960, were personally taken by him at the Northwood Shopping Center in Baltimore City on March 22, 1960.

Joseph Batchelor
Joseph Batchelor

Theresa E Burke
Notary Public

My Commission expires May 1, 1961.

Exhibit 20

THE MAY DEPARTMENT STORES COMPANY, et al	:	IN THE
	:	CIRCUIT COURT NO. 2
Plaintiffs	:	OF
Vs.	:	BALTIMORE CITY
PHILIP HEZEKIAH SAVAGE, alias JAMES DUE, et al	:	Docket : 69A Folio : 77
Defendants	:	File : 36762A
: : : : : : : : : : : : : : : : : : : :		4-1-60

ORDER OF COURT (3)

The Defendants having consented that the temporary injunction issued by the Order of this Court, dated March 25, 1960 be extended for a like period, that is ten (10) days, from April 4, 1960 to and including April 14, 1960, as evidenced by the assent to the passage of this Order by their counsel, Robert B. Watts, Esq.,

It is this 1st day of April 1960 by Circuit Court No. 2 of Baltimore.

ORDERED, ADJUDGED AND DECREED:

(1) That the Defendants be, and they are hereby, temporarily enjoined and restrained, for a period of ten (10) days from the date of this Order, pending hearing and final determination of the Bill of Complaint filed herein, from (a) maintaining more than two pickets at any one time at or near the entrance to the Roof Top Restaurant in the Northwood Shopping Center, more particularly described in the Bill of Complaint, or on the parking lot adjacent thereto, (b) maintaining more than two pickets at any one time at or near the entrance to The May Department Stores Company located on the mall, or within a radius of one hundred feet thereof, in the Northwood Shopping Center, more particularly described in the Bill of Complaint, and (c) interfering, by physical contact, by gesture, or by oral threats or

intimidation, with any person entering or leaving the buildings at Northwood Shopping Center occupied by the Plaintiffs, Price Candy Company and The May Department Stores Company.

(2) That the Defendants, and each of them, shall have the right to move for the dissolution or modification of this Order on not more than two (2) days' notice from the date of service of a copy of this Order, and that this Order shall expire within ten (10) days from the date hereof unless Defendants consent that it be extended for a longer period.

(3) That Defendants show cause on or before the 8th day of April 1960, why the permanent injunction and other relief should not be granted as prayed, provided a copy of this Motion and Order be served on the Defendants counsel, Robert B. Watts, on or before the 4th day of April, 1960.

Judge

I hereby assent to the passage of the aforegoing Order.

Robert B. Watts, Esq.
Attorney for Philip
Hezekiah Savage, et al
Defendants.

Service of copy of the aforegoing Order admitted this 1st day of April, 1960.

Robert B. Watts, Esq.
Attorney for Philip
Hezekiah Savage, et al
Defendants.

Exhibit 21

THE MAY DEPARTMENT STORES COMPANY, et al	:	IN THE
	:	CIRCUIT COURT NO. 2
Plaintiffs	:	OF
Vs.	:	BALTIMORE CITY
PHILIP HEZEKIAH SAVAGE, alias JAMES DUE, et al	:	Docket : 69A Folio : 77 File : 36762A
Defendants	:	

4-8-60

(4)

ORDER OF COURT

The Defendants having consented that the temporary injunction issued by the Order of this Court, dated March 25, 1960 be extended for a like period, that is ten (10) days, from April 4, 1960 to and including April 14, 1960, and said temporary injunction having been extended to and including April 14, 1960, by Order of this Court dated April 1, 1960, and the Defendants having consented that the temporary injunction be extended for an additional ten (10) days from April 14, 1960 to and including April 24, 1960, as evidenced by the assent to the passage of this Order, by their counsel, Robert B. Watts, Esq. and Tucker R. Dearing, Esq.

It is this 8th day of April 1960 by Circuit Court No. 2 of Baltimore.

ORDERED, ADJUDGED AND DECREED:

(1) That the Defendants be, and they are hereby, temporarily enjoined and restrained, for a period of ten (10) days from April 14, 1960 to and including April 24, 1960, pending hearing and final determination of the Bill of Complaint filed herein, from (a) maintaining more than two pickets at any one time at or near the entrance to the Roof Top Restaurant in the Northwood Shopping Center, more particularly described in the Bill of Complaint, or on the parking lot adjacent thereto, (b) maintaining more than two pickets at any one time at or near the

the entrance to The May Department Stores Company located on the mall, or within a radius of one hundred feet thereof, in the Northwood Shopping Center, more particularly described in the Bill of Complaint, and (c) interfering, by physical contact, by gesture, or by oral threats or intimidation, with any person entering or leaving the buildings at Northwood Shopping Center occupied by the Plaintiffs, Price Candy Company and The May Department Stores Company.

(2) That the Defendants, and each of them, shall have the right to move for the dissolution or modification of this Order on not more than two (2) days' notice from the date of service of a copy of this Order, and that this Order shall expire on April 24, 1960, unless Defendants consent that it be extended for a longer period.

(3) That Defendants show cause on or before the 19th day of April, why the permanent injunction and other relief should not be granted as prayed, provided a copy of this Motion and Order be served on the Defendants counsel, Robert B. Watts, Esq., or Tucker R. Dearing, Esq., on or before the 8th day of April 1960.

Judge

We hereby assent to the passage of the aforegoing Order.

Robert B. Watts, Esq.

Tucker R. Dearing, Esq.
Attorneys for Philip Hezekiah Savage, et al, Defendants

Service of copy of the aforegoing Order admitted this 8th day of April, 1960.

Tucker R. Dearing, Esq.
Attorney for Philip Hezekiah Savage, et al, Defendants.

Exhibit 22

THE MAY DEPARTMENT STORES COMPANY, et al	:	IN THE
Plaintiffs	:	CIRCUIT COURT NO. 2
Vs.	:	OF
PHILIP HEZEKIAH SAVAGE, alias JAMES DUE, et al	:	BALTIMORE CITY
Defendants	:	Docket : 69A Folio : 77 File : 36762A

4-22-60

JOINT PETITION AND ORDER OF COURT

The Joint Petition of the Plaintiffs and the Defendants by their counsel, respectfully represents unto the Court:

1. On March 25, 1960 the Plaintiffs filed their Bill of Complaint, herein, in which they alleged that the Defendants, their agents, representatives and persons unknown to the Plaintiffs acting in concert with the named Defendants, had committed, were continuing to commit, and threatened to commit in the future, the acts therein described, which acts have caused immediate, substantial, and irreparable injury to the Plaintiffs, and which such acts, if permitted to continue without restraint, would cause further substantial and irreparable damages to the Plaintiffs, before an adversary hearing could be had.

2. On March 25, 1960 this Court held a hearing in chambers with counsel for all parties, and after presentation of legal arguments by counsel for the respective parties, and examination of photographs and motion pictures of the activities described in the Bill of Complaint, temporarily enjoined and restrained the Defendants for a period of ten (10) days from continuing certain of their activities described in the Bill of Complaint.

3. On April 1, 1960 this Court, with the consent of the Defendants, continued the aforesaid temporary injunction for an additional period of ten (10) days, to and including April 14, 1960.

4. That on April 8, 1960 this Court, with the consent of the Defendants, continued the aforesaid temporary injunction for an additional period of ten (10) days, to and including April 23, 1960.

5. Counsel for Defendants have assured Plaintiffs and their counsel that the activities of the Defendants, and those acting in concert with them, described in the Bill of Complaint, will be discontinued. Plaintiffs in reliance upon such assurances have therefore agreed, subject to the approval of this Honorable Court that the Bill of Complaint be dismissed, without prejudice.

WHEREFORE, Plaintiffs and Defendants pray this Honorable Court to pass an Order dismissing the Bill of Complaint filed herein on March 25, 1960 without prejudice.

AND AS IN DUTY BOUND, etc.

William W. Cahill, Jr.

Robert F. Skutch, Jr.
Weinberg and Green
1635 Mathieson Building
Baltimore 2, Maryland
Attorneys for Plaintiffs

Robert B. Watts
1520 E. Monument Street
Baltimore 5, Maryland

Tucker R. Dearing
627 N. Aisquith Street
Attorneys for Defendants

THE MAY DEPARTMENT STORES COMPANY, et al	:	IN THE
	:	CIRCUIT COURT NO. 2
Plaintiffs	:	OF
Vs.	:	BALTIMORE CITY
PHILIP HEZEKIAH SAVAGE, alias JAMES DUE, et al	:	Docket : 69A Folio : 77
Defendants	:	File : 36762A

: : : : : : : : : : : : : : : : : : :

ORDER OF COURT

Upon the foregoing Petition of Counsel for all of the parties to this action, it is this 22nd day of April, 1960 by the Circuit Court No. 2 of Baltimore City

ORDERED

That the Bill of Complaint filed herein on March 25, 1960 be dismissed without prejudice.

JUDGE

Exhibit 23

Ministers Back Student Sit-Ins At Northwood

NEW TACTICS used by management at the Hecht Company's Roof Top Restaurant in Northwood Shopping Center calls for chain and attendants on the door to discourage students who have employed sitdown and picketing tactics for the past two weeks. The restaurant has steadfastly refused to serve colored patrons in the restaurant. Their patronage is not discouraged elsewhere in the Hecht Company store. Most of the pickets have come from nearby Morgan State College from an organization known as the Civic Interest Group but this week a group of ministers have voted to support the students both financially and on the picket line. The NAACP and CORE have already been openly supporting the protest against racial discrimination.

Agree to help on line, give money

"We feel they are doing what adults have not done. We are going to back them."

This is the decision 10 local ministers made at a Holy Week Service committee luncheon meeting held at the YMCA Monday.

The Rev. Edward G. Carroll is chairman of the Committeee.

In his absence on Thursday, the Rev. Marion C. Bascom announced the decision.

* * *

THE MINISTERS have agreed to support the Morgan State College students who are staging a sit-in demonstration at the Northwood Shopping Center.

The ministers also passed a resolution to stand behind the group conducting the non-violent sit-in as long as it remains non-violent.

They also ask that other churches support the students morally and financially.

In addition, members of the board of trustees of Douglas Memorial Community Church have voted to back the non-violent sit-in and to help post bail and make other financial contributions if necessary.

They stated that they will also walk the picket lines if necessary.

* * *

THE MINISTERS and their churches are:

The Rev. Mr. Bascom, Douglas Memorial Community; the Rev. Robert Newbold, Grace Presbyterian; the Rev. Edward G. Carroll, Sharp Street Methodist; the Rev. Baxter L. Matthews, Union Baptist; the Rev. C. R. Coleman, Pennsylvania Avenue AME Zion; and the Rev. Reginald Daniels, Madison Avenue Presbyterian; the Rev. H. Octavius Graham, Knox Presbyterian; the Rev. Edgar Ward, Cherry Hill Community; the Rev. Thomas Fraser, Walbrook Trinity Presbyterian and the Rev. Dr. Charles Ward, New Life Presbyterian.

Afro-American
March 26, 1960

Students to Continue the Protest

Ministers from every section of the city joined the NAACP and other citizens in a united support of student demonstrations at Northwood… Dr. Lillie Jackson, President of the NAACP announced that at the request of the students, the NAACP is furnishing bail for those arrested and had designated Robert Watts of the legal redress committee to head a battery of lawyers to defend arrested students…Mrs. Juanita J. Mitchell, NAACP attorney announced that a mother's committee is being organized to support the students in their courageous and Christian protest against an immoral custom in Baltimore City…." (Afro-American, March 26, 1960).

Afro-American
March 26, 1960

Students to continue the protest

Morgan State College student picket leaders voted to continue demonstrations against the Hecht Company's Rooftop Restaurant at the Northwood Shopping Center after being asked to suspend them pending negotiations by representatives from the Governor's Committee on Interracial Relations and Problems, it was reported Thursday.

After a brief meeting with government officials, the student leaders refused to stop picketing on the grounds that they followed such a pattern last year and nothing happened.

They were reported as saying that they will stop the demonstrations the day the restaurant starts providing service to all.

MEANTIME, MINISTERS from every section of the city joined the NAACP and other citizens in a united support of student demonstrations at Northwood.

Dr. Lillian Jackson, president of the NAACP, announced that at the request of the students, the NAACP is furnishing bail for those arrested, and had designated Robert Watts of the legal redress committee to head a battery of lawyers to defend the arrested students.

Ministers from every section of the city have pledged themselves and their churches to contribute to the furnishing of the bonds for arrested students.

Mrs. Juanita J. Mitchell, NAACP attorney, announced that a mothers committee is being organized to support the students "in their courageous and Christian protest against an immoral custom in Baltimore City."

Trials for six persons arrested last week in connection with the two-week demonstration will be heard Saturday 4 p.m. at Northeastern Police Court.

The Sun, March 26, 1960
pages 20 and 30

Picketing Limit Is Set By Judge-Suit Against Negroes Filed By Restaurant Operators.

PICKETING LIMIT IS SET BY JUDGE

Suit Against Negroes Filed By Restaurant Operators

Judge Joseph Allen yesterday signed a temporary injunction order limiting picketing at the Hecht Northwood department store and its Roof Top Restaurant.

Despite the fact that yesterday was a legal holiday, Judge Allen entertained a suit filed by the May Department Stores Company and Price Candy Company, operators of the restaurant, against fourteen Negroes, most of them identified as Morgan State College students.

The temporary order, signed by Judge Allen after he viewed photographs and motion pictures of picketing activities that began March 15, limits the number of pickets at the entrance to the restaurant, on an adjacent parking lot and at the mall entrance to the department store to no more than two at a time at each location.

Counsels Present

Judge Allen noted in his order that Robert B. Watts, counsel for the fourteen defendants in the Circuit Court No. 2 suit, attended the presigning deliberations, along with Robert F. Skutch, Jr., and William W. Cahill, Jr., of the law firm of Weinberg & Green, counsel for the complainants.

The suit was filed against: Herman D. Richards, Jr., of

(Continued, Page 20, Column 2)

PICKETING LIMIT IS SET BY JUDGE

Suit Against Negroes Filed By Restaurant Operators

(Continued from Page 30)

Morgan College; Philip H. Savage, alias James Due, of the 3200 block Carlisle avenue; Manuel Deese, of the 4500 block St. George avenue; Walter R. Dean, Jr., of the 2300 block Arunah avenue; John M. Hite, of the 2700 block Roslyn avenue; Bernice Evans, of East Elmhurst, N.Y.

Geraldine Sowell, of the 900 block Springfield avenue; Ronald Merryweather, of the 800 block Radnor avenue; Louis Jones, of the 300 block Melvin avenue; Raymon C. Wright, of the 800 block Radnor avenue.

Albert Sangiamo, of the 2400 block Callow avenue; Lloyd C. Mitchner, of the 2200 block West Saratoga street; Esther W. Redd, of the 2400 block Lauretta avenue, and Moses Lewis, of the 3500 block Holmes avenue.

Four Awaiting Trial

Four of the respondents are awaiting trial this afternoon in a police court on charges growing out of the picketing, it was alleged.

Specifically, the complainants alleged that the defendants sat at tables marked reserved and refused to move, stood behind chairs and counter stools being occupied and formed picket lines with as many as 60 persons.

The suit also complained of large signs carried by the pickets and bearing such statements as "Northwood Goes South," "We'll Walk, Walk, Walk, Walk, Walk," "We Want Equality" and "We Will Never Stop Until You End Segregation."

These words were chanted in unison by the pickets, the bill of complaint alleged.

The pickets interfered with the [illegible] and egress of customers, intimidated and coerced prospective [illegible]ers and even persuaded the [illegible]urant kitchen help to walk off their jobs, it was further contended.

The Sun, March 26, 1960
pages 20 and 30

Picketing Limit Is Set By Judge-Suit Against Negroes Filed By Restaurant Operators.

Specifically, the complainant alleged that the defendants sat at tables marked reserved and refused to move, stood behind chairs and counter stools being occupied and formed picket lines with as many as 60 persons. The suit also complained of large signs carried by pickets and bearing such statements as "Northwood Go South," "We'll Walk, Walk, Walk, Walk, Walk," "We Want Equality," and "We Will Never Stop Until You End Segregation." These words were chanted in unison.

The bill of complaint further contended that: The pickets interfered with ingress and egress of customers, intimidated and coerced prospective diners (?) and even persuaded the kitchen help to walk off their jobs." (The Sun, March 26, 1960, pages 30 and 20).

Afro-American
March 26, 1960

Students to Continue the Protest

Ministers from every section of the city joined the NAACP and other citizens in a united support of student demonstrations at Northwood... Dr. Lillie Jackson, President of the NAACP announced that at the request of the students, the NAACP is furnishing bail for those arrested and had designated Robert Watts of the legal redress committee to head a battery of lawyers to defend arrested students...Mrs. Juanita J. Mitchell, NAACP attorney announced that a mother's committee is being organized to support the students in their courageous and Christian protest against an immoral custom in Baltimore City...." (Afro-American, March 26, 1960).

Exhibit 24

1243

State of Maryland

vs.

Russell G. Conn [illegible]

CHARGE:— Burglary — Chat. Robins [illegible] Tob. Vol. - 3, 648 [illegible] 4. 8. C

Commitment filed / Jail — Appearance of [illegible] Freedman — Filed

Prosecuting Witness: Morris R. Berger

Recognizance filed

25 Mar. Presentment filed—e. d.—capias issued—cepi Bail

30 Mar. Recognizance taken United Bonding Ins. Co. - See 1234/60.

6 Apr. Indictment filed — Copy of Indictment Served - Receipt Filed 6 Apr.

5 Apr. Arraigned and pleads Not Guilty

20 Apr. Submits under plea Not Guilty [illegible] before Cullen. J. ([illegible])

20 Apr. Verdict: Plea of Guilty 5th Count entered before Cullen. J.

20 June. Judgment: Two (2) Years in the Md. House of Correction. Concurrent with 1242/60.

20 June. Sentence suspended. Probation [illegible] Probat. Dept. for Three (3) Years.

1244

State of Maryland

vs.

Gordon Dale Horn

Joseph Robert Landsman

x

CHARGE:— Violation Narcotic Laws

Commitment filed — Jail — Appearance of [illegible] - Horn; H. Kaplan - Landsman — Filed

Prosecuting Witness: Capt. Joseph Carroll

Recognizance filed

30 Mar. & Presentments filed—e. d.—capias issued—cepi Jail as to Landsman; Bail as to Horn

31 Mar. Recognizance taken as to Horn: Allegheny Mut. Cas. Co. - 2,000.00

30 Mar. Indictment filed Ent. Copy of Indictment Served - Receipt Filed 31 Mar. - each.

31 Mar. Arraigned and pleads as to each: Not Guilty

21 Apr. Submits under plea {Horn: Not Guilty [illegible]; Landsman: Guilty} before Cullen. J. ([illegible] as to Landsman)

21 Apr. Verdict: as to Horn: Probation before Verdict

21 Apr. Judgment: as to Horn: Released [illegible] Probation [illegible] Probat. Dept. for Three (3) Years.

1 June 60. Judgment: as to Landsman: Three (3) Years in the Md. House of Correction. Sentence suspended. Probation [illegible] Probat. Dept. for Two (2) Years.

1 June 60. As to Landsman: Probat. Report filed.

30 Nov. AS TO LANDSMAN: - PROBATION STRICKEN OUT AND SENTENCED TO THREE (3) YEARS IN MD STATE PENITENTIARY - CONCURRENT WITH SENTENCE IN IND 3376/60. Cullen, J.

22 Oct. 63 as to Landsman: Order of Revocation of Conditional Commutation filed by His Excellency J. Millard Tawes, Governor of State of Maryland under date of 18th day of Oct. '63. (See 3377/60)

1245

State of Maryland

vs.

Gordon Dale Horn

Joseph Robert Landsman

x

CHARGE:— Burglary — Dange. Vol. 127 [illegible] 4. 8. C.

Commitment filed / Jail — Appearance of [illegible] - Horn; H. Kaplan - Landsman — Filed

Prosecuting Witness: Capt. Joseph Carroll

Recognizance filed

30 Mar. Presentment Ent. filed—e. d.—capias issued—cepi Jail as to Landsman

31 Mar. Recognizance taken as to Horn: Allegheny Mut. Cas. Co. - See 1244/60.

30 Mar. Indictment filed Ent. Copy of Indictment Served - Receipt Filed 31 Mar. each.

31 Mar. Arraigned and pleads as to each: Not Guilty

Submits under plea — before

Verdict:

Judgment:

21 Apr. 60 as to each: Stet entered by State before Cullen. J.

1246

State of Maryland

vs.

17 John Edward Pohl, Jr.

CHARGE:— Violation Liquor Laws

Commitment filed — Jail — Appearance of — Filed

Prosecuting Witness: Off. Julius Sax

27 Mar. Recognizance filed

30 Mar. Presentment filed—e. d.—capias issued—cepi Bail

31 Mar. Recognizance taken United Bonding Ins. Co. - 100.00

11 Apr. Indictment filed — Copy of Indictment Served - Receipt Filed

Arraigned and pleads

Submits under plea — before

Verdict:

Judgment:

28 Apr. 60 - Stet entered by State before Cullen. J.

1247

State of Maryland

vs.

17 John Edward Pohl, Jr.

CHARGE:— Disturbing Public Peace

Commitment filed / Jail — Appearance of — Filed

Prosecuting Witness: Off. Julius Sax

27 Mar. Recognizance filed

30 Mar. Presentment filed—e. d.—capias issued—cepi Bail

31 Mar. Recognizance taken United Bonding Ins. Co. - See 1246/60.

11 Apr. Indictment filed — Copy of Indictment Served - Receipt Filed

Arraigned and pleads

Submits under plea — before

Verdict:

Judgment:

28 Apr. 60 - Stet entered by State before Cullen. J.

1248

State of Maryland

vs.

25 Walter Raleigh Dean, Jr. [illegible]

18 Manuel Dean [illegible]

20 Thomas [illegible] Bois Richards, Jr. [illegible]

27 Philip Hezekiah George [illegible]

CHARGE:— Trespassing

Commitment filed / Jail — Appearance of Robt. B. Watts as to each — Filed

Prosecuting Witness: Sgt. Michael J. McKeon

26 Mar. Recognizance Ent. filed

30 Mar. Presentment Ent. filed—e. d.—capias issued—cepi Bail as to each.

7 Apr. Recognizance taken as to each: [illegible] Fidelity & Surety Co. - 100.00

11 Apr. Indictment filed — Copy of Indictment Served - Receipt Filed 13 Apr. each.

Arraigned and pleads

Submits under plea — before

Verdict:

Judgment:

22 Apr. 60 as to each: Nolle Prosequi entered by State before Byrnes. J.

Indictment Service

Exhibit 25

5

1248 Y

STATE OF MARYLAND

vs.

WALTER RALEIGH DEAN, JR (C)25, b
MANUEL DEESE (C) 18, b
HERMAN DUBOIS RICHARDS, JR (C) 20, and b
PHILLIP HEZEKIAH SAVAGE (C) 27 b

Indictment

APR 13 1960

(TRUE BILL)

Foreman.

Filed APR 11 1960

DEAN

A APR 22 1960 P ..... T .....
V ..... S ENTERED
NOLLE PROSEQUI

WITNESSES:

Sgt. McKew
Off. Boram
Off. Padrowski
Off. Hppman
Mr. Joseph Daschbach
Mr. Alfred Greenfeld
Mr. Marshall Myer
Mr. J. Howard Aulbach
Mr. Arnold Bronfin
Mr. William Cahill, Jr.

DEESE

A APR 22 1960 P ..... T .....
V ..... S ENTERED
NOLLE PROSEQUI

TRESPASSING

O. K.

COPY OF INDICTMENT SERVED
RECEIVED FILED, APR 13 1960

Fine
States Atty
Clerk
Sheriff
Attorney
Total 26.00

Fines

APR 22 1960 P ..... T .....
V ..... S ENTERED
NOLLE PROSEQUI

SAVAGE

A APR 22 1960 P ..... T .....
V ..... S ENTERED
NOLLE PROSEQUI

No. _____ Docket 1244 4

STATE OF MARYLAND

vs.

Walter R. Deaw
Manuel Deese
Herman Richard
Phillip H Sevegs

Criminal Court of Baltimore

Jan _____ Term, 1960

INDICTED for

MR. CLERK: Enter my appearance for Defendant and summon for defense the

Witnesses whose names are endorsed hereon.

Robert A. Smith

Attorney

WITNESS

Exhibit 26

State of Maryland,

md City of Baltimore, to wit:

The Jurors of the State of Maryland, for the body of the City of Baltimore do on their oath present that HERMAN DOUGLAS RICHARDS the younger, PHILLIP HEZEKIAH SAVAGE, WALTER RALEIGH DEAN the younger and MANUEL DEESE late of said City, on the twentieth day of March, in the year of our Lord nineteen hundred and sixty, at the City aforesaid and private property, entered upon the land and premises of The Hecht May Company, a corporation after having been duly notified by The Hecht-May Company, a corporation, and its agents not to do so; contrary to the form of the act of assembly, in such case made and provided, and against the peace, government and dignity of the State.

~~contrary to the form of the Act of Assembly in such case made and provided, and against the peace,~~

~~government and dignity of the State.~~

Jane A Harris

The State's Attorney for the City of Baltimore

Exhibit 27

STATE OF MARYLAND	:	IN THE
	:	CRIMINAL COURT
vs-	:	OF
WALTER R. DEAN, MANUEL DEESE, HERMAN S. RICHARDS, JR. PHILLIP H. SAVAGE	:	BALTIMORE CITY
	:	PART III
Indictment #1248	:	
	:	
	:	

Baltimore, Maryland
April 13, 1960
10:00 a.m.

Before Honorable Joseph R. Byrnes, J.

Appearances:

Messrs. Russell White and Charles M. Moylan, Jr. on behalf of the State.

Robert B. Watts, Esq, as to all defendants.

THE CLERK: Walter R. Dean, Jr. Manuel Deese, Herman D. Richards, jr, Phillip H. Savage. . Mr. Watts, you are representing all defendants are you not?

MR WATTS: Yes, sir

THE CLERK: Indictment #1248, 1960, each defendants is charged with trespassing. Dean, have you received a copy of this indictment?

MR. WATTS They have all received copies.

THE CLERK: Dean, your age?

MR DEAN: 25.

THE CLERK: Your address?

MR. DEAN: 2309 Arunah

THE CLERK Deese, how old are you

MR DEESE: 18

THE CLERK: Your address?

MR. DEESE: 4522 Georges Ave.

THE CLERK: Richars, your age?

MR. RICHARDS: 20

THE CLERK: Your address?

MR. RICHARDS: Morgan State.

THE CLERK Savage, your age?

MR. SAVAGE: 27

THE CLERK: Your address?

MR. SAVAGE: 3226 [illegible]. Carlyle Ave

THE CLERK: Mr. Watts, you are familiar are you not?

MR. WATTS: You are familiar with the indictments are you not?

MR. WATTS: I have received copies . There might be some motions filed which of course I couldn't file after making a plea to the indictment, so I'd like to reserve the right. I'd like to make a plea and then reserve the right to file any motions at a later date.

THE COURT: Very well.

MH. WATTS: The pleas are not guilty, court trial.

THE CLERK: Mr. Watts, you are familiar are you not

MR. WATTS: You are familiar with the Indictment as a

you not?

MR. WATTS: I have received twelve . There might be some additions filed which of course I couldn't file after making a plea to the Indictment, so I'd like to reserve the right. I'd like to make a plea and then reserve the right to file any motions at a later date.

THE COURT: Very well.

MR. WATTS: The pleas are of guilty, court trial.

Exhibit 28

(Recog: to Answer Court) 17 — P. B.

City of Baltimore, to wit:

BE IT REMEMBERED, That on the 26th day of March in the year of our Lord, one thousand nine hundred and "60", before the Subscriber, a Police Justice of the State of Maryland, in and for the Ciy of Baltimore, personally appeared HERMAN DuBois Richards JR. Residence MORGAN State College and Isaiah Dixon Jr. Residence 1416 Perna. Ave. and _____ Residence _____ and acknowledge themselves each and severally, to owe and stand justly indebted to the State of Maryland, in the sum of 100 dollars current money of the United States. the said sum of money to be paid and levied of their bodies, goods and chattels, lands and tenements. respectively, to and for the use of the State of Maryland.

THE CONDITION of the above RECOGNIZANCE is such, that if the above bound HERMAN DuBois Richards JR. do and shall well and truly make h__ personal appearance before the Criminal Court of Baltimore, held, at the Court House in the City of Baltimore, when Summonsed then and there to answer unto all such things as shall be alleged against h__, and particularly for Tresspassing by unlawfully entering upon premises Hecht,s May Co. Roof Top Resturant owened by The May Department Stores after having been duly notified by the oweners agent , not to do so in Baltimore, City, State of Maryland on March-20-1960 on or about the _____ day of _____, 19__, in Baltimore City. State of Maryland, and attend the said Court from day to day, and not depart thence without leave thereof; and in the meantime keep the peace, and be of good behavior; then the above Recognizance to be vied, or otherwise to remain in full force and virtue in law.

In Testimony Whereof, I hereunto subscribe my name on the day and year aforesaid.

_____ (Seal)

Police Justice for the Northeastern District

Jury Trial Prayed

TAKE BAIL IN $ 1000.00

State of Maryland, City of Baltimore, to wit:

THE SUMMIT FIDELITY and SURETY CO.
By _____ ATTORNEY IN FACT

I, _____

hereby apply to become recognizer for HERMAN DuBOIS RICHARDS JR.

I own and offer as security the following property: No. AWCR 39417

It is in fee — leasehold, being subject to the annual ground rent of _____ dollars.

My interest therein is absolute and undivided, or is _____ the value of which is $_____ and is subject to the following mortgages, incumbrances and other recognizances:

The taxes are paid up to and including those for the year 19_____.

THE SUMMIT FIDELITY and SURETY CO.
By _____ ATTORNEY IN FACT

Address 1416 PARK AVE

Sworn to this 26 day of March, 1960, before me.

_____ J. P. [Seal]
Police Justice for the NE1 District.

1085

No. 1963 No. 1248

STATE
VS.
Herman DuBois Richards Jr. /cf
Morgan State College

Charge TRESPASSING

WITNESS

Sgt. Micheal J. McKew NED.

Off's. Albert Boram NED.
Walter Padrowski NED.
Edmund Huppman NED.

Mr. Joseph Daschbach
5 Centre Road Towson Md.
Mr. Alfred Greenfeld
5201 Roland Ave.
Mr. Marshall Myer
5201 Roland Ave.
Mr. J. Howard Aulbach
8739 Summit Ave. #34 Md.
Mr. Arnold Bronfin
4706 Wilern Ave.
Mr. William Cahill Jr.
10 Light Street

PRESENTED

MAR 30 1960

_____ Foreman

Filed MAR 28 1960 19

POWER-OF-ATTORNEY

Power

A № 39419

The Summit Fidelity and Surety Company

Akron, Ohio

REVISED PROHIBITED

KNOW ALL MEN BY THESE PRESENTS: That THE SUMMIT FIDELITY AND SURETY COMPANY, an Ohio Corporation, having its principal office in the City of Akron, County of Summit, State of Ohio, pursuant to the following By-Law which was adopted by the Directors of the said Company on the 10th day of January, 1940, and as amended on the 1st day of November 1952 to wit:

"Article I, Section 3.—The President, Sec. or Asst. Secs. shall have power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and they or either of them may at any time in their judgment remove any such appointees and revoke the authority given to them."

Has made, constituted and appointed, and by these presents does make, constitute and appoint

ISAIAH [illegible] JR.

its true and lawful attorney-in-fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf, and as its act and deed, as surety, a criminal bail bond on behalf of HERMAN DuBois Richards JR.

(Name of defendant must be inserted by attorney-in-fact.)

to be given to State of Md.

provided that the liability of the company as surety on any such bail bond executed under this authority shall not in any event exceed the sum shown on the margin hereof and provided this power-of-attorney is filed with bond and retained as a part of the court records, and the said attorney-in-fact is hereby authorized to insert in line fourteen (14) of this power-of-attorney, the name of the person on whose behalf such bond is given, and the name of the obligee in line (15).

THIS POWER NOT VALID UNLESS USED BEFORE DECEMBER 31, 1960 AND CAN BE USED ONLY ONCE IN THE STATE OF MARYLAND

THE LIABILITY OF THE COMPANY SHALL NOT EXCEED $[illegible]

THIS POWER VOID IF ALTERED OR ERASED

And the execution of such bond in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if it were duly executed by the regularly elected officers of said Company.

IN WITNESS WHEREOF, THE SUMMIT FIDELITY AND SURETY COMPANY has caused these presents to be signed by its duly authorized officer, and its corporate seal to be hereunto affixed.

THE SUMMIT FIDELITY AND SURETY COMPANY

this day of February 26, 1960

By: A. J. Harrison

Asst. Secretary

STATE OF OHIO,)
COUNTY OF SUMMIT) SS:

On this day of February 26, 1960 before the subscriber, a Notary Public of the State of Ohio, in and for the County of Summit, duly commissioned and qualified, came A. J. Harrison, Asst. Secretary of the Summit Fidelity and Surety Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation, and that Article I, Section 3, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the City of Akron, the day and year first above written.

My commission expires SEPTEMBER 3, 1962

Notary Public.

THIS POWER-OF-ATTORNEY SHALL NOT BE VALID UNLESS COUNTERSIGNED BY

Jerry Wohlmuth Special Agent, and if so countersigned. The Summit Fidelity and Surety Company waives the requirement of such Special Agent appearing in person before the Clerk or Court to personally acknowledge his countersignature.

Countersigned Jerry Wohlmuth

Special Agent.

STATE OF Maryland COUNTY OF [illegible] SS:

On this day of February 26 1960, personally appeared before me Jerry Wohlmuth, Special Agent of The Summit Fidelity and Surety Company, and acknowledged his signature on the foregoing power-of-attorney.

My commission expires May 1- 1961

Joel Waldeman

Notary Public.

1. ONLY ONE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND EXECUTED.
2. POWERS OF-ATTORNEY MUST NOT BE RETURNED TO ATTORNEY-IN-FACT BUT SHOULD REMAIN A PERMANENT PART OF COURT RECORDS.

POWER-OF-ATTORNEY

Power

A Nº 39419

The Summit Fidelity and Surety Company

Akron, Ohio

PREVIOUSLY USED PROHIBITED

KNOW ALL MEN BY THESE PRESENTS: That THE SUMMIT FIDELITY AND SURETY COMPANY, an Ohio Corporation, having its principal office in the City of Akron, County of Summit, State of Ohio, pursuant to the following By-Law which was adopted by the Directors of the said Company on the 10th day of January, 1940, and as amended on the 1st day of November 1952 to wit:

"Article I, Section 3.—The President, Sec. or Asst. Sec. shall have power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and they or either of them may at any time in their judgment remove any such appointees and revoke the authority given to them."

Has made, constituted and appointed, and by these presents does make, constitute and appoint

ISAIAH DIXON, JR.

its true and lawful attorney-in-fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf, and as its act and deed, as surety, a criminal bail bond on behalf of HERMAN DuBois Richards JR.

(Name of defendant must be inserted by attorney-in-fact.)

to be given to State of Md.

provided that the liability of the company as surety on any such bail bond executed under this authority shall not in any event **exceed the sum shown on the margin hereof and provided this power-of-attorney is filed with bond and retained as a part of the court records,** and the said attorney-in-fact is hereby authorized to insert in line fourteen (14) of this power-of-attorney, the name of the person on whose behalf such bond is given and the name of the obligee in line (15).

THIS POWER NOT VALID UNLESS USED BEFORE DECEMBER 31, 1960 AND CAN BE USED ONLY ONCE IN THE STATE OF MARYLAND

THE LIABILITY OF THE COMPANY SHALL NOT EXCEED $5,000.00

THIS POWER VOID IF ALTERED OR ERASED

And the execution of such bond in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if it were duly executed by the regularly elected officers of said Company.

IN WITNESS WHEREOF, THE SUMMIT FIDELITY AND SURETY COMPANY has caused these presents to be signed by its duly authorized officer, and its corporate seal to be hereunto affixed,

THE SUMMIT FIDELITY AND SURETY COMPANY

this day of February 26, 1960

By: A. J. Harrison

Asst. Secretary

STATE OF OHIO, COUNTY OF SUMMIT } SS:

On this day of February 26, 1960, before the subscriber, a Notary Public of the State of Ohio, in and for the County of Summit, duly commissioned and qualified, came A. J. Harrison, Asst. Secretary of the Summit Fidelity and Surety Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation, and that Article I, Section 3, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the City of Akron, the day and year first above written.

My commission expires SEPTEMBER 3, 1962

Notary Public.

THIS POWER-OF-ATTORNEY SHALL NOT BE VALID UNLESS COUNTERSIGNED BY

Jerry Wohlmuth Special Agent, and if so countersigned, The Summit Fidelity and Surety Company waives the requirement of such Special Agent appearing in person before the Clerk or Court to personally acknowledge his countersignature.

Countersigned Jerry Wohlmuth

Special Agent.

STATE OF Maryland COUNTY OF [illegible] SS:

On this day of February 28 1960, personally appeared before me Jerry Wohlmuth, Special Agent of The Summit Fidelity and Surety Company, and acknowledged his signature on the foregoing power-of-attorney.

My commission expires May 1- 1961

Jal Waldesman

Notary Public.

1. ONLY ONE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND EXECUTED.
2. POWERS-OF-ATTORNEY MUST NOT BE RETURNED TO ATTORNEY-IN-FACT BUT SHOULD REMAIN A PERMANENT PART OF COURT RECORDS.

284 — P. B.

POLICE DEPARTMENT
CITY OF BALTIMORE

Northeastern District March 1960

Received from Ike Dixon

the amount of $ — as collateral for the

appearance of Herman Richards

at this Police Station on March 21 1960

at 8 A m. It being understood that the total amount will be forfeited if appearance is not made.

Sgt William Black

Desk Lieutenant.

No. 1248 Y

Docket 19 60

STATE OF MARYLAND

vs.

HERMAN DUBOIS RICHARDS, JR.
(C) 20

Received of State's Attorney's Office copy of indictment in the above case this 13 day of Apr, 19 60

Herman DuBois Richards Jr.

Witness: R. J. Wheeler

CAPIAS

CRIMINAL COURT OF BALTIMORE

JANUARY TERM, 1960

THE STATE OF MARYLAND

To the Sheriff of Baltimore City, Greetings:

We command that you take the body of Herman Du Bois Richards Jr

and immediately have ____ before the Court to answer a Presentment for Trespassing

WITNESS the Hon. Emory H. Niles, Chief Judge of the Supreme Bench of Baltimore City, the 11th day of Jan., 1960.

Issued this MAR 30 1960 day of ____, 1960.

LAWRENCE R. MOONEY
Clerk, Criminal Court of Baltimore.

LAWRENCE R. MOONEY
CLERK

RECEIVED
CRIMINAL COURT
BALTIMORE, MD.
APR 11 34 AM '60

kc
12-99
93

JANUARY TERM, 1960

No. 1248

STATE OF MARYLAND

vs.

Norman Du Bois Richards Jr
Morgan State College

TAKE BAIL IN $ 100

JB 1085

JUDGE

THE SUMMIT FIDELITY AND SURETY CO.
1416 Penna Ave

CORPORATE BOND

APR 7 - 1960 — 100 00

10 1

CEPI On Bail

Joseph C. Deegan SHERIFF

Exhibit 29

POWER-OF-ATTORNEY

The Summit Fidelity and Surety Company

Akron, Ohio

Power A № 39422

KNOW ALL MEN BY THESE PRESENTS: That THE SUMMIT FIDELITY AND SURETY COMPANY, an Ohio Corporation, having its principal office in the City of Akron, County of Summit, State of Ohio, pursuant to the following By-Law which was adopted by the Directors of the said Company on the 10th day of January, 1940, and as amended on the 1st day of November 1952 to wit:

"Article I, Section 3.—The President, Sec. or Asst. Sec., shall have power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and they or either of them may at any time in their judgment remove any such appointees and revoke the authority given to them."

Has made, constituted and appointed, and by these presents does make, constitute and appoint

ISAIAH DIXON, JR.

its true and lawful attorney-in-fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf, and as its act and deed, as surety, a criminal bail bond on behalf of MANUEL DEESE

(Name of defendant must be inserted by attorney-in-fact.)

to be given to State of Md

provided that the liability of the company as surety on any such bail bond executed under this authority shall not in any event **exceed the sum shown on the margin hereof and provided this power-of-attorney is filed with bond and retained as a part of the court records,** and the said attorney-in-fact is hereby authorized to insert in line fourteen (14) of this power-of-attorney, the name of the person on whose behalf such bond is given and the name of the obligee in line (15).

THIS POWER VOID IF ALTERED OR ERASED

And the execution of such bond in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if it were duly executed by the regularly elected officers of said Company.

IN WITNESS WHEREOF, THE SUMMIT FIDELITY AND SURETY COMPANY has caused these presents to be signed by its duly authorized officer, and its corporate seal to be hereunto affixed,

THE SUMMIT FIDELITY AND SURETY COMPANY

this day of February 26, 1960

By: C. J. Harrison

Asst. Secretary

STATE OF OHIO, } SS:
COUNTY OF SUMMIT }

On this day of February 26, 1960, before the subscriber, a Notary Public of the State of Ohio, in and for the County of Summit, duly commissioned and qualified, came A. J. Harrison, Asst. Secretary of the Summit Fidelity and Surety Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation, and that Article I, Section 3, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the City of Akron, the day and year first above written.

My commission expires SEPTEMBER 3, 1962

Notary Public.

THIS POWER-OF-ATTORNEY SHALL NOT BE VALID UNLESS COUNTERSIGNED BY Jerry Wohlmuth Special Agent, and if so countersigned, The Summit Fidelity and Surety Company waives the requirement of such Special Agent appearing in person before the Clerk or Court to personally acknowledge his countersignature.

Countersigned Jerry Wohlmuth

Special Agent.

STATE OF Maryland COUNTY OF _____ SS:

On this day of February 28 1960, personally appeared before me Jerry Wohlmuth, Special Agent of The Summit Fidelity and Surety Company, and acknowledged his signature on the foregoing power-of-attorney.

My commission expires May 1. 1961

Joel Waldesman

Notary Public.

1. ONLY ONE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND EXECUTED.
2. POWERS-OF-ATTORNEY MUST NOT BE RETURNED TO ATTORNEY-IN-FACT BUT SHOULD REMAIN A PERMANENT PART OF COURT RECORDS.

THE LIABILITY OF THE COMPANY SHALL NOT EXCEED Thousand Dollars

PLEASE PROHIBITED

THIS POWER NOT VALID UNLESS USED BEFORE DECEMBER 31, 1960 AND CAN BE USED ONLY ONCE IN THE STATE OF MARYLAND

284 — P. B.

POLICE DEPARTMENT
CITY OF BALTIMORE

Northeastern District March 20 1960

Received from Ike Dixon

the amount of $ — as collateral for the

appearance of Manuel Deese

at this Police Station on March 21 1960

at 8 A m. It being understood that the total amount will be forfeited if appearance is not made.

Sgt. William Black

Desk Lieutenant.

(Recog: to Answer Court) 17—P. B.

City of Baltimore, to wit:

BE IT REMEMBERED, That on the 26th day of MARCH in the year of our Lord, one thousand nine hundred and "60", before the Subscriber, a Police Justice of the State of Maryland, in and for the Ciy of Baltimore, personally appeared MANUEL DEESE Residence 4522 ST. GEORGES AVE and ISAIAH DIXON JR. Residence 1416 PENNA. AVE and _____ Residence _____ and acknowledge themselves each and severally, to owe and stand justly indebted to the State of Maryland, in the sum of 100 dollars current money of the United States. the said sum of money to be paid and levied of their bodies, goods and chattels, lands and tenements, respectively, to and for the use of the State of Maryland.

THE CONDITION of the above RECOGNIZANCE is such, that if the above bound MANUEL DEESE do and shall well and truly make h IS personal appearance before the Criminal Court of Baltimore, held, at the Court House in the City of Baltimore, when Summonsed then and there to answer unto all such things as shall be alleged against h IM, and particularly for TRESSPASING BY ENTERING UPON PREMISES HECHTS MAY CO ROOF TOP RESTURANT OWNED BY THE MAY DEPARTMENT STORES AFTER HAVING DULY BEEN NOTIFIED BY THE OWNERS AGENT NOT TO DO SO on or about the 20th day of MARCH, 19 60. in Baltimore City. State of Maryland, and attend the said Court from day to day, and not depart thence without leave thereof; and in the meantime keep the peace, and be of good behavior; then the above Recognizance to be viod, or otherwise to remain in full force and virtue in law.

In Testimony Whereof, I hereunto subscribe my name on the day and year aforesaid.

Jerome A. Kaslow (Seal)

Police Justice for the ~~NORTHEASTERN~~ District

JURY TRIAL PRAYED

TAKE BAIL IN $ 100.00

State of Maryland,

COM City of Baltimore, to wit:

THE SUMMIT FIDELITY and SURETY CO.

I, By Isaiah Dufour, Jr. ATTORNEY IN FACT

hereby apply to become recognizer for MANUEL DEESE

I own and offer as security the following property: No. POWER #39422

~~It is in fee — leasehold, being subject to the annual ground rent of ______ dollars.~~

~~My interest therein is absolute and undivided, or is ______ the value of which is $______ and is subject to the following mortgages, incumbrances and other recognizances:~~

The taxes are paid up to and including those for the year 19

THE SUMMIT FIDELITY and SURETY CO.

By Isaiah Dufour, Jr. ATTORNEY IN FACT

Address 1416 PA. AVE

Sworn to this 26th day of March, 1960, before me.

Jerome A. Dashner J. P. [Seal]

Police Justice for the N.E. District.

1082

No. 1962 No. 1248

STATE

VS.

Manuel Deese 1c/18
4522 St. Georges Ave.

Charge Tresspassing

WITNESS

Sgt. Micheal J. MC Kew NED.

Off's. Albert Boram NED.
Walter Fadrowski NED.
Edmund Huppman NED.

Mr. Joseph Daschbach
5 Centre Road Towson Md.

Mr. Alfred Greenfeld
5201 Roland Ave.

Mr. Marshall Myer
5201 Roland Ave.

Mr. J. Howard Aulbach
8739 Summit Ave. #34 Md.

Mr. Arnold Bronfin
4706 Wilern Ave.

Mr. William Cahill Jr.
10 Light Street

PRESENTED

MAR 30 1960

Foreman

Filed MAR 28 1960 19

No. 1248

Docket 19 60

STATE OF MARYLAND

vs.

MANUEL DEESE (C) 18

Received of State's Attorney's Office copy of indictment in the above case this 13 day of Apr, 19 60

Manuel Deese

Witness: R J White

CAPIAS

CRIMINAL COURT OF BALTIMORE

JANUARY TERM, 1960

THE STATE OF MARYLAND

To the Sheriff of Baltimore City, Greetings:

We command that you take the body of Manuel Lee

and immediately have him before the Court to answer a Presentment for Narcotics

WITNESS the Hon. Emory H. Niles, Chief Judge of the Supreme Bench of Baltimore City, the 11th day of Jan., 1960.

Issued this MAR 30 1960 day of ______, 1960.

LAWRENCE R. MOONEY
Clerk, Criminal Court of Baltimore.

APR 8 11 30 AM '60 LAWRENCE R. MOONEY CLERK

RECEIVED CRIMINAL COURT BALTIMORE, MD.

60
1248
93

JANUARY TERM, 1960

No. 1248

STATE OF MARYLAND

vs.

Manuel Deese
4522 St. Georges Ave

TAKE BAIL IN $ 100.00

~~J.C. 10-22~~

JUDGE

THE SUMMIT FIDELITY AND SURETY CO.
1416 Penna Ave

CORPORATE BOND

APR 7 - 1960 — 100.00

10

✓

CEPI On Bail

Joseph C. Duggan **SHERIFF**

Exhibit 30

POWER-OF-ATTORNEY

Power

A № 39420

The Summit Fidelity and Surety Company

Akron, Ohio

PRE-USE PROOF

KNOW ALL MEN BY THESE PRESENTS: That THE SUMMIT FIDELITY AND SURETY COMPANY, an Ohio Corporation, having its principal office in the City of Akron, County of Summit, State of Ohio, pursuant to the following By-Law which was adopted by the Directors of the said Company on the 10th day of January, 1940, and as amended on the 1st day of November 1952 to wit:

"Article I, Section 3.—The President, Sec. or Asst. Sec.'s shall have power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and they or either of them may at any time in their judgment remove any such appointees and revoke the authority given to them."

Has made, constituted and appointed, and by these presents does make, constitute and appoint

ISAIAH [illegible] JR.

.....its true and lawful attorney-in-fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf, and as its act and deed, as surety, a criminal bail bond on behalf of WALTER RALEIGH DEAN JR.

(Name of defendant must be inserted by attorney-in-fact.)

to be given to State of Md.

provided that the liability of the company as surety on any such bail bond executed under this authority shall not in any event **exceed the sum shown on the margin hereof and provided this power-of-attorney is filed with bond and retained as a part of the court records,** and the said attorney-in-fact is hereby authorized to insert in line fourteen (14) of this power-of-attorney, the name of the person on whose behalf such bond is given, and the name of the obligee in line (15).

THIS POWER VOID IF ALTERED OR ERASED

And the execution of such bond in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if it were duly executed by the regularly elected officers of said Company.

IN WITNESS WHEREOF, THE SUMMIT FIDELITY AND SURETY COMPANY has caused these presents to be signed by its duly authorized officer, and its corporate seal to be hereunto affixed.

THE SUMMIT FIDELITY AND SURETY COMPANY

this day of February 26, 1960

By: A. J. Harrison

Asst. Secretary

STATE OF OHIO, COUNTY OF SUMMIT } SS:

On this day of February 26, 1960, before the subscriber, a Notary Public of the State of Ohio, in and for the County of Summit, duly commissioned and qualified, came A. J. Harrison, Asst. Secretary of the Summit Fidelity and Surety Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation, and that Article I, Section 3, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the City of Akron, the day and year first above written.

My commission expires SEPTEMBER 3, 1962

Notary Public.

THIS POWER-OF-ATTORNEY SHALL NOT BE VALID UNLESS COUNTERSIGNED BY

Jerry Wohlmuth Special Agent, and if so countersigned. The Summit Fidelity and Surety Company waives the requirement of such Special Agent appearing in person before the Clerk or Court to personally acknowledge his countersignature.

Countersigned [illegible]

Special Agent.

STATE OF Maryland COUNTY OF [illegible] SS:

On this day of February 25 1960, personally appeared before me Jerry Wohlmuth, Special Agent of The Summit Fidelity and Surety Company, and acknowledged his signature on the foregoing power-of-attorney.

My commission expires May 1- 1961

Joe Waldman

Notary Public.

1. ONLY ONE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND EXECUTED.
2. POWERS-OF-ATTORNEY MUST NOT BE RETURNED TO ATTORNEY-IN-FACT BUT SHOULD REMAIN A PERMANENT PART OF COURT RECORDS.

THE LIABILITY OF THE COMPANY SHALL NOT EXCEED [illegible]

THIS POWER NOT VALID UNLESS USED BEFORE DECEMBER 31, 1960 AND CAN BE USED ONLY ONCE IN THE STATE OF MARYLAND

284 — P. B.

POLICE DEPARTMENT
CITY OF BALTIMORE

Northeastern District March 20 19 60

Received from Joe Dixon

the amount of $ $305.00 as collateral for the

appearance of Walter Dean

at this Police Station on March 21 19 60

at 8 A m. It being understood that the total amount will be forfeited if appearance is not made.

Sgt William Black

Desk Lieutenant.

(Recog: to Answer Court) 17 — P. B.

City of Baltimore, to wit:

BE IT REMEMBERED, That on the 26 Th day of March in the year of our Lord, one thousand nine hundred and "60", before the Subscriber, a Police Justice of the State of Maryland, in and for the Ciy of Baltimore, personally appeared WALTER Raleigh DEAN JR Residence 2309 ARUNAH AVE and ISAIAH DIXON JR. Residence 1416 KENNA. AVE and _____ Residence _____ and acknowledge themselves each and severally, to owe and stand justly indebted to the State of Maryland, in the sum of 100 dollars current money of the United States. the said sum of money to be paid and levied of their bodies, goods and chattels, lands and tenements. respectively, to and for the use of the State of Maryland.

THE CONDITION of the above RECOGNIZANCE is such, that if the above bound WALTER Raleigh DEAN JR. do and shall well and truly make h IS personal appearance before the Criminal Court of Baltimore, held, at the Court House in the City of Baltimore, when Summonsed then and there to answer unto all such things as shall be alleged against h IM, and particularly for TRESSPASSING BY UNLAWFULLY ENTERING UPON PREMISES HECHT,S MAY CO. ROOF TOP RESTURANT OWNED BY THE MAY DEPARTMENT STORES AFTER HAVING DULY BEEN NOTIFIED BY THE OWNERS AGENT NOT TO DO SO on or about the 20th day of MARCH, 1960, in Baltimore City. State of Maryland, and attend the said Court from day to day, and not depart thence without leave thereof; and in the meantime keep the peace, and be of good behavior; then the above Recognizance to be void, or otherwise to remain in full force and virtue in law.

In Testimony Whereof, I hereunto subscribe my name on the day and year aforesaid.

James C. Ashman (Seal)

Police Justice for the NORTHEASTERN District

JURY TRIAL PRAYED.

THE SUMMIT FIDELITY and SURETY CO. $ 100.00

State of Maryland,

COM City of Baltimore, to wit:

THE SUMMIT FIDELITY and SURETY CO.

I, By [signature] ATTORNEY IN FACT

hereby apply to become recognizer for Walter Raleigh Dean Jr.

I own and offer as security the following property: No. Power #39420

~~It is in fee — leasehold, being subject to the annual ground rent of ______ dollars.~~

~~My interest therein is absolute and undivided, or is ______ the value of which is $______ and is subject to the following mortgages, incumbrances and other recognizances:~~

The taxes are paid up to and including those for the year 19____

THE SUMMIT FIDELITY and SURETY CO.

By [signature] ATTORNEY IN FACT

Address 1416 PA. AVE.

Sworn to this 26th day of March, 1960, before me.

[signature] J. P. [Seal]

Police Justice for the N.E. District.

1084. 48

No. 1961 No. 1248

STATE

VS.

Walter Raleigh Dean Jr. 1/2/25

2309 Arunah Ave.

Charge TRESSPASSING

WITNESS

Sgt. Micheal J. McKew NED.

Off's. Albert Boran NED.

Walter Fadrowski NED.

Edmund Huppman NED.

Mr. Joseph Daschbach

5 Centre Road Towson Md.

Mr. Alfred Greenfeld

5201 Roland Ave.

Mr. Marshall Myer

5201 Roland Ave.

Mr. J. Howard Aulbach

8739 Summit Ave. #34 Md.

Mr. Arnold Bronfin

4706 Wilern Ave.

Mr. William Cahill Jr.

10 Light Street

PRESENTED

MAR 30 1960

[signature]

Foreman

MAR 28 1960

Filed ______ 19____

No. 1248 Y

Docket 19 60

STATE OF MARYLAND

vs.

WALTER RALEIGH DEAN, JR. (C) 25

Received of State's Attorney's Office copy of indictment in the above case this 13 day of Apr, 1960

Walter R. Dean Jr.

Witness: R J Wheeler

CAPIAS

CRIMINAL COURT OF BALTIMORE

JANUARY TERM, 1960

THE STATE OF MARYLAND

To the Sheriff of Baltimore City, Greetings:

We command that you take the body of Walter Raleigh Mean

and immediately have _____ before the Court to answer a Presentment for Trespassing

WITNESS the **Hon. Emory H. Niles,** Chief Judge of the Supreme Bench of Baltimore City, the 11th day of Jan, 1960.

Issued this MAR 30 1960 day of _____, 1960.

LAWRENCE R. MOONEY
Clerk, Criminal Court of Baltimore.

APR 8 11 34 AM '60
LAWRENCE R. MOONEY
CLERK
FILED
CRIMINAL COURT
BALTIMORE, MD.

607

~~1297~~

93

JANUARY TERM, 1960

No. 1248

STATE OF MARYLAND

vs.

Walter R. Dean Jr

2309 Arunah Ave

TAKE BAIL IN $ 100.00

~~JG~~ 1084

JUDGE

THE SUMMIT FIDELITY AND SURETY CO.

1216 Penna Ave

CORPORATE BOND

APR 7 - 1960 - 100.00

10

1

CEPI M Bail

Joseph C. Deegan SHERIFF

Exhibit 31

POWER-OF-ATTORNEY

Power A № 39421

The Summit Fidelity and Surety Company

Akron, Ohio

KNOW ALL MEN BY THESE PRESENTS: That THE SUMMIT FIDELITY AND SURETY COMPANY, an Ohio Corporation, having its principal office in the City of Akron, County of Summit, State of Ohio, pursuant to the following By-Law which was adopted by the Directors of the said Company on the 10th day of January, 1940, and as amended on the 1st day of November 1952 to wit:

"Article I, Section 3.—The President, Sec. or Asst. Sec., shall have power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and they or either of them may at any time in their judgment remove any such appointees and revoke the authority given to them."

Has made, constituted and appointed, and by these presents does make, constitute and appoint

.....

.....its true and lawful attorney-in-fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf, and as its act and deed, as surety, a criminal bail bond on behalf of Phillip HEZEKIAH SAVAGE

(Name of defendant must be inserted by attorney-in-fact.)

to be given to.....

provided that the liability of the company as surety on any such bail bond executed under this authority shall not in any event exceed the sum shown on the margin hereof and provided this power-of-attorney is filed with bond and retained as a part of the court records, and the said attorney-in-fact is hereby authorized to insert in line fourteen (14) of this power-of-attorney, the name of the person on whose behalf such bond is given and the name of the obligee in line (15).

THIS POWER VOID IF ALTERED OR ERASED

And the execution of such bond in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if it were duly executed by the regularly elected officers of said Company.

IN WITNESS WHEREOF, THE SUMMIT FIDELITY AND SURETY COMPANY has caused these presents to be signed by its duly authorized officer, and its corporate seal to be hereunto affixed.

THE SUMMIT FIDELITY AND SURETY COMPANY

this day of February 26, 1960

By: ..... A. Harrison

Asst. Secretary

STATE OF OHIO, }
COUNTY OF SUMMIT } SS:

On this day of February 26, 1960, before the subscriber, a Notary Public of the State of Ohio, in and for the County of Summit, duly commissioned and qualified, came A. J. Harrison, Asst. Secretary of the Summit Fidelity and Surety Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation, and that Article I, Section 3, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the City of Akron, the day and year first above written.

My commission expires SEPTEMBER 3, 1962 .....

Notary Public.

THIS POWER-OF-ATTORNEY SHALL NOT BE VALID UNLESS COUNTERSIGNED BY Jerry Wohlmuth Special Agent, and if so countersigned, The Summit Fidelity and Surety Company waives the requirement of such Special Agent appearing in person before the Clerk or Court to personally acknowledge his countersignature.

Countersigned.....

Special Agent.

STATE OF Maryland COUNTY OF ..... SS:

On this day of February 28 1960, personally appeared before me Jerry Wohlmuth, Special Agent of The Summit Fidelity and Surety Company, and acknowledged his signature on the foregoing power-of-attorney.

My commission expires May 1-1961 Joel Wallerman

Notary Public.

1. ONLY ONE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND EXECUTED.
2. POWERS-OF-ATTORNEY MUST NOT BE RETURNED TO ATTORNEY-IN-FACT BUT SHOULD REMAIN A PERMANENT PART OF COURT RECORDS.

THE LIABILITY OF THE COMPANY SHALL NOT EXCEED

THIS POWER NOT VALID UNLESS USED BEFORE DECEMBER 31, 1960 AND CAN BE USED ONLY ONCE IN THE STATE OF MARYLAND

PROCURED

284 — P. B.

POLICE DEPARTMENT
CITY OF BALTIMORE

Northeastern District March 20 1960

Received from Ike Dixon

the amount of $ 102.00 as collateral for the

appearance of Phillip H Savage

at this Police Station on March 21 1960

at 8 A m. It being understood that the total amount will be forfeited if appearance is not made.

Sgt William Black

Desk Lieutenant.

(Recog: to Answer Court) 17 — P. B.

City of Baltimore, to wit:

BE IT REMEMBERED, That on the 26th day of March in the year of our Lord, one thousand nine hundred and "60", before the Subscriber, a Police Justice of the State of Maryland, in and for the Ciy of Baltimore, personally appeared Phillip Hezekiah SAVAGE Residence 3226 Carlisle Ave and Isaiah Dixon Jr. Residence 1416 Penna. Ave and _____ Residence _____ and acknowledge themselves each and severally, to owe and stand justly indebted to the State of Maryland, in the sum of 100 dollars current money of the United States. the said sum of money to be paid and levied of their bodies, goods and chattels, lands and tenements, respectively, to and for the use of the State of Maryland.

THE CONDITION of the above RECOGNIZANCE is such, that if the above bound Phillip Hezekiah SAVAGE do and shall well and truly make his personal appearance before the Criminal Court of Baltimore, held, at the Court House in the City of Baltimore, when Summonsed then and there to answer unto all such things as shall be alleged against him, and particularly for TRESSPASING BY UNLAWFULLY ENTERING UPON PREMISES HECHTS MAY CO ROOF TOP RESTURANT OWNED BY THE MAY DEPARTMENT STORES AFTER HAVING DULY BEEN NOTIFIED BY THE OWNERS AGENT NOT TO DO SO on or about the 20 day of MARCH, 1960, in Baltimore City, State of Maryland, and attend the said Court from day to day, and not depart thence without leave thereof; and in the meantime keep the peace, and be of good behavior; then the above Recognizance to be viod, or otherwise to remain in full force and virtue in law.

In Testimony Whereof, I hereunto subscribe my name on the day and year aforesaid.

_____ (Seal)

Police Justice for the NORTHEASTERN District

JURY TRIAL PRAYED

State of Maryland, $1,000.00

City of Baltimore, to wit:

THE SUMMIT FIDELITY and SURETY CO.

By _____ ATTORNEY IN FACT

I, _____

hereby apply to become recognizer for Phillip Hezekiah Savage

I own and offer as security the following property: No. Power #39421

It is in fee — leasehold, being subject to the annual ground rent of _____ dollars. My interest therein is absolute and undivided, or is _____ the value of which is $_____ and is subject to the following mortgages, incumbrances and other recognizances:

The taxes are paid up to and including those for the year 19_____.

THE SUMMIT FIDELITY and SURETY CO.

By _____ ATTORNEY IN FACT

Address 1416 PA. AVE

Sworn to this 26th day of March, 1960, before me.

_____ J. P. [Seal]

Police Justice for the N.E. District.

1083

No. 1964 No. 1248

STATE

vs.

Phillip Hezekiah Savage
3226 Carlisle Ave.

Charge TRESPASSING

WITNESS

Sgt. Micheal J. McKew NED.
Sgt. Rogert McKay NED.

Off's. Dorsey Goins NED.
John Papier NED.

Mr. Joseph Daschbach
5 Centre Road Towson Md.
Mr. William Cahill Jr.
10 Light Street
Mr. Alfred Greenfeld
5201 Roland Ave.
Mr. Marshall Myer
5201 Roland Ave.
Mr. J. Howard Aulbach
8739 Summit Ave. #34Md.
Mr. Arnold Bronfin
4706 Wilern Ave.

PRESENTED

MAR 30 1960

_____ Foreman

Filed _____ 19____

MAR 28 1960

No. 1248 Y

Docket 19 60

STATE OF MARYLAND

vs.

PHILLIP HEZEKIAH SAVAGE (C) 27

Received of State's Attorney's Office copy of indictment in the above case this 13 day of August, 1960

Phillip H. Savage

Witness: R. J. Welch

CAPIAS

CRIMINAL COURT OF BALTIMORE

JANUARY TERM, 1960

THE STATE OF MARYLAND

To the Sheriff of Baltimore City, Greetings:

We command that you take the body of Phillys Hezekiah Savage

and immediately have ______ before the Court to answer a Presentment for Trespassing

WITNESS the **Hon. Emory H. Niles,** Chief Judge of the Supreme Bench of Baltimore City, the 11th day of Jan., 1960.

Issued this MAR 3 0 1960 day of ______, 1960.

LAWRENCE R. MOONEY
Clerk, Criminal Court of Baltimore.

APR 8 11 24 AM 1960 LAWRENCE R. MOONEY CLERK

RECEIVED CRIMINAL COURT BALTIMORE, MD.

60
12-96
93

JANUARY TERM, 1960

No. 1248

STATE OF MARYLAND

vs.

Phillip H. Savage
3226 Carlisle Ave

TAKE BAIL IN $ 100.00
~~No 1083~~

JUDGE

THE SUMMIT FIDELITY AND SURETY CO.
11416 Vienna Ave

CORPORATE BOND

APR 7 - 1960 — 100.00

10

1

CEPI On Bail

Joseph C. Duggan SHERIFF

Exhibit 32

1248

Criminal Court of Baltimore

ARRAIGNMENT

PART 3

Bail

709 Wilbron Av

Summit Fidelity Co	10	St					1416 Penna Av
Walter R Dean Jr	16	St					2309 Arunah Ave
Philip H Savage	17	St					3226 Carlisle Av
Herman D. Richards	22	St					Morgan State College
Manuel Deese	21	St					4522 St Georges Av
Returnable	APR	13					

to testify for State v Walter Dean et al

TO THE SHERIFF OF BALTIMORE CITY.

LAWRENCE R. MOONEY, *Clerk*

Exhibit 33

1248

Criminal Court of Baltimore

Bail

Wm J Howard Cullbach		8739 Summerset (34)
" Arnold Brooks		4706 Woburn Ct
" Wm Cahill Jr		10 Light St

Returnable
to testify for State v Walker Dismissed

TO THE SHERIFF OF BALTIMORE CITY.

LAWRENCE R. MOONEY, *Clerk*

1248

Criminal Court of Baltimore

Bail

Sgt Michael McKeon		NED
Off Gilbert Boran		"
" Walter Fadrowski		"
" Edmund Hoffman		"
Mr. Jos Drachbach		5 Centre Rd (4)
" Albert Greenfield		5201 Roland Ave
" Marshall Wagner		"

Returnable
to testify for States Witness Greenfield

TO THE SHERIFF OF BALTIMORE CITY.

LAWRENCE R. MOONEY, *Clerk*

Exhibit 34

Def. Walter R Dean Jr. et al c/o Maj Co Dept Store

FORM 2 9-59 10M 32499

Grand Jury Room, Criminal Court of Baltimore

ROOM NO. 207 CALVERT STREET ENTRANCE

10

The State of Maryland: ..... Jan. ..... Term 19 60

To Joseph Dashback

You are hereby summoned to appear before the Grand Jury on Wed *the* 30 *day of* March 19 60, *at 10:00 o'clock A. M.,*

Baltimore, 3-28 19 60

By Order of the Court,

JOSEPH C. DEEGAN, *Sheriff of Baltimore City*

☛ *Be punctual in attendance or you will be attached.*

(Bring this summons with you.)

TAKE THIS SUMMONS TO CLERK'S OFFICE CRIMINAL COURT 19

DEPUTY NO. 7

Nov 1st

Met at the May-Hecht Co

at Howard + Lexington

Sts.

Liberto

Exhibit 35

NEGROES ASK JURY TRIAL IN DINING CASE

Four Plead Innocent In Northwood Anti-Segregation Incident

Four Negroes charged with unlawfully entering a restaurant at the Northwood Shopping Center pleaded innocent yesterday and asked for a jury trial.

The plea and request for a jury trial were made by the attorney for the four, Robert B. Watts, who said at a hearing in Northeastern Police Court that "there are certain constitutional questions we intend to raise, and we feel these questions would be best raised before the Supreme Bench."

Meanwhile other Negroes tried to buy lunch yesterday at four large downtown department stores and were successful at one, Hochschild, Kohn & Co.

Official Quoted

A Hochschild official said later that "if the community allows it, and this includes our competitors, we'll continue" to serve Negroes.

The Hecht-May Company posted detectives at the entrances to its restaurant and denied Negroes admittance. Stewart & Co. closed its restaurant to all. About twenty Negroes entered the Hutzler Brothers Company restaurant, stayed for about three hours and were not served.

In the Northwood case, Magistrate Jerome A. Dashner set bail at $100 each for the four defendants.

Four Named

The four are Manuel Deese, 18, of the 4500 block St. Georges avenue; Herman D. Richards, Jr., 20, a resident of Morgan State College; Walter R. Dean, Jr., 24, of the 2300 block Arunah avenue, and Philip H. Savage, 27, of the 3200 block Carlisle avenue. All but Savage are Morgan students.

The four are charged specific-

NEGROES ASK JURY TRIAL

Four Plead Innocent In Restaurant Case

(Continued from Page 40)

upon the premises of Hechts' May Company Roof Top Restaurant owned by the May Department Stores, after having duly been notified by the owners' agent not to do so" on March 20.

In a companion case, two minor assault charges were dropped by the prosecuting witnesses. John M. Hite, 22, Negro, of the 2700 block Roslyn avenue, had been charged with pushing Karen Swink, 6, of the 2900 block Cornwall road, on March 18.

Joseph Daschbach, 50, manager of the restaurant, had been charged with pushing Miss Bernice Evans, 21, Negro, of East Elmhurst, N.J., and a student at Morgan.

Hite and Daschbach were the first persons to be arrested in the current anti-segregation demonstrations at Northwood which began March 15.

William Swink, father of the 6-year-old child, agreed to drop the charge and so did Miss Evans.

Mr. Watts told Magistrate Dashner that he had talked to Miss Evans and Mr. Swink and that the "prosecuting witnesses do not wish to testify."

Mr. Swink indicated that the settlement was agreeable to him "as long as I can go in and sit down and have no more incidents."

The Northeastern courtroom, which has 72 seats, was filled for the 4 P.M. hearing. Some spectators stood, with a number of policemen, along the walls. Most of the spectators were Negroes, well-dressed and quiet, who began taking seats in the room about a half hour before the hearing began.

After the hearing Mr. Watts explained his reason for requesting a jury trial for the four defendants. He said:

"Our major premise is that even if the Hecht Company has the right to keep people out because of their race, as the law is now constituted, the State is prohibited under the Fourteenth Amendment [of the United States Constitution] to use its power to arrest through the Police Department, and its subsequent power of conviction, to aid the private individual in his private discrimination. . . .

Mr. Watts said he believed the case demonstrated a denial of due process and equal protection under the law, as guaranteed by the Fourteenth Amendment.

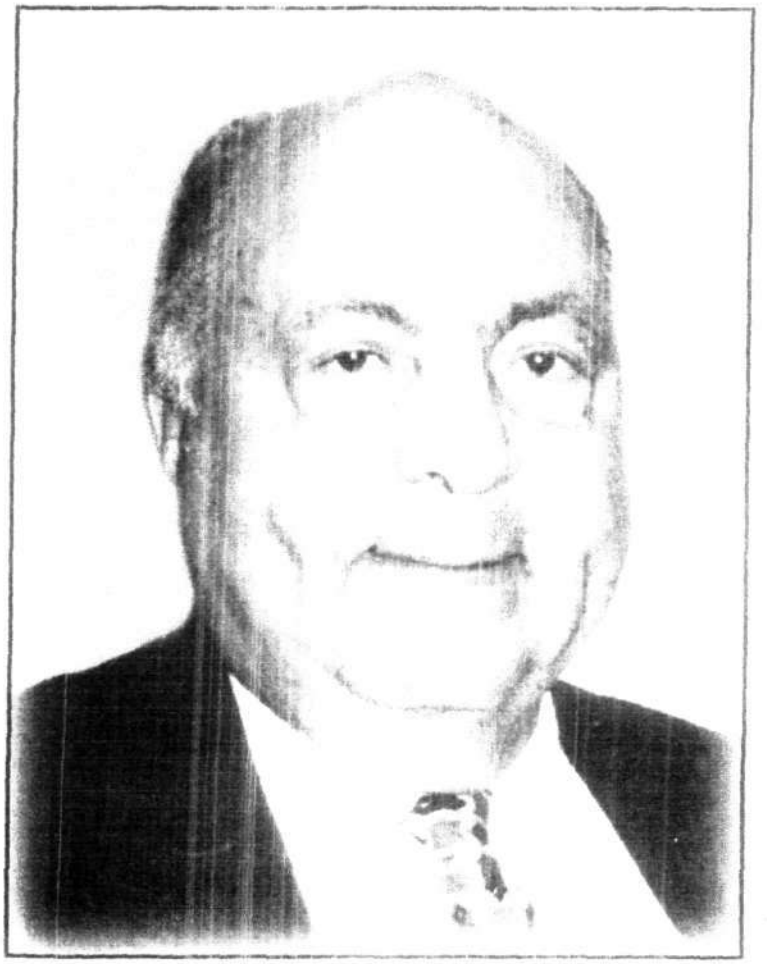
The attorney said he thought the Northwood case was analogous to the Shelly vs. Kramer case before the United States Supreme Court, which decided that even though a private contract is legal, a State is forbidden to enforce those terms of the contract which are contrary to the Constitution.

Mr. Watts said the Supreme Court case, called the Covenant Case, involved an attempt to expel a Negro from a housing development.

The Sun. Sunday, March 27, 1960
pages 40 and 35

Exhibit 36

Celebration of Life



Judge Robert Bernard Watts, Sr.

March 14, 1922 — October 8, 1998

Monday, October 12, 1998

Visitation 6:00-7:30 p.m. — Mass 7:30 p.m.

Cathedral of Mary Our Queen Roman Catholic Church

5600 North Charles Street • Baltimore, Maryland 21210

Father Richard E. Lawrence, Officiating

Obituary

ROBERT BERNARD WATTS, SR., was born in Baltimore, Maryland on March 4, 1922, to Lucille Brown and Heber Watts. He peacefully departed this life on Thursday, October 8, 1998.

Judge Watts was a devout Catholic and was a volunteer Judge of the Court of Equity for the Archdiocese of the City of Baltimore. Formerly a member of St. Peter Claver, Our Lady of Lourdes and All Saints parishes. He recently became a member of the Cathedral of Mary Our Queen.

He graduated with honors from Morgan State College in 1943, and served in the Army from which he was Honorably Discharged in 1945 as a Sergeant. He earned a law degree from the University of Maryland in 1949 where he was editor of the *Maryland Law Review*. That same year he, together with the late W. Emerson Brown, Jr. and Milton B. Allen, formed the first major Black law firm in Baltimore.

Judge Watts was at the center of the Civil Rights Movement in the State of Maryland. He began his civil rights work as chairman of the NAACP Youth Chapter at Morgan State College. His chapter, with 200 members, was the largest in the country at the time. Because of his outstanding work, the NAACP sent him to his first national convention in Atlanta, Georgia, in 1942, where he met the late Justice Thurgood Marshall with whom he worked for fifteen years on various civil rights cases. With many other prominent civil rights leaders, he succeeded in desegregating numerous theaters, restaurants, department stores, hotels and the Gwynn Oak Amusement Park.

He was the first African-American appointed to the Municipal Court, was defeated in 1962, but was reappointed by Governor J. Millard Tawes in 1963. He won a full ten year term in 1966. In 1968, he was appointed by Governor Spiro T. Agnew to the Supreme Bench of Baltimore City, the predecessor of the Circuit Court, where he served until he retired in 1985 at age sixty-eight.

He was the first judge in Maryland to open hundreds of adoption records, reuniting many grateful families. He also taught Family Law as an adjunct professor at the University of Maryland School of Law where he often related court room stories and humor.

After his retirement from the Bench, Judge Watts joined the law firm of Russell and Thompson, P.A. On October 1, 1986, the firm merged with Piper and Marbury, where he was appointed Of Counsel, a respected position usually reserved for a firm's elder statesman. He also worked for the firm as a mediator and arbitrator and was appointed a Master in Chancery to the Circuit Court of Baltimore. Judge Watts placed a strong emphasis on pro bono work and two to three times per month he faithfully heard Legal Aid divorces. He also found the time to handle numerous other cases pro bono. In 1997, he was presented the Benjamin L. Cardin Pro Bono

Exhibit 37

Dynamics of Student Sit-Ins

Dr. August Meier stated *"Many date the 'Negro Revolt' from the Montgomery Bus Boycott of 1955—and the significant of this event cannot be overemphasized. Yet it seems to me that the truly decisive break with the past came with the college sit-ins that began spontaneously at Greensboro in 1960. These sit-ins involved, for the first time, the employment of nonviolent direct action on a massive Southwide scale that led to thousands of arrests and elicited the participation of tens of thousand people. Moreover, a period was inaugurated in which youth were to become the spearhead of the civil rights struggle. And this is still the case—for it has been the youth who have been the chief dynamic force in compelling the established civil rights organizations to revamp their strategy, which they found it imperative to do to retain their leadership in the movement."*(Meier, August A White Scholar and the Black Community 1945-1965 "New Currents in the Civil Rights Movement" page 167).

"Many believe that the Montgomery boycott ushered in this [the] Negro Revolt, and the importance of that event in projecting the images of [Martin Luther] King and nonviolent direct action cannot be overestimated. But the really decisive break with the pre-eminence of legalistic techniques came with the college student sit-ins that swept the South in Spring of 1960. In scores of communities in the upper South, the Atlantic coastal states and Texas

students secured the desegregation of lunch counters in drug and variety stores. Arrests were numbered in the thousands, and police brutality was only too evident in scores of communities. In the Deep South the campaign ended in failure, even in instances where hundreds were arrested, as at Montgomery, Alabama, Orangeburg, South Carolina, and Baton Rouge, Louisiana. But the youth captured the imagination of the black community and to a remarkable extent of the whole nation. The civil rights movement would never be the same again. The Southern college student sit-ins set in motion waves of events that shook the power structure of the black community...." (Meier, August and Elliott Rudwick From Plantation to Ghetto, page 257).

"Ralph McGill, long a believer—in the face of bitter attack by segregationists—in the deliberate processes of law to effect an equalitarian society, did not immediately endorse the sit-ins. But by the time he wrote his book, the South and the Southerner, he had come to a blunt conclusion: *'The sit-ins were, without question, productive of the most changes...No argument in a court of law could have dramatized the immorality and irrationality of such a custom as did the sit-ins...The sit-ins reached far out into the back country. They inspired adult men and women, fathers, mothers, grandmothers, aunts and uncles, to support the young students in the cities. Not even the Supreme Court decision on the schools in 1954 had done this...The central moral problem was enlarged.'* (Zinn, Howard SNCC Student Nonviolent Coordinating Committee, The New Abolitionists, pages 27-28).

"The sit-ins took the established Negro organizations by surprise. The NAACP had a large membership in the Southern states, had handled thousands of legal cases there, and was a long-established center for Negroes wanting to share their dissatisfactions. But it had not carried on any widespread campaigns of direct action in the South...." (Zinn, SNCC, page 29).

Murphy.

Boston students aid King, sitdown

By STEVE W. DUNCAN

NEW YORK — Three Harvard University students [illegible] day night told of a movement formed in the Greater Boston area to financially aid southern college students arrested in non - violent sit-in demonstrations.

The organization called EPIC (Emergency Public Integration Committee) was formed last week by students at Harvard, Boston University, Massachusetts Institute of Technology and Brandeis University.

Disclosure of the organization was made at a meeting of the Committee to Defend Martin Luther King Jr.

* * *

THE ORGANIZATION to defend the Rev. Dr. King and the struggle for freedom in the South was formed after the leader of the Montgomery bus boycott was indicted for perjury in Alabama.

Folk singer Harry Belafonte, co - chairman of the cultural subcommittee of the Martin Luther King Defense Committee, will appear at an EPIC fund raising rally in Boston in April.

Proceeds from this rally will be turned over to the King Committee to be funneled to the southern, students protest movement.

Actor Sidney Poitier Monday night was named co - chairman to serve with Mr. Belafonte on the cultural subcommittee, composed of a number of well known entertainment personalities.

* * *

THE MAJOR fund raising effort of this subcommittee will be a mammoth civil rights rally, "A Night of Stars," in New York on May 17, the anniversary of the Supreme Court school desegregation decision.

Mr. Belafonte reported that on May 17 a group of prominent citizens will make a pilgrimage to the Stature of Liberty to place a wreath, symbolizing the southern freedom struggle.

he said.

"The richest nation on earth has stooped so low in its moral position until it leaves the Supreme Court standing alone," Dr. Johnson declared.

"Congress may adjourn without supporting it and the President may keep his mouth shut, but God sees all."

Listeners shouted, "Amen."

* * *

DR. JOHNSON called student demonstrators "soldiers of love looking at the generation around them," working through non - violent resistance to destroy a system of degradation.

"If your son becomes one of them, get down on your knees and thank God," he said.

The student move is for "life.

[illegible] being. The Lowrys have received at least 30 threatening telephone calls since the non-violence resistance to lunch counters segregation began in Fla.

Rev. Lowry who lives at 900 N. Delaware, Tampa, Fla., is dean of the Florida West Coast Baptist Assn.

With Rev. Theodore R. Gibson and the Rev. Edward T. Graham, Miami, Fla. ministers and NAACP leaders in Miami, the Rev. Mr. Lowry was called before the Florida committee in Nov. 1959.

The committee demanded a [illegible] the Florida State [illegible] when it reconvenes in 1961.

Action against the Rev. Mr. Lowry differs from the other two NAACP leaders because he refused to wait longer than the one day last November when he had been scheduled to testify.

He said that the press of church business did not permit him to wait around for the committee to call him after protracted delays by the committee.

The other two ministers refused to divulge membership lists while on the stand as witnesses.

language was directed against Mrs. Walker, her name having appeared in the newspapers the day before, concerning negotiations with the Woolworth store.

Friends stood guard at the Walker home the remainder of the night. The following day, the request was made for police protection.

* * *

THE ENTIRE 11-man library delegation was convicted and sentenced to fines, at a Municipal Court hearing which attracted 1000 prayer and hymn service participants at the courthouse building.

overruled these questions.

* * *

AT ONE TIME, the judge said:

"I'm going to repeat, I'm not concerned with the question of integration or segregation, or civil rights. For 19 people to invade a library and take over was an open invitation to mob violence.

"It was a spark that could have set off trouble."

H. T. Lockard, one of the defense staff, objected to the judge's use of the phrase 'taking over the library.'

Judge Boushe replied: "Well, for 200 years the libraries have been segregated and we're not going to have many more in

students in the South.

The elder statesman is quoted from Louisville, Ky., last weekend as saying: "If anyone came to my store and sat down I'd throw him out. Private business has its own rights and can do what it wants."

As we view the [illegible] demonstrations [illegible] are exerting moral [illegible] pressure on an [illegible] pattern which should have been dead nearly a hundred years.

THEIR GHANDI-LIKE [illegible] has certainly [illegible] the imagination of fellow [illegible]

students in front of a Woolworth [illegible] left to a brief [illegible] battle with magnolia-minded fellow students who don't seem to realize their [illegible] frame of reference.

* * *

WE KNOW Mr. Truman's [illegible]

His [illegible] administration is credited with initiating many of the civil rights advances we take for granted today.

FIRST INCIDENT—Student demonstrators are shown leaving Northeastern Police District as the first incident occurred in the week-old segregation protest movement in Baltimore. Second from right is Joseph Daschbach, manager of the Hecht Roof Top Restaurant at Northwood. He was accused of shoving Miss Bernice Evans (wearing hat) a student. Trial has been postponed until March 26. Five students have been charged.

Nation's press opinions on sit-in demonstrations

Here are reactions of some of the nation's daily papers to the wave of sit-down demonstrations against [illegible] lunch counters.

POST DISPATCH, ST. LOUIS:

"It is a little unfair [illegible] to ask that the leaders of the sit-downs call off their demonstrations. If any [illegible] wants to be comfortable the way to do it is to remove the [illegible] cause for the demonstrations.

THE STAR, WASHINGTON, D.C.

We think the [illegible]

NEWS AND COURIER, CHARLESTON, S.C.

[illegible] colored college students [illegible] to be on the road to [illegible]

THE POST, DENVER, COLO.

"And, after all what is so proper or gentlemanly about segregation or group discrimination of any type for that matter."

MORNING NEWS, WILMINGTON, DEL.

"The American Negro's [illegible] against [illegible] racial injustice is one of the most remarkable [illegible] in history."

THE JOURNAL, WINSTON-SALEM, N.C.

"For the present, at least, the fourth course of action: closing counters which provide seats for customers — may be the wisest. Those store managers who choose to provide eating facilities would then serve all customers standing up."

THE BANNER, NASHVILLE, TENN.

There is no place in Nashville for [illegible] white or colored — under whatever [illegible] of mass disorder [illegible] of strife-breeding [illegible]

COMMERCIAL APPEAL, MEMPHIS

"Any claim that the demonstrations are planned to be 'non-violent' is specious.

THE NEWS, DETROIT

"It is obvious now to everyone that the Southern Negro, and particularly the rising generation, does not approve of the vaunted Southern 'way of life.' He does not now want to be a second-class citizen, no matter what the Uncle Toms of the past wanted."

ADVERTISER, MONTGOMERY, ALA.

"The Negroes are as misled by King, Abernathy and [illegible] as were the slaves by promises of 40 acres and a mule."

Greensboro Four

February 2, 1960

Student-organized sit-ins like the February 1960 protest at Woolworth's lunch c North Carolina, offered young men and women with no special skills or resource

their discontent and raise white awareness. Protestors were encouraged to dres: occupy every other stool so potential white sympathizers could join in. The succ in led to a rash of student campaigns all across the South. By the end of 1960 tl every southern and border state and even to Nevada, Illinois, and Ohio. Demon: on lunch counters but on parks, beaches, libraries, theaters, museums, and othe were arrested, student demonstrators made "jail-no-bail" pledges to call attenti reverse the cost of protest (putting the financial burden of jail space and food o

The Original Four - 1960

Jibreel Khazan (**Ezell Blair Jr.**) - One of the original four who took part in the W Greensboro native, he graduated from Dudley High School and received a B.S. Carolina A&T State University in 1963. While a student at A&T, Khazan was pre: the student government association, the campus NAACP and the Greensboro Cc He attended law school at Howard University for almost a year. He became a m Islamic Center in 1968 and took on his present name.

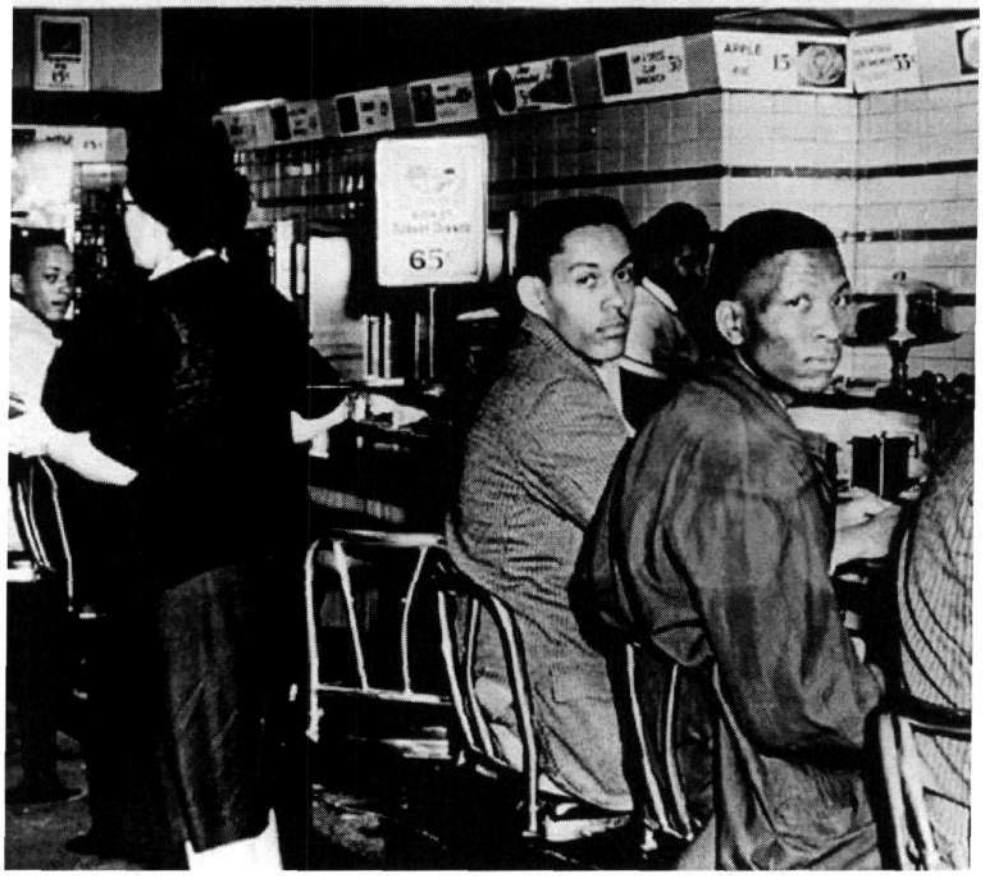
Franklin Eugene McCain - One of the original four who took part in the Woolw in Union County, and reared in Washington, D.C. He graduated from Eastern Hi He received a B.S. degree in chemistry and biology from North Carolina A&T St While he was an A&T student, he roomed with David Richmond -- another of th participants -- and around the corner from Ezell Blair Jr. and Joseph McNeil on t Hall. He joined the Celanese Corporation in Charlotte in 1965 as a chemist and office in Shelby, while continuing to live in Charlotte. He is married to the forme three sons.

Joseph Alfred McNeil - One of the original four taking part in the Woolworth s native, he graduated from Williston Senior High School. McNeil earned a degree from North Carolina A&T State University in 1963. His roommate at Scott Hall o another sit-in participant, Ezell Blair Jr. McNeil spent six years as a U.S. Air Forc rank of captain. He is now a major general in the Air Force Reserves. He worke IBM, as a commercial banker for Bankers Trust in New York City, and as a stock Fayetteville. He now resides in Hempstead, N.Y. He is married to the former Ina five children.

David Leinail Richmond - One of the original four, taking part in the Woolwor Greensboro and graduated from Dudley High School. At A&T, he majored in bus accounting. After leaving A&T, he became a counselor-coordinator for the CETA He lived in the mountain community of Franklin for nine years, then returned tc of his parents and work as a housekeeping porter for Greensboro Health Care C Greensboro Chamber of Commerce awarded him the Levi Coffin Award for "leac human relations, and human resources development in Greensboro." He was m and has two children with Yvonne Bryson. His son, Chip Richmond, was a starte Wake Forest University. Richmond died of lung cancer on Dec. 7, 1990. He was awarded him a posthumous honorary doctorate degree.

For additional information about the Greensboro 4 and other sit-ins for Civil Rig Sitins.

RAF02020h-2/2/60-GREENSBORO,N.C: A group of Negro students
lina A&T College,who were refused service at a luncheon cou
for white customers, staged a sit-down strike at the F.W.Wo
Greensboro 2/2. Ronald Martin, Robert Patterson and Mark Ma
as they stayed seated throughout the day. The white woman s
the counter for lunch but decided not to sit down. U



Greensboro sit-ins

From Wikipedia, the free encyclopedia
(Redirected from Greensboro Four)

The **Greensboro sit-ins** were an instrumental action in the African-American Civil Rights Movement, leading to increased national sentiment at a crucial period in American history.

Lunch Counter from Greensboro, North Carolina Woolworth's now at Smithsonian Institution

Contents

About

On February 1, 1960, four African American students, Ezell A. Blair Jr. (now known as Jibreel Khazan), David Richmond, Joseph McNeil, and Franklin McCain from North Carolina Agricultural and Technical College, an all black college, sat down at a segregated lunch counter in the Greensboro, North Carolina Woolworth's store. This lunch counter was not open to all. Although they were refused service, they were allowed to stay at the counter, sparking off sit-ins and economic boycotts that were a landmark of the American civil rights movement.

These 4 students followed Martin Luther King's idea of peaceful protest. The first sit in caused the lunch counter to close early and the students were treated as idols in the movement by their college. The very next day there was a total of 24 students at the Woolworth lunch counter for the sit in. In just two months the sit-in movement spread to 54 cities in 9 states. By July of 1960, the original four protesters were served lunch at the same Woolworth's counter. The lunch counter was now open to all after losing hundreds of thousands of dollars. Other stores, like in Atlanta, moved to desegregate. The media picked up this issue and spread it nationwide. Sit-ins were effective throughout the South in integrating other public facilities until the Civil Rights Act of 1964. In 1993, the lunch counter was donated to the Smithsonian Institution. The Greensboro Historical Museum contains 4 chairs from the Woolworth counter along with photos of the original 4 protestors, a timeline of the events, and headlines from the media. This sit-in inspired all the others during and after the Civil Rights Movement.

Several documentaries have been produced about these men who sparked the sit in movement, including PBS' "Februrary One" [1] (http://www.pbs.org/independentlens/februaryone/).

Success of Greensboro Sit-Ins

The sit-ins began in 1960 at Greensboro, North Carolina. This particular sit-in started various manners of emotions then, as well as now. The Greensboro sit-ins play a huge role in the history of the civil rights movement. Eisenhower once wished that changed in the South would not be forced by the courts

in Washington, but would come from the hearts of the people. These sit-ins hardened the white segregationists' attitudes in the South. The Greensboro sit-ins did have some positive outcomes. The city of Atlanta, which is mostly associated with Martin Luther King Jr., desegregated after the sit-in. Then in July 1960, the Woolworth store in Greensboro finally agreed to desegregate its food counter, since $200,000 dollars of business was lost. The students who participated in the Greensboro's sit-ins valued the coverage by television and press that it received so they tried to further their action. To do this they created the Student Non-violent Co-ordinating Committee (SNCC). The first leader was Marion Barry. The Student Non-violent Co-ordinating Committee joined the other three major civil rights movements that were in the South. The other three major civil rights movements were led by people of older generations, especially the NAACP. The NAACP never aided with sit-ins cross the country probably due to the older and different generations involved. Although the NAACP lacked support for the sit-ins, over 70,000 people still participated in them. The sit-in supporters even traveled to the North to participate in events in Alabama and Ohio. They even traveled to a western state, Nevada, to participate in sit-ins. These sit-ins protested against segregated lunch counters, transport facilities, art galleries, beaches, parks, swimming pools, libraries, and even museums. To this day, those students who participated in the sit-ins across the nation can say that they played a huge role in the history of the civil rights movements.

http://www.core-online.org/History/sit_ins.htm
http://www.historylearningsite.co.uk/greensboro_1960.htm
http://www.greensborohistory.org/exhibits/exhibits_sitins.html

See also

- Nashville ins
- American Civil Rights Movement
- American Civil Rights Movement line
- F.W. Woolworth Company
- Friendship onehundred

External links

- Timeline of the Greensboro Sit-Ins (http://www.crmvet.org/tim/timhis60.htm)
- "February One" documentary on PBS (http://www.pbs.org/independentlens/februaryone/)
- [2] (http://www.historylearningsite.co.uk/greensboro_1960.htm)
- [3] (http://afroamhistory.about.com/od/sitins/a/sitins.htm)
- [4] (http://www.greensborohistory.org/exhibits/exhibits_sitins.html)
- [5] (http://www.sitins.com/story.shtml)

Retrieved from "http://en.wikipedia.org/wiki/Greensboro_sit-ins"

Categories: History of African-American civil rights | History of North Carolina | 1960 in the United States | Local civil rights history | United States politics stubs

Greensboro Historical Museum

Return to Exhibits

The Greensboro Sit-ins

This student protest began on February 1, 1960, when four NC A&T freshmen shown in the mural photograph sat down at the downtown Woolworth lunch counter and tried to order something to eat and drink. They were told that people of their race had to stand up at another counter to eat. The young men stayed until the store closed, and students returned to sit-in the next day. This peaceful protest continued for nearly six months. Similar protests sprang up across the South. In July 1960, three local stores changed their policies to allow integrated counters that served people regardless of race or color. The successful protest did change local custom, but legal change, both locally and nationally, came with the Civil Rights Act of 1964 and the Voting Rights Act of 1965. The four original protesters were Ezell Blair, Jr., Franklin McCain, Joseph McNeil, and David Richmond. The museum exhibit features four of the seats from the 1960 Woolworth lunch counter and a detailed time line, along with reproduction photographs and newspaper headlines.

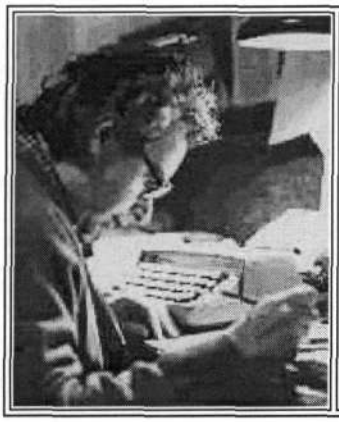
Links to related sites

The Greensboro Historical Museum is a facility of the City of Greensboro, North Carolina.
Thank you for visiting our web site.

ChickenBones: A Journal

for Literary & Artistic African-American Themes

Home



from A Prophetic Minority (1966)

Books on Carmichael and Black Power

Ready for Revolution: The Life and Struggles of Stokely Carmichael (Kwame Ture) / Black-Power:The Poli Liberation

Stokely Speaks: From Black Power to Pan-Africanism

* * * * *

Beginning

[Students Sit-In in Greensboro]

By Jack Newfield

There is nothing so powerful in all the world as an idea whose time has come.

--Victor Hugo

What defines the radical possibilities, today as yesterday, is not a style of thought, or an

intellectual trend. it is people in movement.

--Michael Harrington

Day-to-day life for the Southern Negro in the winter of 1960 was little different than it had been before, or five years before.

The pace of public-school desegregation was still proceeding at 1 percent per year, which meant compliance with brown v. Board of education would be achieved, "with all deliberate speed," by 20 were still more than forty counties in the South where not a single Negro was registered to vote, a than twenty counties where white registration exceeded 100 percent. Negroes were still denied the use the same lunch counters, motels, theaters, and public toilets as whites.

The White Citizens' Councils, founded in Mississippi in1954, were growing rapidly. the lync Emmett Till and Mack Charles Parker were still unsolved. Negro cotton-choppers were still p dollars a day in the Mississippi delta. Negro youth unemployment in cities like Birmingham and Atl as high as 30 percent.

The 381-day Montgomery bus boycott; the federally enforced integration of Little Rock's Central I eviction of Negro tenant farmers in Fayette County, Tennessee, for trying to vote were simply a pr the epic drama about to unfold.

What happened in Greensboro, North Carolina, on February 1st, went unreported in *The New Yo* the next day, but it had the effect of the Boston Tea Party. It was the single spark that was to i conscience of white America and the hope of black America.

The four freshmen from a Jim crow college who sat-in that day in Greensboro's downto Woolworth could hardly sense the historic significance of their deed. No one, not John Kenne starting his bid for the Presidency, not Martin Luther King, then a Moses without a movement, no Wallace, then running for governor of Alabama, could know that a simple plea for a cup of coffee v into motion a chain of events whose final meaning, six years later, is still shrouded beyond th history.

On Sunday night, January 31st, four freshmen at all-Negro North Carolina Agricultural and T College, in Greensboro, relaxed in a dorm in Scott Hall, discussing the problem. Ezell Blair, Jr., cha the Student Committee for Justice, was one of them. the other three were David Richmond, seve Greensboro; Franklin McCain, eighteen, of Washington, D.C.; and Joseph McNeill, sever Wilmington, North Carolina.

The quartet, according to Blair, "spent a lot of time discussing the segregated situations we were ex . . . It just didn't seem right that we would have to walk two miles to town, buy notebook p toothpaste in a national chain store, and then not be able to get a bite to eat and a cup of coff counter."

On Sunday night the same dehumanizing experiences were being recited again when Joe exclaimed, "well, we've talked about it long enough. let's do something."

The four decided to "do something" the next day. They told no one of their decision.

At about 4;45 p.m. on February 1st, the four freshmen entered the F.W. Woolworth Company

North Elm street in the heart of the city. each of them purchased a tube of toothpaste and then sat the lunch counter.

A Negro woman working in the kitchen rushed over tot hem and said, "You know you're not suppos in here." Later the woman called the four "ignorant" and a "disgrace to their race."

The students requested four cups of coffee from the white waitress.

"I'm sorry but we don't serve colored here," she informed them politely.

Franklin McCain responded, "I beg your pardon, but you just served me at the counter two feet aw: is it that you serve me at that counter, and deny me at another? Why not stop serving me a counters?"

A few minutes later the manager of the store told the youths, "I'm sorry but we can't serve you bec not the local custom."

The four young Negroes remained at the counter, coffeeless, until 5;30 p.m., when the store closed.

The next day, Tuesday, February 2nd, sixteen other North Carolina A and T undergraduates joined pioneers at the lunch counter. they were all denied service, and returned on Wednesday, fifty including Negro high-school students from Dudley High and a few white co-eds from Women's C Greensboro.

By Friday, February 5th, the integrated group had grown so large that some of them sat-in at an S.l store, one block away. they, too, were refused service. On Friday, a large group of white high-schoc in black leather jackets, carrying Confederate flags, began to heckle the students.

The confrontation was repeated on Saturday afternoon, when several hundred students, many Bibles and all well dressed, sat-in and were surrounded by taunting white teen-agers.

At about 3 p.m. the management of Woolworth received a bomb threat, and the tense police used th pretext for emptying the store of both demonstrators and hecklers.

The students then marched to the Kress store. The manager met them in the doorway and shout store is closed, as of now."

The students cheered, feeling they had won a victory. "It's all over," they shouted. But it had re began. An idea's time had come.

The next week there were spontaneous sit-in demonstrations in many parts of North Carolina--l Raleigh, Charlotte, Winston-Salem, High Point, Salisbury, and Concord. By Wednesday, February movement had spilled over the border into Rock Hill and Orangeburg, in South Carolina. In Roc Negro boy was knocked off a stool by a white teenager, and ammonia was hurled through the d drugstore, bringing tears to the eyes of the students.

The sit-ins next swept into Hampton, Richmond, and Portsmouth, in Virginia. the first arrests February 12th in Raleigh, North Carolina, where forty-three students, including several whites, we on charges of trespassing.

Twelve days after Greensboro, forty students, including John Lewis, future chairman of SNCC, Woolworth's in Nashville, during a snowstorm. On February 27th, seventy-six people sat-in in N Lighted cigarettes were jabbed at the necks of several girls by segregationist hecklers. A white stud Vanderbilt University was dragged off his stool and pummeled. Paul LePrad, a Negro studen University, was pulled from his stool by a white adult and punched in the mouth. he got up and back on his stool. By the end of the day all seventy-six had been jailed.

In Orangeburg, South Carolina, students at Claffin College and nearby South Carolina State held a workshops and seminars in nonviolence. On March 14th in Orangeburg, lunch counters were reope a month's closing, and seven hundred students marched nonviolently downtown. Police met them w gas bombs and fire hoses. Dozens were knocked off their feet and slammed against walls by high hoses that tore the bark off tree stumps.

More than 500 were arrested, and 350 of them were locked into an eight-feet-high chicken coop be jails were full. The next day *The New York Times* carried a front-page picture of the 350 huddli chicken-coop stockade, in subfreezing temperatures--singing "God Bless America."

By the first anniversary of the Greensboro sit-in, the NAACP reported it had paid for the legal d seventeen hundred demonstrators during the intervening year. According to Howard Zinn, in *Abolitionists*, more than 50,000 people participated in some kind of civil rights protest in the twelv after Greensboro, and "over 3600 demonstrators spent time in jail."

It is impossible to overestimate the impact of those first, hardly noticed sit-ins. Harold Flemming, director of the Southern Regional Council in 1960, said recently, "Just as the Supreme Court deci the legal turning point, the sit-ins were the psychological turning point in race relations in the South

Ralph McGill, the beacon of Atlanta liberalism, did not at first support the sit-in movement. But a f later, in his book, *The South and the Southerner*, he wrote

> The sit-ins were, without question, productive of the most change. . . . No argument in a court of law could have dramatized the immorality and irrationality of such a custom as did the sit-in. . . . The sit-ins reached far out into the back country. They inspired adult men and women, fathers, mothers, grandmothers, aunts and uncles, to support the young students in the cities. Not even the Supreme Court decision on schools in 1954 had done this. . . .

The sit-in technique was not invented in Greensboro. the Gandhi-influenced Congress of Racial (CORE) had used it successfully in Chicago, in 1942, and again in St. Louis, in 1949.

Greensboro was not a particularly backward city in terms of race relations. its public schools dese voluntarily in 1955, and both daily newspapers were to come out against lunch-counter segregatio the sit-ins began.

It all seemed to be the caprice of history that the spontaneous sit-in on February 1st in Greensbor give off sparks that showered the South, igniting local protests in sixty-five communities in twel within six weeks. Perhaps the Greensboro sit-in was merely the catalyst that needed to be add existing chemicals of the 1954 school desegregation decision, the Montgomery bus boycott, emerging nations of Africa, in order to liberate the damned-up rivers of idealism, energy, and cou cascaded through the South those first weeks of 1960.

Source: Jack Newfield. A Prophetic Minority. New York: The New American Library, 1966.

Home

Related files: Amite County Beginning Kish Mir Tuchas Black Power A Tribute to Kwame Toure/Stokely Carmichael DuBois Malcolm King Forum Lynching Index

Uhuru Hotep's Kwame Ture

Exhibit 38

Date: March 21, 2007
Time: Approximately 1pm to 3:15pm
Place: Baltimore City Community College, Professor Walter Dean's office
Who interviewed: Professor Walter Dean

Information shared:

1) Professor Walter Dean is presently a professor at the Baltimore City Community College on Liberty Rd.

2) In 1960, the time he was arrested for his protesting actions, he was the editor of Morgan State College's newspaper.

3) He was the first to be arrested, because he was the head of the newspaper and had volunteered to get arrested when the students had planned the incident. Then three others also volunteered.

4) Discussions on the spring protests occurred in the winter, starting early February.

5) Students viewed the stores on the defensive side of the debate and the students were on the offensive side

6) "Baltimore was more open to it than other places." – referring to protesting and fighting for change, starting in the early 1950s.

7) The protests were not for integration, like so many people think, it was for desegregation. They (the students) did not want to sit with White persons and eat, they wanted the ability to sit down and be served.

8) The students wanted "…to go where they want[ed] to go and eat where they want[ed] to eat"

9) It was "…all about having the right to go where you want to go, because you are a citizen of the United States."

10) The students originally met in the Student Government Office, but then Morgan was under pressure to not condone the protestors' behavior and not give them support. After that, students were not permitted to organize protests on campus, but they did it anyway.

11) Although the President openly opposed the protestors' behavior, he secretly aided them. He would still check-in and ask how the plans were going and even supply the students with paper for their flyers and the use of copiers.

12) Some teachers threatened to fail students out of fear for their jobs. The teachers noted that protesting was not an excuse for missing class.

13) Before the Greensboro incident, students would picket outside the restaurant and would not hold sit-ins in which they would remain seated.

14) A lot of whites supported the students' actions. A lot of them even visited his office to voice their support. Some of those were Goucher students and Goucher's student newspaper also helped.

15) Families that knew tended to give support. Mr. Dean's family supported him. Many Morgan students were not from the area, and so their parents initially may not have been aware or/and able to provide support.

16) Although other places served blacks, for example, places in predominantly black neighborhoods, Morgan was in a predominately white middle-class neighborhood and facilities that would serve the students were a considerable distance away. The students would need a car to get to other places for recreation and many did not have cars. Those who did have cars would have bricks thrown at them as they drove through the community.

17) The hostility received by the community was so great, that the students found a back street/alley way and began to use that to get to Morgan, just to try and avoid some of the hostility.

18) A lot of those who picketed were Veterans and in Europe, they tended not to experience the same sense of racism as they did in America.

19) Attorney Robert Watts, who later became Judge Watts was an NAACP legal official who constantly offered help to protestors. The NAACP provided free legal counsel to the protestors.

20) Protests were not held year-round, but every spring. The beginning of the year, students would meet and plan and then implement in the spring, 4-6 weeks later.

21) One reason Hecht's may have settled with attorney Robert Watts was because the store was a major chain that did not like publicity, and they were arresting middle class students, so there would be publicity on the issue.

22) Several churches supported the students and even provided funding for bail. The churches included Rev. Miller's Church on Edmonson Ave., a church on Druid Ave., a church on Sharp Street and another on Reisterstown. Road. Meetings were also held at these churches regarding the protests.

23) Because of all the publicity given to Northwood and the arrests that were made, more students joined the protest and it was the catalyst for a city-wide movement. Soon high school students were also joining in. Goucher College and Hopkins Graduate School also joined in. Northwood is what pushed so many others to get involved and demand change.

24) The students did not mind that the Greensboro students got so much recognition and were stated as holding the first student-organized sit-ins. The Morgan students were happy for them and inspired by them. After the news broke out on those four students in early February, CIG began its plans for four Morgan students to get arrested and started requesting volunteers. This was a big deal because no one had been arrested before.

25) Some places in Maryland did serve blacks, although they did not necessarily publicly disclose it. This was especially true for businesses located in predominately black neighborhoods. Before 1955, Professor Dean was served at Arundel's Ice Cream on Edmonson Ave.

26) In 1960, after the arrest, Mr. Dean received an awarded from the NAACP for his efforts with the protests and the sit-in. Mr. Dean balled it up in front of all of those present, because he fully recalled not too long before that when the NAACP did not support the protestors. The NAACP did not support the protestors until the issues started making so many headlines.

Exhibit 39

Date: March 28, 2007
Time: Approximately 4:00pm to 5:00pm
Place: Clinic Center at the University of Maryland School of Law
Who: Reverend Douglas Sands

Information provided:

1) In 1952 at Morgan hazing occurred and was aimed at the freshmen. The freshmen did not even have doors for their rooms and were not allowed out of the dormitories after 9:30pm. To avoid the hazing, a few students would request from the Dean of Men or Dean of Women to go down to the Medical Center where Read's Drug Store was located on the corner of Loch Raven Blvd. and Cold Spring Lane and protest against the store's policy not to serve African-Americans

2) The students wanted to see something made right, but they did not expect victories. They new that things had to change, so they were not s focused on an ultimate resolution made through heir protests.

3) The students involved soon increased and the protests moved to Northwood, and occurred daily. At Read's the students were unable to accommodate the growing amount of student protestors and so that is why they decided to move on and target Northwood.

4) Because classes were staggered, the students could go a protest and then leave for a class and then return.

5) The protests brought about a very organized campus life. There were approximately 1200-1400 students and everyone had an opportunity to get involved, every club had at least one representative at the protests. There was even a committee of 100, which involved the representatives from all the clubs.

6) Police had to read each student the trespass act and then ask if each understood before the students had to vacate. Some students would change outfits with in hours and return unrecognized. Some times Reverend Sands would wear his ROTC uniform, along with other ROTC protestors, but then after he had the act read to him, he would leave, go change, and come back to have it read right back over to him. Some students would return to class if they had classes scheduled.

7) Not only was there a threat to cut the college budget, the college budget was actually cut. Some of the White owners also gave money to the schools and so Morgan was under serious pressure to not openly support the students.

8) The adult population, including the NAACP did not support the students' behavior because of the time period. Adults were not accustomed to seeing the students act like that.

9) However starting in 1960, when arrests were being made against the protestors, the NAACP became more involved and would provide legal advice. Attorney Robert Watts would advice the students on how to carry on their protests in the 1960s.

10) Newspapers, including the Afro-American had to be careful about what they printed. To get funds to print, they had to depend on several persons that they did not want to upset.

11) The students felt that they were not able to bring about change in their hometown, but with the great number of student support at Morgan, they knew they could make it change there.

12) The neighborhood was very hostile towards the students. Community members would throw bottles at the students and spit on them; however, these were not foreign experiences. The students were accustomed to these actions when they attend previous schools, such as high school.

13) In the 1960s, Reverend Sands jointed the Maryland Commission of Interracial Problems and Relations and provided ideas to communities on how that could improve certain racial issues.

Exhibit 40

The Baltimore NAACP during

The Civil Rights Movement,

1958-1963

By

T. Anthony Gass

Thesis submitted to the Faculty of the School of Graduate Studies
of Morgan State University in partial fulfillment
of the requirements for the degree of
Master of Arts
2001

discrimination rudely impose itself into their lives. As a result, these students decided to channel their anger into action and began in the early 1950s to informally protest against segregated facilities at the Northwood Plaza, which was literally across the street from the campus.[94]

Interestingly, though the NAACP had provided a means for students to become involved in civil rights activities in the forties, the students did not turn to the NAACP when protests against the Northwood stores began to take on a more organized form. Interaction with the branch only began to pick up during the late 1950s. During the interim the students worked with the Baltimore chapter of CORE. Officially formed in 1953 under Dr. Herbert Kelman, a white pacifist and psychiatrist at Johns Hopkins University, CORE attracted both black and white members, including Morgan State students. The involvement of these students was considered most important and proved to be beneficial to both groups. One thing that connected these initial members of CORE was their commitment to non-violent direct action.[95]

In 1953, Baltimore CORE and Morgan students combined and undertook a campaign to desegregate public accommodations in Baltimore, attacking on two separate fronts. The students concentrated on the Northwood area around the campus, because of its proximity and its immediate effects on their daily lives. The adult CORE members took on the department stores in the downtown area, since it would be difficult for students to maintain a steady presence there because of the distance from the campus. Palumbos

[94] Ibid, 73-74.
[95] August Meier and Elliott Rudwick, CORE: A Study in the Civil Rights Movement, 1942-1968 (New York: Oxford University Press, 1973), 57; Horn, 75-76.

notes that this separation of interests, despite common strategies and goals, marked the beginning of underlying differences between student and adult activists that initially manifested itself in geographic terms, but would develop into a tense rivalry for credit and publicity in later years.[96]

Using interracial teams, the adult CORE members tested several lunch counters in the downtown area in January 1953 and were denied access. At the downtown Kresge's, CORE's letter of protest reached the national management office in Detroit. The management assured the protestors that the Kresge's would serve them and a second test proved this was so. It was the first integrated lunch counter in Baltimore and scored CORE its first victory. Emboldened by this, CORE used the Kresge's letter as a bargaining tool, causing other stores such as Woolworth's to integrate as well. Stores that proved to be more resistant, such as Grant's and McCrory's, were subjected to sit-in protests. McCrory's capitulated in October 1953. Grant's, which took longer because of the hard stance of the manager, finally fell on April 27,1954.[97]

After the Grant's victory, the adult members joined the Morgan CORE students in May 1954, (the same month of the national NAACP's victory in *Brown v. Board of Education at Topeka)*, in a campaign against Read's drugstore, a locally owned chain. This joint venture proved successful. While students held sit-ins at the Northwood branch of Read's once a week, managing to attract thirty or more students at a time, CORE adults entered into negotiations with Read's management. This dual approach resulted in Read's desegregating its stores in January 1955. The cooperation between

---

[96] Palumbos, 9-10; Horn, 77.
[97] Horn, 78-83; Meier and Rudwick, 57.

students and adults had proved highly effective, but the coalition was short-lived. Adult CORE members then announced a campaign to integrate higher quality restaurants while the students continued to concentrate on the Northwood area. It was the final separation between Morgan student activists and CORE adults, and foreshadowed tensions and rivalries that developed later in the movement.[98]

The next protest campaigns that Morgan State students embarked on was independent of both the NAACP and CORE. The Baltimore NAACP at that time was heavily involved in desegregating county schools throughout Maryland to bring them into compliance with the Supreme Court's desegregation orders and was also initiating efforts to integrate Baltimore area beaches, parks, and swimming pools. This may be one possible reason why the Baltimore NAACP was not directly involved with the Morgan students at this time. Meanwhile, CORE was beginning to become busy with its own attempts to integrate White Coffee Pot restaurants and activities during "All Nations Day," an annual cultural celebration at Gwynn Oak Park.[99]

The Morgan students' target in Spring 1955 was the Northwood Movie Theater, one of the anchor establishments in the Northwood shopping center. Despite the integration of other stores around it, the Theater remained segregated because its owners believed that integrating would drive away white patrons, thereby severely disrupting their business. The Theater had been the site of informal protests by students in the early 50s. However, this time the students began to make a more organized effort. Some students

---

[98] Ibid, 83-86; Palumbos, 11-12.
[99] Mitchell, OH 8095, 55-59; Horn, 86-88. Horn notes that these two campaigns would cause CORE substantial frustration for the next several years.

believed the Northwood Theater would fall in line with integration as others had. Unfortunately, they found out first-hand that the owners of the Theater were formidable opponents who steadfastly refused to integrate despite the protest of hundreds of students. The Theater situation would not be completely resolved until years later. Despite the resistance, these protests were significant because they took place almost five years before the celebrated Greensboro sit-ins in February 1960 and a couple of months before the Montgomery bus boycott.[100]

The Northwood Theater protests affected two major changes in the student movement, with positive consequences on the later Baltimore movement. The first was the creation of the Civic Interest Group (CIG) in 1955. The formation of this organization was a necessity in order to carry the movement forward. The students initially worked through the Social Action Committee of the student government, which in turn represented the student body, and therefore, the College itself. This put Morgan State in a vulnerable position because it received state funds; political pressure could be brought to bear against the College. To avoid putting Morgan State in a compromising position, Douglas Sands, Student Council president-elect, and other student leaders formed the Civic Interest Group. The creation of CIG served to both release Morgan State from a potentially difficult position and afford the students the opportunity to be more independent in their actions without being held under the control of the administration. The formation of CIG marked the beginning of an organization that would be the main vehicle for student activists from Morgan State and other colleges. It would soon become

---

[100] Palumbos, 15-18; Horn, 88-96. For eyewitness reporting on the Northwood Theater protests, see Baltimore *Afro-American* (Five Star Edition), 30 April 1955; (Late City Edition), May 7, 14, 21, 28, 1955.

a highly effective direct-action organization that instituted important changes in Baltimore and throughout Maryland.[101]

A second positive result of the 1955 protest was the fact that Morgan students for the first time began to solicit student support from other campuses, most notably Johns Hopkins. Some students at Hopkins were themselves beginning to awaken to the issue of racial discrimination. Activities of Morgan State students and incidents of racism experienced by African American students who attended Hopkins helped to raise their awareness. Tony Adona, a Hopkins sophomore who later became an important leader in CIG, joined the Northwood protests in 1955. Johns Hopkins gradually proved to be an important recruitment center for CIG activities.[102]

Between 1955 and 1959, most of the contact between Morgan State student activists and the Baltimore NAACP occurred through indirect channels. Robert B. Watts, one of several legal advisors for the Baltimore branch, served as counsel for the students in their sit-in protests against the Theater. Although Mr. Watts could be said to represent the NAACP, there were no overt pledges of support on the part of the branch.[103] More direct efforts to aid the student protests did not come from the Baltimore NAACP until the spring 1960 demonstrations. By the beginning of the 1960s the Civic Interest Group had been conducting campaigns against segregated facilities at Northwood every spring since 1955, with the momentum growing and larger numbers of students participating every year. The usual target was the Northwood Theater, which still refused to integrate,

---

[101] Palumbos, 16-18; Horn, 92-94.
[102] Palumbos, 19-28.
[103] Palumbos, 15; Baltimore *Afro-American* (Late City Edition), 21 May 1955, 24; Logan interview, 14 May 2001.

and the Rooftop Dining Room of the Hecht-May Company department store. Although demonstrations against the Theater and the Rooftop Restaurant proved unsuccessful in 1958 and 1959, the students were able to integrate the Arundel Ice Cream store in 1959.[104]

Though the Greensboro sit-ins sparked immediate protests in other cities, CIG began their demonstrations at Northwood in mid-March, when they were originally scheduled each year. This clearly illustrates the fact that had not the Greensboro sit-in protest occurred, CIG would have still proceeded with its own campaign, demonstrating how influential local events rather than national ones were on the students' decision to continue their efforts. However, the Greensboro sit-in did create an atmosphere of excitement and enthusiasm for sit-in demonstrations, and the result was greater student participation in CIG protests and more direct support from adults and established civil rights organizations. Besides the Baltimore NAACP, the Baltimore Urban League, the Interdenominational Ministerial Alliance, the YWCA, CORE, and other organizations pledged moral and financial support, and local black churches both organized picket lines in support of students and raised necessary funds for student use.[105]

The response of the Baltimore NAACP to student requests for support reflected some of the same ambivalence demonstrated by the National Office. Robert Watts noted that Lillie Jackson basically disagreed with direct action tactics, finding them disruptive.

---

[104] Meier, 120; Palumbos, 28-29; Baltimore *Afro-American* (Late City Edition), 28 March 1959, 1, 3; Logan interview, 14 May 2001. Horn also points out that the students were also able to desegregate a chain of seven downtown theaters in 1958. Horn, 95.

[105] Palumbos, 33-35; Meier, 120; Logan interview, 14 May 2001; Baltimore *Afro-American* (Late City Edition), 26 March, 2 April 1960; (Five Star Edition), 29 March 1960, 1.

Nonetheless, she pledged both financial and legal assistance to the students. The Baltimore NAACP provided bail for those students arrested and retained Robert Watts to serve as the lead attorney for a battery of NAACP lawyers.[106] A "Mother's Committee," officially known as the Women's Public Service Committee of the Baltimore NAACP Student Sitdowners Fund, was organized to raise needed funds for student use. Catherine Adams, wife of prominent physician Dr. Maurice Adams, chaired the Committee. In June 1960, the Committee began a fund-raising drive that sought to raise $1,000 for student expenses.[107]

The funds raised by the Baltimore branch proved to be crucial in the weeks following the beginning of the spring campaign, which began on March 15. In response to continued protests business dropped at an alarming rate and the Hecht-May Company, owners of the Rooftop Restaurant, sought and received a court injunction against the students. Judge Joseph Allen effectively cut the number of protestors in front of the Rooftop from hundreds of students to two. Looking to recover from this setback, CIG decided to take their protests downtown to the major department stores that discriminated against African Americans, including a Hecht-May store. The injunction forced CIG leaders to move protests to an area that had previously proved difficult because of the distance from campus. This time, however, students were able to overcome these

---

[106] Baltimore *Afro-American* (Late City edition), 26 March 1960; Watts, OH 8102, 6.
[107] Logan interview, 14 May 2001; Baltimore *Afro-American* (Late City Edition), March 26, June 25, 28, July 2, 9, 1960; Watts, OH 8102, 16; Mitchell, OH 8183, 3. This committee later came under the purview of the CIG Adult Assistance Committee because Logan said whoever controlled the funds dictated the direction and actions of those in whose name the money was held.

logistical problems because the Baltimore NAACP used funds to charter buses to carry students downtown.[108]

Ironically, the issuing of the injunction and the forced relocation of the protest campaign proved to be a blessing in disguise for CIG. Targeting four major downtown department stores—Hutzler's, Stewart's, Hecht-May, and Hochschild-Kohn—the students integrated all four stores within three weeks of the start of their protest on March 26. Hochschild-Kohn was prepared for their coming and integrated immediately. The other three proved to be more obdurate, but the key was Hutzler's, the largest department store. If Hutzler's integrated then the other two would follow its lead. The students received substantial support from ministers who organized a picket line downtown on Palm Saturday, April 9, in support of the student sit-ins. Edward J. Odom, national church secretary of the NAACP, organized the picket protests. This is just one example of support for the students by the National Office. After three weeks of sit-ins and picket lines that severely disrupted business, Albert Hutzler called a meeting with CIG leaders on April 16 to discuss integrating. After Hutzler's integrated Stewart's and Hecht-May followed suit. The Baltimore NAACP maintained a presence in the negotiations through the participation of Robert Watts. Dr. Furman Templeton and David Glenn, both of the Baltimore Urban League, participated in the negotiations as well.[109]

---

[108] Meier, 121-122; Palumbos, 34-35; Horn, 96-97; Logan interview, 14 May 2011; Baltimore *Afro-American* (Late City Edition), 2 April 1960, 1. In an ironic twist, it was the Hecht-May Company, through the executive director of the Baltimore Urban League, who suggested that the students protest downtown. See Meier, 122.

[109] Meier, 121-124; Baltimore *Afro-American* (Late City Edition), April 2, 9, 16, 23, 1960, (Five Star Edition), March 29, April 5, 12, 19, 1960.

Exhibit 41

The Sun Dec 10, 1957 p 36

ECEMBER 10, 1957

RULE CATES ATES

ench Holds 3 Cities related

DELICH
or of The Sun]
States Supreme
y complicated
gle for a lower
ron ore to the
he court direct-
te Commerce
pen the entire

ion arises from
ment that the
ladelphia, New
ore are so inter-
he commission
them together
ther look at the

e Court ruling
1953 when Phila-
tained an equal
rt iron ore to
s west of Pitts-

e Helped
the Philadelphia
, the Supreme
ed Baltimore's
rate case. This
when the court
fork now should
ual rates.
vorable rulings
e offset by
ement that the
free to recon-
action upon the
ules" later and
CC should con-

Arthur B. Price, 72, Ex-Council Head, Dies

Arthur B. Price, former president of the City Council and long a leader in the real estate and entertainment businesses in Baltimore, died unexpectedly yesterday. He was 72 years old.

Mr. Price, a Democrat, was first elected as a Third district councilman by the Council itself in 1944, when he replaced George Fallon on Mr. Fallon's election to the House of Representatives.

In 1951 he ran for president of the Council, was elected and served four years. A constant opponent of the D'Alesandro administration, he ran unsuccessfully for mayor in the 1955 Democratic primary.

Was Sole Owner

He was sole owner of A. B. Price Enterprises, an organization engaged in real estate dealings and operation of a group of theaters and Gwynn Oak amusement park.

Although he disposed of his theater interests in 1947 with the advent of television, and his sons had taken over operation of Gwynn Oak Park, Mr. Price was active in real estate until his death.

He also was an ardent sports

ARTHUR B. PRICE

fan until his death. He had attended the races at Pimlico Saturday, and a son said he was "disappointed along with the rest of us" after watching the Colts lose their football game Sunday.

Mr. Price was born in Baltimore September 30, 1885, the

(Continued, Page 19, Column 1)

NEW POLICE CUT SEEN IN COUNTY

Force, Held Low Already, Expected To Drop Anew

By EDGAR L. FEINGOLD

Baltimore county's under- police force is expected

SINAI HOSPITAL DRIVE OPENED

Business Community Asked To Give $3,000,000

A campaign to raise $3,000,000 from the Baltimore business community for the new Sinai

ROBINSO HITS JURY 'TAP' PRO

Grand Jurors' R Called "Shocking Law Sponsor

The grand jury report investigation of illegal w ping by Baltimore police "shocking example of pa of government," Delega rome Robinson (D., Four timore) charged last ni

"It is regrettable that violations of the law whitewashed in this fa he said.

The grand jury ann yesterday that it was enc probe after finding that wiretapping by police h curred, but that it would no indictments because s tion would drag the na innocent citizens into co

"Public policy . . . p that wiretapping be surr with the utmost secrecy requires that innocent be protected . . . " th jury reported.

"Captious And Speci

To this, Mr. Robin plied: "One must assu either the grand jury fully aware of the purp intent of the law or it w advised. . . . Any att justify the report on t of the intention of the Assembly is both capt

tate
lite
hey
dis-
tro-
the
ocu-
the

Mr.
my
that
that
ent's
the
be
ness,
key,
bout
era-

ater-
our
d in
y to
im-
in
had
ma-
ered
ober-
rock-
effi-

vs.

lional
ccent
a De-
r—if
had
the
night
way
s, for
cated
times
it un-
ds
npor-
geo-
r be-

(Continued from Page 30)

son of Frank and Florence Price. He attended public schools and Baltimore City College.

Years after going into business for himself he achieved distinction when he won his law degree from the University of Baltimore.

Mr. Price's first job was as an office boy at the Pattison-Ramsay Company, at Locust Point, from 1903 to 1905. From 1905 to 1907 he was a clerk with the banking firm of Robert Taylor & Co. For three years after that he was assistant office manager with Consolidated Film and Supply Company.

It was in 1910 that he made his first venture into the entertainment business as manager of the Blue Mouse and Alcazar theaters. In 1914 he became manager and part owner of a chain of Baltimore movie houses.

In Business For Self

Since 1919 he had been in business for himself. He was owner and operator of a group of theaters here, then branched out in 1931 when he built the Lakewood swimming pool. Five years after that he took over management and operation of Gwynn Oak Park under lease from the Baltimore Transit Company.

He purchased the park outright from the transit company in 1943.

As a young man, Mr. Price served two enlistments in Company M, of the 5th Regiment, Maryland National Guard, from 1906 to 1912. He ran on the track team of the regiment, and also played baseball.

He was a Methodist—his family has held a pew in Mount Vernon Methodist Church for five generations.

Married In 1910

Mr. Price was married in 1910 to Miss Mary Elizabeth Cockrill. Mrs. Price survives him, living at their home at 3909 North Charles street.

He was a member of the Elks, the Masons and the Shriners, and was treasurer of the old Baltimore Athletic Club. One of the offices of which he was proudest was his regional vice presidency of the Allied Theater Owners of America, in

Samuel P. Howe, 78-year-old retired steel executive and long-time Philadelphia resident, died at his home in the Warrington Apartments on Sunday.

Mr. Howe moved to Baltimore about a month ago from the Pine Valley (N.J.) Golf Club, where he was a very active member. He was president of the Camden (N.J.) Forge Company until his retirement in 1949.

Born in New York city, he graduated from Brooklyn Polytechnical School and graduated as a mechanical engineer in 1902 from Cornell University, where he was a member of the professional society of Sigma Psi.

Led To Fluid Drive

In the mid-thirties, Mr. Howe experimented with a centrifugal clutch which later was developed, by others, into fluid drive.

Mr. Howe and his wife lived in Philadelphia from 1902 to 1957.

Besides his wife, Anna Elliot Howe, he is survived by a daughter, Mrs. Robert Stinson, of Baltimore, and a son, Samuel P. Howe, Jr., of Haverford, Pa.

Funeral services and burial will be private.

Funeral Services Set For Mrs. Addie Kratz

Funeral services for Mrs. Addie Kratz, active in the women's sufferage movement and in Maryland Democratic politics, will be held at 2 P.M. today at Witzke Funeral establishment, 4101 Edmondson avenue. Burial will follow in Western Cemetery.

Mrs. Kratz died Tuesday at a home in Catonsville after an illness of four years. She was 86.

Born in Montgomery county, Mrs. Kratz spent most of her life in Baltimore. She was a candidate for the Democratic State Central Committee, highest local party office, in 1921 and 1923.

She is survived by a daughter, Mrs. Edmund B. Fox, two sons, Elmer N. Kratz and Alton L. Kratz, six grandchildren and seven great-grandchildren.

Dog Mishap Kills Girl

Arapahoe, Wyo., Dec. 9 (AP)—Kay Miller, 13-year-old Arapahoe girl, was killed yesterday when a dog jumped against a .300 Magnum rifle which dis-

Exhibit 42

Sitdowners Want To Discuss Issue

'59 clothes, '60 dignity' force counter shutdown

LITTLE ROCK — A group of demonstrators wearing protest badges forced the closing, Tuesday, of a lunch counter at a downtown variety store.

The badges worn by the group, believed to have been students at Philander Smith College, read:

"I am wearing 1959 clothes with 1960 dignity. I refuse to patronize segregated stores."

Students unable to make contact

BY HAMILTON SIMS
WASHINGTON

A local couple just back from a month's tour of Southern lunch counter sit-ins says the most frequent question students asked them was how they could better communicate with the whites.

"In many places this was the main concern," said Clay Marks, who along with his wife Trudi, was recalling their annual tour of ten colleges campuses in Virginia, North Carolina and South Carolina.

"We ourselves were asked by some of the leaders to talk in their behalf to the white leadership. Many of the students desire but are unable to make this contact."

* * *

THE MARKSES, who reside at 1129 Eighth St., NW, visited sit-in scenes at Richmond and Petersburg, Va.; Durham, High Point, Greensboro and Chapel Hill, N.C.; and Rock Hill, Columbia, Beaufort and Orangeburg, S.C.

Nowhere did they find any indication that the movement, which now includes schools all over the south, would soon end. To the contrary, "support is still impressively high." In many most cases, they said, there is practically no animosity toward the whites.

"In fact," said Marks, "They even pray for them."

The Markses are kind of full-time campaigners. Since 1943 the pair has been actively involved with the Committee on Racial Equality (CORE), the group that prompted current demonstrations nearly three months ago.

Travels have taken them across the country, where they have taken part in every kind of protest from sit-ins to round-table discussions. Whatever the anatomy of social action, the Markses' are seasoned practitioners.

* * *

THEIR LATEST TRIP South was to observe the sit-ins and, where needed, to advise students involved.

"Most of the leaders are new to social action," explained Marks. "Often they don't know all the implications of what they are doing. Their strong point has been their surprising enthusiasm and willingness to continue, no matter what the cost. They are even willing to go to jail for their rights."

There is a conspicuous lack of desire to "get even," he said. The impression was that the students, confident of victory, felt a sincere pity for the white communities, which through no fault of their own are afflicted with the disease of prejudice.

"The movement appears to be growing," Marks said. "Whether it will end in great improvement or great damage to race relations depends on the wisdom, skill and spirit the colored leadership can develop."

Marks, who is writing a book on prejudice and other symptoms of America's "social disease," makes a full-time job of helping human relations.

He first became involved in the unusual occupation during the Depression years, when widespread destitution haunted the country.

"We're all a part of the human family," he philosophizes. "If a man's family gets hurt, naturally he wants to help out."

He lives with his wife, a teacher at Georgetown Day School, in a modest house in Northwest.

His book is "not as an appeal to anybody — it's a do-it-yourself manual on interracial and interfaith cooperation. I've attempted to translate for the layman the technical language of social sciences."

He has borrowed from such areas as cultural anthropology, group dynamics, research methodology, and social psychology. He thinks human relations should be taught in schools.

ADVISED STUDENTS — Mr. and Mrs. Clay Marks, 1129 Eighth St., NW, are just back from a month's tour of Southern lunch counter demonstrations, where they advised student leaders on techniques of protest and other aspects of social action effort. The Markses are members of the Committee on Racial Equality (CORE), chief group in current movement.

IN THE NATION'S CAPITAL

'60 rights measure seen as compromise

By LOUIS LAUTIER
For the NNPA News Service

The Civil Rights Act of 1960, in the form in which it passed the Senate and will be finally signed by President Eisenhower, is neither the toothless measure that some persons picture it to be nor the strong measure other persons would like to have had enacted.

Keenest disappointment with it lies in the omission from it of two proposals:

1. Authority for the Attorney General to bring civil suits to enjoin violations of constitutional rights other than the right to vote. (The right to vote is protected in the 1957 Civil Rights Act.)

2. Provision for technical, financial and administrative aid to school districts to change over from segregated to desegregated schools.

The proposal to give the Attorney General authority to sue to compel desegregation of schools is highly desirable. The Eisenhower Administration sponsored such a proposal in 1957, but the Senate killed it.

* * *

THIS YEAR Atty. Gen. William P. Rogers doubted whether legislation requiring the Federal Government to bring civil suits — in addition to voting rights cases — would result in greater progress in the civil rights field.

Mr. Rogers seemed to feel that school desegregation was moving fast enough without the intervention of the Federal Government.

A MODERATE program of Federal aid for school desegregation, recommended by the Administration was kept out of the bill.

Also rejected was the Administration's proposal that statutory authority be given to the President's Committee on Government Contracts, which seeks to wipe out racial discrimination in employment on Government contracts.

Despite these omissions, the 1960 Civil Rights Act has some merit.

1. IT MAKES obstruction of any Federal court order a Federal offense. Originally, this section was intended to apply only to obstruction of court orders in school desegregation cases.

The Attorney General wanted it to use in situations like the occurrence in Little Rock, Ark., in 1957 when a mob prevented nine little colored children from entering Central High School there under Federal court order.

The Senate broadened the section to make it applicable to obstruction of any court order.

* * *

2. THE ACT makes flight to avoid prosecution for bombing any building or other property a Federal offense. The Senate also broadened this provision to make illegal transportation, use or possession of explosives a Federal offense.

3. It requires the preservation of voting records for two years and gives the Attorney General authority to inspect such records in voting rights cases.

4. The voting referee provision is the heart of the bill. It is intended to give every qualified person the right to vote and have that vote counted.

World indignation at S. African program shown by nation's press

WASHINGTON

The civilized world's indignation at the brutality and harshly repressive measures visited upon the natives of South Africa found the following expression in the press of the nation during the past week:

N.Y. HERALD TRIBUNE

"If it was obvious that the harsh injustice of the South African government must sooner or later exhaust the stoic patience of the non-whites of the Union, nothing can mitigate the appalling tragedy of events there.

"The massacres — they are no less — of defenseless and downtrodden human beings must stand strongly condemned by international opinion.

"The struggle for racial equality has dominated the last decade. Everywhere, the African (or the Asian) has wrested from the old masters the minimum of human parity, if nothing more.

"Everywhere, that is, but South Africa.

"There, the last ten years have witnessed increased repression and, indeed, practical enslavement.

"For the United States, this carries a pointed moral, which the State Department's unusual denunciation of the massacres underlines. We may be thankful for the foresight and concern which has made possible the substantial advances of the non-whites of our own country.

"But we have not been moving fast enough.

"If we need a reminder, we have only to look at the examples of mob violence [illegible] of recent days in the lunch-rooms of the South.

"It is no use pretending that there are not a good many white Americans who would feel at home in South Africa."

NEW YORK TIMES

"The continuing reports that natives of Capetown are being forced back to work by police use of 'clubs, whips and guns' are not only shocking in themselves, but indicative of one of the basic weaknesses in South Africa's hopeless program of apartheid.

"Doubtless the Government, having clubs, whips and guns, will win out; but the victory can be only temporary for no one yet has learned how to rap permanently an active, seething volcano.

"Apartheid is an economic as well as a moral absurdity; in its stubborn attempt to go ahead with it the Verwoerd Government is moving steadily down a dead-end street."

THE POST, Denver

"Fusillades from sub-machine guns against unarmed Africans in the Union cannot help but lengthen the odds against Africa's winning the true fruits of freedom in our time."

THE NEW COURIER, Charleston, S.C.

"The selection of stories in The New York Times and other influential journals put South Africa in a very bad light. The sharp protests of domestic agitation groups like the Congress for Racial Equality were given a big build-up. The plight of the white South Africans, threatened by creeping barbarism, was ignored."

THE EXAMINER, Los Angeles

"Quite understandably, a large number of Americans would prefer to see this country kept out of other nations' affairs. So would we, as a general rule.

"But it is both the duty and the penalty of our country's position in the world to affirm our leadership when the occasion demands."

THE MORNING NEWS, Wilmington, Del.

"The Union of South Africa is the only country in the world as far as we know, that is trying not only to stop the movement for better treatment of an oppressed race in a halt, but also to turn the clock back to the more repressive practices of an earlier era."

THE POST, Washington, D.C.

"The cause is a persisting fear on the part of the white minority, particularly the Afrikaners — fear of economic competition, of loss of advantage, of racial admixture, even of revenge for past wrongs. This is a common human emotion, and one that through history sometimes has brought appalling denials of human dignity.

"No country or people is immune. A very similar emotion figures in the difficulties in the South of the United States — with the distinction that here it is the policy of the Federal Government to eliminate racial discrimination."

MEMBERS OF THE Newark Branch NAACP last Saturday continued its intensive picketing campaign against the F. W. Woolworth Company store at busy Broad and Market Sts. with the cooperation of CORE and union officials. Demonstrators passed out leaflets urging persons to withhold patronage from the firm until its southern lunch counters are desegregated.

MINISTERS MARCHING for justice appeared on Baltimore streets Saturday as they demonstrated their support of Morgan State College students who have picketed Stewart's, Hecht-May and Hutzler's Department stores because they refuse to serve colored in their restaurants. Reading from head of the picket line to the left are the Rev. Maxwell Johnson of Ebenezer Baptist; the Rev. Ward D. Yerby, Perkins Square Baptist; the Rev. A. J. Payne, Enon Baptist; the Rev. Marcus Wood, Providence Baptist, and the Rev. E. J. Odom, national church secretary of the NAACP.

Ministers join line downtown

BALTIMORE

"It's a disgrace to Baltimore when ministers have to do this to get a right we take for granted."

This statement came from an elderly white shopper as he watched 30 ministers walk the picket line, Saturday.

The ministers, representing an estimated 20,000 members were demonstrating against three downtown department stores. They joined college students who have staged such demonstrations for a month.

Along with 100 students of the Civic Interest Group, the ministers staged a two-hour demonstration at these three stores:

Hecht - May Co., Stewart's Co., and Hutzler's. These stores still have a white-only policy in their restaurants, and at the lunch counters.

* * *

THE REV. E. J. Odom, church secretary, national NAACP, organized and led the demonstrators.

Commenting on the ministers' support of the young students, the Rev. Mr. Odom said:

"The students have shown an unusual amount of courage in this fight for equality, and we would be guilty of neglect if we failed to support them.

"We cannot preach brotherhood of man and fatherhood of God, then sit idly by while our youth carry on this struggle.

"It is not their fight alone. It belongs to all America. And we, as ministers, must not fail them."

* * *

AS THEY silently walked picket lines at the entrances of the stores, the clergymen carried signs reading:

"Brotherhood Begins Here," "Ministers Support Students," "Ministers Support—Human Dignity," "Discrimination is Unchristian and Immoral," "Segregation is Evil."

Amid the throng of Easter shoppers, spectators stopped, read signs and stared.

A group of high school students, standing at the main entrance of Hecht - May, wondered aloud why the students and ministers couldn't be served.

During the protest, the restaurant at Hutzler was closed.

The management has insisted that as long as the policy remains as it is, whenever colored persons demand service in the dining room, it will be closed.

They insist that until the return from vacation of the president, Albert D. Hutzler Jr., no decision can be made on a policy change. The president is reportedly due at his desk next Monday.

* * *

AT STEWART'S, for the first time, students were met at the entrance of the restaurant by attendants. They manned the roped - off doorway.

Demonstrators were unable to enter the dining area.

The restaurant remained opened and continued to serve while only. Spokesmen at the store refused to comment in the absence of president J. C. Greenlith.

This technique has been used by Hecht - May Co. throughout the demonstrations. And as usual, it was being used Saturday. Service here was also continued.

J. Frank Eichelberger, operations manager, who controls policy making at Hecht-May, said he is not at liberty to comment on the situation.

Asked if there were any truth to a rumor of policy in the near future, the manager quipped:

"When it happens, I'll call you."

The non-violent way

By James M. Lawson, Jr.

(The author of this article is a young Methodist minister, southern secretary of the Fellowship of Reconciliation, a leader in the current sit-down movement and the Southwide integration movement. The Southern Patriot asked Mr. Lawson to explain the philosophy of non-violent resistance which guides the protesters.)

WASHINGTON

Many people call the passivity of the colored race "non-violence."

But nothing could be further from the truth.

As the present sit - ins demonstrate, genuine non-violence is active and dynamic.

Others call the well-fought and won legal battles "non-violence." But the court cases, merely define a moral issue in legal terms.

The more crucial issue in the hearts and minds of the masses is left largely untouched by the legal decision.

This explains why we have many court victories, but often only token integration.

* * *

STILL OTHERS say that the colored man has always been non - violent. Certainly the colored man has never taken up arms against the segregated society.

But it is necessary to point out how much violence the colored man has turned on upon himself.

In other words, instead of turning his ill - will, hatred and vindictiveness against the white man, he has often come to hate himself.

He has developed an inverted violence, a depreciated and rejected selfhood.

How else explain the gay but brutal weekends which curse the average colored community?

* * *

CHRISTIAN non - violence has a wholly other character from these misconceptions.

On the other hand, it is a basic religious faith that God operates in human history, that evil can be transformed only by good, that love must remain love even in the presence of hatred, that forgiveness must prevail as the only mode of retaliation;

And that it is better to suffer obediently before God than to inflict suffering upon others, that evil is not met successfully with evil, but only with radical good, the weapons of God Himself.

Such a faith is common in all the great religions of the world. From Mo Ti of ancient China through the prophets and Jesus such a faith has been expounded, often died for, but rarely taken seriously by the mass of us.

ON THE other hand, non-violence in the religious technique for encouraging and fomenting social change.

It is a method rooted in the faith mentioned above.

It is the ethical meaning of that faith, the practical relevance of the Gospel to every man's ordinary life.

It is the social means to fulfill the social goals of the Kingdom.

It is the demand of God upon those who would be the citizens of His Kingdom both today and tomorrow.

* * *

AS A technique every non-violent strategy is determined and shaped by the essential faith, Love, the Cross, the gracious work of God both in the past and now.

Thus expediency is always ruled out.

The pure technique loses out to the faith in action, to the resistance in love which retains a quality of creativity throughout the social process. Means and ends become one and the same thing.

* * *

PAUL LAPRAD, one of Nashville's finest non - violent warriors, manifests the action which stems from faith.

During a recent sit - in, he was hauled off a lunch counter stool by a group of white men, beaten, kicked and clubbered over the head.

As his assailants left, he stood up, brushed himself off and returned to his seat.

Such an act requires the faith and hope given by God alone. It is analogous to what the entire ministry and life of Jesus proclaim. This is non violence.

[illegible]

'Lid is off' in Petersburg as sitdowns imperil all jim crow

By CHESTER M. HAMPTON
AFRO Staff Correspondent

PETERSBURG, Va. — The lid is off here in Petersburg and there are ample indications that, especially after this weekend, the lid will be off in a host of communities all over the country.

Petersburg citizens, led by the Rev. Wyatt Tee Walker, have expanded the basic sit-down pattern (the local target was the public library) to oppose segregation in all its forms.

In the works already are a federal court suit to desegregate the library facilities, a boycott of downtown stores which discriminate and recurrent sitdowns at several lunch counters.

To come soon are Federal suits to desegregate courtrooms, schools and the municipal golf course.

* * *

THE REV. MR. WALKER is president of the Petersburg Improvement Association. He said that colored citizens will conduct a "door-by-door, block-by-block, store-by-store" boycott campaign against offending stores.

"This," he explained, "is an attempt to bring the full power of colored buying strength to achieve one goal."

* * *

A SIMILAR expansion of the non-violent protest movement is expected to spread over the nation next week, after this week's meeting, in Raleigh, N.C., of scores of student leaders from all over the South.

Their meeting is sponsored by the Southern Christian Leadership Conference, of which Dr. Martin Luther King Jr. is president.

Most of the students attending have been involved in sit-downs at segregated lunch counters. Some of them, however, have already staged sit-downs at other public facilities — notably libraries and art galleries.

The students meet with the warming knowledge that they have succeeded in corralling the almost-unanimous support of their various communities.

* * *

WHEN THE students went into the lunchrooms and to the picket lines they went with the full approval of colored citizens. This is proved by the fact that whenever the students were arrested — no matter how many of them there were or how high the bond had been set — responsible colored citizens came forth with thousands of ready cash dollars to free them.

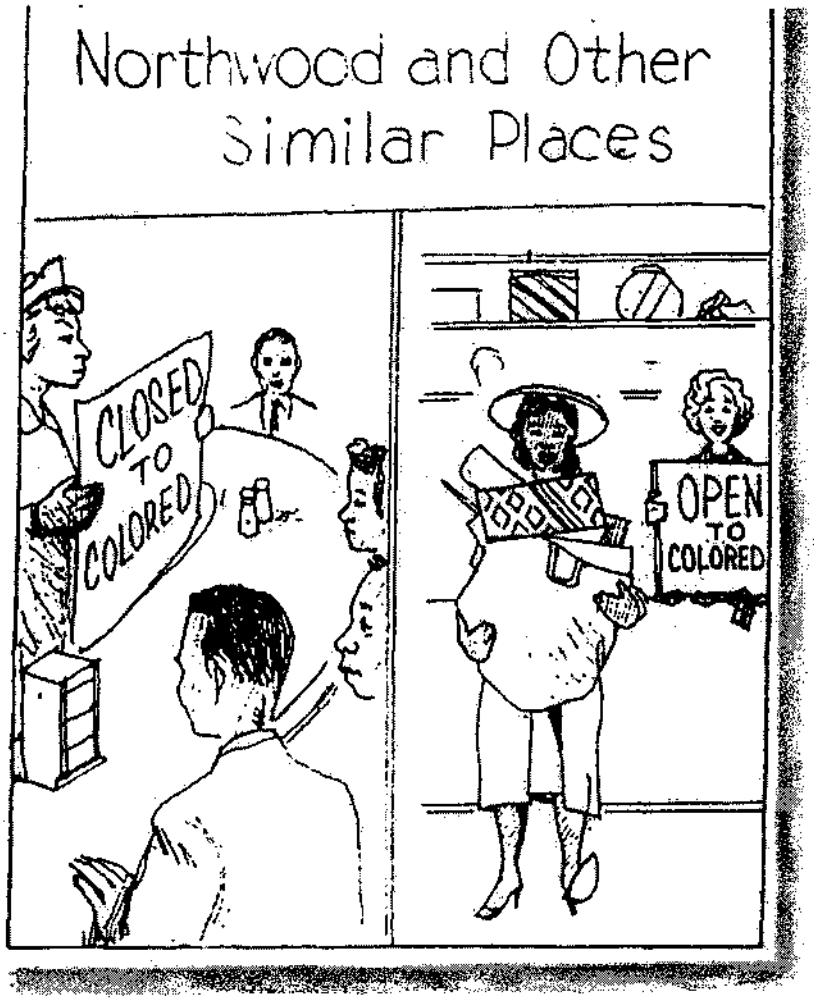
When the students were fined thousands of dollars more were immediately available from the professional men, teachers, business men and housewives of the community.

Thus, the boycotts started simply because their young people were being abused, arrested, insulted, spat upon, jailed and branded with court records, the colored community has used their massive economic strength in another way — the boycott.

* * *

IN RICHMOND, for example, the entire responsible colored community joined Virginia Union University students on the picket line. They prompted the failing of an expensive Thalhimer's store by launching a relentless boycott.

In Richmond, you weren't in style unless you carried a picket sign in front of an offending downtown store and this year had last year's clothes and prepared for the Easter Parade by donning all last year's chapeau.



This drawing, printed in the Baltimore Afro-American, *April 19, 1960, comments ironically on the contradiction between the department stores' courtship of black consumers and their simultaneous exclusion of blacks from lunch-counters. Courtesy of the Afro-American Newspapers Archives and Research Center.*

Fr
Kc
M
"F
ing
all
co
all
ma
be
tio
no
soi
th
tic
of
Ac
So

paranoia extended even to self-consc
of the Urban League, a "very active
tion cause," confessed to him that
Hamburger's, an upper-class men's st
ly discriminate, "'I have a feeling wh
I know have been tried on by a bla
the Baltimore NAACP fought state
1943, the repeal bill was sent to
"Hygiene Committee" (where it
rather than its Judiciary Committee.

Where white consumers saw segr

Sit-in Hutzler's Colonial dining room. (Sun. March 27, 1960; Rosemary Hutzler, "Ghost of Christmas Past" City Paper, December 3, 1997)

THE BALTIMORE AFRO-AMERICAN,
APRIL 2, 1960

IT-INERS SIT—Although refused service in the ain dining room at Hutzler's Department Store st week student demonstrators quietly sat for four urs. After they entered, the dining room, seating 0 persons closed. White customers were served in the Quixie. But because of its size,—it seats 99—the lobby was soon overrun by shoppers seeking lunch. Unable to be served, many left. Other stores not serving colored are Stewart's and Hecht-May.

The Sun, Sunday Morning, April 17, 1960
pages 26 and 23

HUTZLER'S STORES LIFT NEGRO BAR

Hecht-May Co. Eyes Similar Move At Its Restaurants

Another of Baltimore's large department stores began admitting Negroes to its restaurants yesterday.

Edward L. Leavey, vice president of Hutzler Brothers Company, said, "We have lifted restrictions. Negroes will be served in our restaurants."

Upon learning this, a Hecht-May company official said, "If that is so, we will also admit Negroes."

Hochschild, Kohn & Co. began serving Negroes on March 29 when a large group, mostly from Morgan State College, sought admission to all four of the large downtown department stores. At that time only Hochschild's admitted the Negroes.

Crack Came Quietly

"If the community allows it, and this includes our competitors, we'll continue to serve Negroes," a Hochschild official said in March. Picketing ended at this store but continued at the other three.

The crack in the three holdouts came quietly and unexpectedly yesterday. There was no picketing and no announcement by Hutzler Brothers of the new policy; only an admission that it was so.

It was learned last night that four Morgan State students and three Negro civic leaders met yesterday morning with Albert D. Hutzler, Jr., president of the company, to discuss admission of Negroes.

But before there was any discussion, Mr. Hutzler announced that store officials had decided Friday to permit the serving of Negroes and the policy was already in effect.

The civic leaders attending were Furman L. Templeton, executive director of the Urban League; David L. Glenn, assistant to the director, and Robert B. Watts, a lawyer.

Geoffrey Swaebe, vice president and general manager of Hecht-May, was surprised by the Hutzler change.

"Our policy is to follow the will of the community and of our competitors," Mr. Swaebe said last night. "If Hutzler's is now admitting Negroes, we will also."

There was no word from the

(Continued, Page 23, Column 7)

Hutzler's Lifts Race Restriction

(Continued from Page 26)

other large store—Stewart & Co.—as to what its policy will be.

J. Raymond Greenhill, president of Stewart's, said "No comment."

The latest drive for integration of department store restaurants began early last month at Hecht's in Northwood Shopping Center.

On several occasions as many as 150 Negroes from nearby Morgan State College congregated in an orderly fashion.

In the early demonstrations they went inside the rooftop restaurant and waited futilely for service. Later, the company obtained an injunction that limited the demonstrators to two pickets at the restaurant entrance.

Baltimore Afro-American

1960 by AFRO-AMERICAN Co. for all material ...ly printed in the current National Edition

BALTIMORE, MD., APRIL 19, 1960 FIVE ★ EDITION 34 Pages 15 Cents

res Open Doors

s Baseball Time Again

ls open today, s on 4th place

By SAM LACY

...es on the first-division finish predicted for ... AFRO, the Baltimore Orioles were set to ... American League season this afternoon (Tues- ...orial Stadium.

... the Washington Senators will be on hand ...ager Paul Richards and his Birds get things

• • •

IN ALL probability, four tan players will be in the starting lineups of the two teams.

Baltimore figures to have Bob Boyd at first base and Willie Tasby in right field. Washington is likely to open with Lenny Green in center and Earl Battey as catcher.

Richards indicated a week ago that he would go with the veteran ... following disappointments experienced in the employment of younger replacements during spring training. Tasby, who opened last year in center, moved over to right with the acquisition of Jackie Brandt from San Francisco.

Green won the centerfield starting job with the Senators when he put on a power display at the plate in the last ten days in Florida. Battey is sure to be behind the plate for Washington since it was the big tan White Sox receiver they wanted enough to trade off slugging Roy Sievers.

• • •

THE FACT that the Orioles closed out the exhibition season with the best record of AL teams, is not taken as a good omen by local fans. Last year, the Birds came into the stadium as Grapefruit League champions only to lose four of their first five games.

After an embarrassing 9-2 loss to the Senators in Washington, Richards and Co., came home to drop three in a row to the Yankees. They then spurted, however, and by mid-May were lodged in first place.

• • •

WHILE MOST of the so-called experts are forecasting another second division finish for the Birds, the AFRO predicition calls for them to wind up fourth.

The feeling here is that Brandt will team with Tasby to give the Birds the out-

See BIRDS OPEN, page 8

Vital ...ake!

...ban League helps ...richer life in ... ...ogravure supple... this issue.

...In Blue

...three members of the ...at the new Air Force ...agazine Section.

...ns Pay Off

...al comment on how ...ent protest is bring... ...cial change—Page 4.

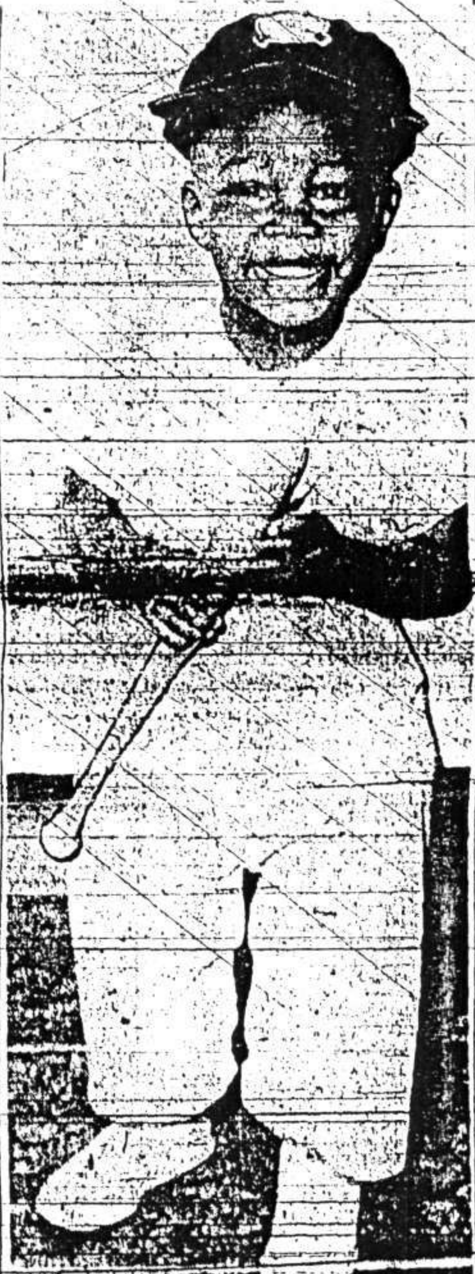
...lly to be ...lly

...—Vincent Piffery, ...d Italian who liked ...y personality of ...ckson, 19, the store ...greeted him with ... when he waited ...ecided to give the

...k Jackson was giv... ...ry store, a com... ...rnished two-story ...a new car. Piffery, ...nown Jackson for ...paid the owner of ...2,500 and gave the ...ckson.

...e, at 4402 Montclair ...on's, where Piffery ...*alone, is completely* ...has two television ...radios, two washing ...and a two-car ga...

...is now visiting in



'DIG THIS OUTFIT' says 20-month-old Jerry. As his cap shows, he is an Oriole just itching for an opportunity to play ball now that the diamond season has begun. But Jerry has no mother or father, and he lives in a foster home. He would like to have a home all his own. You can arrange to adopt Jerry or other youngsters like him if you

Sitdowns aimed at all jim crow

By LOUIS LAUTIER

The Rev. Martin Luther King Jr. told a nationwide audience Sunday, the current sitdown demonstration by colored students are aimed at wiping out segregation everywhere, not merely at lunch counters in Southern States.

The Atlanta minister, appearing on the National Broadcasting Company's, "Meet the Press" program contended that colored people are justified in opposing all laws which they consider "morally wrong."

Dr. King said he opposed state laws against interracial marriage and added, "I don't think America will ever come ... laws prohibiting marriage on the basis of race" are abolished.

• • •

HE ADMITTED his church in Atlanta has no white members but he "definitely thinks the Christian church should be intergrated." This cannot be done by legal processes though, he said:

• • •

THE HEAD of the Southern Christian Leadership Conference, which is giving guidance to the sitdown demonstrations said the President should "do a great deal more" to encourage acceptance of integration in schools and other public places.

"Ultimately, the Federal *Government will have to set a uniform pattern of registration and voting, to guarantee* colored citizens the right to vote," he added.

• • •

DR. KING, in his book "Stride Toward Freedom," said he had studied the writings of Karl Marx and did not accept all the teaching of the founder of communism but did praise Marx for having *"pointed to the weakness of capitalism."*

When asked "Just where does communism or collectivism fit into your program of protest?" the minister replied:

"It dosen't fit in at all. I feel that Communism is based *on ethical relativism and materialism, and no Christian* can accept it. I do not believe the end justifies the means. We must follow moral means.

"We feel that moral laws are just as valid as man-made

Welcome sign up at lunch counters in all sections

All Baltimore's major department stores in the downtown area and in their suburban centers, now serve colored patrons in their restaurants.

Following the lead taken by Hochschild Kohn on March 26, the other three major stores, Hutzlers, Hecht-May and Stewart's, announced policy changes this weekend.

HUTZLERS

E. L. Leavey, vice president, Hutzler Brothers, gave the AFRO this statement on Saturday:

"In keeping with our evolutionary policy, we have lifted restrictions 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 (policy *change) good for the community.* It was never a question of principle. It was a matter of time. And we think this is the time.

"I would also like to congratulate the AFRO for its *fairness* in reporting the situation."

A check at the restaurant Saturday at 2 p.m. showed that managers had been advised of policy change and anybody who desired could be served.

HECHT-MAY

Geoffrey Swaebe, vice president and general manager of the Hecht-May Company, told the AFRO on Monday:

"Our policy has been consistent. We were ready to act whenever the community dictated it.

"We have opened up all our stores to all our patrons.

"The students started by picketing the store in Northwood. We thought it was not a one-store matter and as soon as the other stores agre-

The new policy climaxed the picketing protest against the three stores which the Civic Interest Group, composed mainly of Morgan State College students, had conducted in the downtown area since March 26.

The Hochschild Kohn store announced its decision to serve colored patrons from the out-set of the demonstration and was not picketed.

• • •

EDWARD L. LEAVY, vice president of Hutzlers, said that his firm decided upon its new policy on Friday. It was announced on Saturday at the outset of a conference scheduled to discuss the policy.

Attending were leaders of the Civic Interest Group, their *counsel Robert B. Watts, Dr. Furman L. Templeton, Sr.,* executive director of the Baltimore Urban League, and David L. Glenn, also of the league.

CIG leaders in on the conference were Ronald Merriwether, Melvin Scott, John Quarles and Levin West.

Shortly after the conference, Geoffrey Swaebe, vice president and general manager of Hecht-May, said: "If Hutzlers is now admitting colored, we will, also."

Mr. Swaebe told the AFRO on Monday that this new policy included the company stores in Northwood and Edmondson Village.

On Monday morning, J. Raymond Greenhill, president of Stewart's, confirmed that his company has opened its restaurant to the public.

• • •

DURING THE lunch hour Monday, an AFRO reporter observed three colored persons served at Stewart's, a like number at Hecht-May and one at Hutzlers.

There were no incidents. The dining areas were crowded.

At the Hecht-May restaurant, one of the diners stopped at a table where two colored women were eating, placed a hand on the shoulder of one and said:

"Don't worry about it; you have as much right to be here as I have."

Elsewhere in Baltimore on Monday, officials of Mont...