Monthly Report of the Washington Bureau, February 5, 1959

February 5, 1959

MONTHLY REPORT OF THE WASHINGTON BUREAU

The importance of the pending civil rights bills in the 86th Congress makes an analysis and understanding of them imperative. These bills have been studied by the Washington Bureau counsel and his conclusions are set forth in this report.[1] Because of the length of the material, no other matters are presented.[2]

Since the opening of the 86th Congress, four major civil rights programs have been offered to the Congress.

Since the Senate has announced definite hearings on civil rights, the Senate bills embodying these programs will be discussed here. In each instance the Senate bill has one or more House counter-parts. In the order in which they have been introduced in the Senate, these programs are: (1) the Javits bill (S. 456), co-sponsored by Senators Javits (R., NY), Keating (R., N.Y.), Case (R., N.J.), Cooper (R., Ky.), Scott (R., Penna.), and Allott (R., Colo.); (2) the Johnson bill (S. 499) introduced by Senator Johnson (D., Texas) and later co-sponsored by Senator Hennings (D., Mo.); (3) the Douglas bill (S. 810) co-sponsored by Senator Douglas (D., Ill.) and a bi-partisan group of sixteen other Senators; (4) the Administration's program.[3]

I The Javits Bill (S. 456)

Analysis

S. 456 would authorize the Attorney General to prosecute a civil proceeding for or in the name of the United States to protect the rights of persons subject to or threatened with loss of the right of equal protection of the laws by reason of race, color, religion or national origin. Such a proceeding could be instituted upon a sworn complaint of a person or persons unable because of financial inability or other reason to prosecute such a proceeding. Such a proceeding would be for preventive relief for injunction or other order against any person acting under color of law to deny equal protection of the laws or any one conspiring with such person.

The bill would also authorize the Attorney General to institure [institute] preventive proceedings against anyone conspiring through threats, violence, or

otherwise to hinder duly constituted State or local authorities from giving or securing equal protection on the laws. Such proceeding could be instituted upon the written request of the officials.

The bill would authorize the institution of preventive proceedings without the requirement of exhaustion of administrative remedies.

Comment

This bill is in essence, though not in language, similar to Part III of the Civil Rights Bill of 1957, before its amendment in the Senate.

It would authorize the Attorney General to institute civil proceedings to prevent any denial of equal protection of the laws because of race, color, religion or national origin. This would include, of course, the denial of educational rights protected under the decisions of the Supreme Court.[4]

In addition, the bill would grant Federal protection to local authorities who desire to grant such educational and other rights, but are hindered from doing so by violence or threats of violence.

The provision eliminating the necessity for exhaustion of administrative remedies would speed up the legal processes in having these issues resolved.

II The Johnson Bill (S. 499)[5]

Analysis

Title I

Title I would establish a Community Relations Service as an independent Government Agency to provide conciliation service to communities where (1) disagreements or difficulties regarding the laws or Constitution of the United States, or (2) disagreements or difficulties which affect or may affect interstate commerce, are disrupting or threaten to disrupt peaceful relations in a community.

Activities of the Service would be confidential. It could utilize the services of state and local agencies and non-public agencies.

The Service would be headed by a Director, with five assistants, all subject to Senate confirmation. Total staff would be limited to one hundred.

The Service's principal office would be in Washington, but the Director would be authorized to establish five regional offices, each headed by an Assistant Director.

The Service would be required to report to Congress annually and could make recommendations for legislation (but only as to its own administration).[6]

Title II

Title II would extend the life of the Civil Rights Commission from sixty days following September 9, 1959, to sixty days following January 31, 1961.

Title III

This part of the bill would give the Department of Justice power to subpoena "books, papers, records or other documents" relevant to an investigation of voting rights instituted under the Civil Rights Act of 1957.

The subpoena could be issued only if the person who has possession refuses to furnish it, or, in the case of a public official, only if the Governor of the State has refused to order its surrender.

The subpoena could not require the presence of a person outside the State where he is found, resides, or does business.

The subpoena power could be enforced by a three judge Federal Court, with disobedience of a final order of the court constituting contempt.

Title IV

The fourth title would make interstate transportation of explosives or possession of explosives transported in interstate commerce illegal if such transportation or possession is with the knowledge or intent that they be used to damage or destroy "for the purpose of interfering with its use, for business, educational, religious, charitable, or civic objectives or of intimidating any person pursuing such objectives." Punishment would be $1000 fine and/or one year imprisonment, or death or imprisonment for life or any term of years if a death results from the violation.

Also prohibited would be the use of mail, telephone, telegram or other communications to convey false information of alleged bombing attempts.

The FBI would be authorized to investigate when a building has been damaged or destroyed by an explosive, if the Attorney General authorizes the investigation on reasonable grounds that a violation of this statute has occurred.

The Attorney General could also authorize use of the FBI in such cases on the request of local authorities.[7]

. . . . . .

Comment

Title I

Senator Johnson and his supporters have attempted to draw a parallel between the proposed Community Relations Service and the Federal Mediation and Conciliation Service set up under the Taft-Hartley Act.

There is no true analogy between the two agencies. The Mediation Service does not get involved in issues where there are clearly defined Constitutional or legal rights. These issues are left to the N.L.R.B. or the courts. The Mediation Service attempts to settle practical disputes between labor and management where there are legitimate differences of opinion, not involving legal principles.

The true analogy would be if the Mediation Service were allowed to enter a dispute and resolve it after the N.L.R.B. and courts had ruled and the losing party refused to abide by the decision. [Emphasis theirs.]

One thing that the commentators on the Johnson Bill have not explored is the tremendous scope of the jurisdiction of the proposed Community Relations Service.

It has been described as an agency to help resolve civil rights problems. There is, however, no such limitations on its jurisdiction. Given the authority to inject itself into any dispute involving "the laws or Constitution of the United States," or those "which affect or may affect interstate commerce," it could get involved in almost any conceivable controversy. Church-state relations, Federal-state relations, labor-management controversies, enforcement of criminal laws, election disputes and countless other conflicts could be brought to the Service. It could, within the language of the proposed bill, actually supplant the Federal Mediation and Conciliation Service in the labor-management field. [Emphasis theirs.]

Title II

The extension of the life of the Civil Rights Commission presents the opponents of civil rights and the "moderates" with an excuse for additional delay in Congressional action on substantial civil rights legislation.

Part III

There appears to be at least one grave "loophole" in the granting of subpoena power to the Department of Justice in voting cases.

The section dealing with public officials limits the subpoena power by requiring that it not be used until the Governor of the state involved has failed to order the

official to surrender the required document. This could lead to collusion between a Governor and the official whereby the Governor could order, but not enforce, the surrender of the document. It is possible that under a strict construction of this provision nothing could be done in such a situation. [Emphasis theirs.]

This provision would also allow for delay, while a Governor would "study" the Department's request.

The requirement of a three judge court could also require additional delay.

Part IV

The anti-bombing part of the bill includes the recommendation of the Association that such legislation should cover business establishments, but omits that relating to places of residence.

It omits the provision contained in some of the anti-bombing bills which would create a presumption of interstate transportation whenever an explosion of the type described in the bill occurs. In so doing, it changes but little the existing involvement of the FBI in this type of case. [Emphasis theirs.]

The bill would involve the FBI only at the discretion of the Attorney General or on the request of local authorities. This is the present de facto involvement of the Bureau, whether the Department of Justice admits it or not. Under the existing arrangement, seldom, if ever, has the Bureau intervened in a case involving property under colored ownership.

If the presumption of a Federal crime were created, it would be difficult for the Department to stay out of these cases.

III The Douglas Bill (S. 810)

The following is a short explanation of the Douglas Bill which will be useful for those who desire a thumbnail sketch of what it contains.

S. 810 is identical, except for necessary technical changes, in its provisions with S. 3257, introduced by Senator Douglas in the 85th Congress.[8] As noted in the 1958 Annual Convention Resolution of the NAACP, specifically endorsing this bill, it restores Part III of the Civil Rights Bill of 1957 and provides financial aid for States and school districts in connection with desegregation. This bill is the most comprehensive in its support of the principle of equal protection of the laws of any of the bills under consideration.

A careful study of the comprehensive and extensive analysis of the Douglas Bill will be very valuable especially when the civil rights bills reach the floor. It is recommended that those who want a more detailed statement than that set forth in the foregoing short version should read the following:

Analysis

Title I

This introductory section of S. 810 gives a statement of the purposes of the bill and the bases for action by the Congress. It includes provisions endorsing the principle of the anti-segregation decisions of the Supreme Court and recognizing the responsibility and authority of the Congress to uphold the authority of the Judicial Branch.

Title II

This title authorizes the Secretary of Health, Education and Welfare to render technical assistance to States and communities seeking to comply with the Supreme Court decisions. Such assistance would include giving information, conducting surveys, promoting conferences and councils, providing service of speacilists [specialists] and developing community understanding for desegregation. Appropriations up to $2.5 million for five years for these purposes would be authorized.

Title III

This title would authorize the Secretary of Health, Education and Welfare to make grants to communities to assist desegregation programs. Such grants would be for buildings, equipment, teacher training, specialists, teacher salaries and other costs.

It would also authorize grants for communities denied State funds because of local desegregation programs.

Appropriations up to $40 million per year for five years would be authorized under this title.

Title IV

` This title encourages the Secretary of Health, Education and Welfare to persuade State and local communities to begin compliance with the Supreme Court decisions. If unable to do so, he would be authorized to prepare a tentative desegregation plan with the advice and assistance of local officials, organizations and citizens.

If such a plan is not acceptable to appropriate State or local officials, the Secretary is authorized to hold a hearing thereon at which all interested parties may be heard. After the hearing he shall formulate and publish an approved plan.

Title V

If the approved plan is rejected by the State or local officials, and all attempts at conciliation, persuasion, education and assistance have failed, the Attorney General is authorized to institute proceedings to enforce compliance.

Such action may be dismissed by the Attorney General if the State or local government makes a prompt and reasonable start to comply with the Supreme Court hearings.

Any interested party is authorized to intervene in any action brought under this title and proposals of intervenors shall be considered by the court in determining its decree.

Title VI

This title authorizes the Attorney General, on a signed complaint or on his own certification, to seek preventive relief to protect persons being deprived of or threatened with deprivation of, equal protection of the laws because of race, color, religion or national origin, if the persons whose rights are invaded are unable to seek legal relief because of lack of finances, economic pressures or fear of physical harm.

The Attorney General would also be authorized to seek preventive relief to assist public officials in guaranteeing equal protection of the laws by enjoining anyone from hindering or attempting to hinder the execution of any court order protecting the equal protection of the laws.

In addition, the Attorney General would be authorized to proceed on behalf of any persons or associations being deprived or threatened with deprivation of rights under color of law because of support of Fourteenth Amendment rights.

The final section of this title would allow the Attorney General to intervene in any case brought in the Federal Courts seeking relief from a denial of equal protection of the law because of race, color, religion or national origin.

Title VII

The final title provides that any action brought under the bill may be brought without the necessity of exhausting administrative remedies.

Comment

Title I

The introductory part of the bill is important because, if adopted, it would mark the first specific approval of the Supreme Court's anti-segregation decision by the Congress.

Title II

Title II would be of assistance to those communities which wish to proceed in good faith to comply with the Supreme Court decisions, but need advice and encouragement.

It would assist such communities in the necessary preparation for desegregation and help them avoid mistakes made in other communities.

Title III

Although the grants provided in this title to assist communities in desegregation would not be necessary if such communities had previously made proper provision for all students without regard to race, they can be justified as an extraordinary help that will ease the transition to a desegregated system. They should also encourage many communities now undecided to begin such a transition. [Emphasis theirs.]

The grants to communities whose State funds have been cut off would support the principle of local option and should encourage more communities to defy these obviously unconstitutional State denials of funds.

Title IV

This part of the bill would provide an orderly administrative program for the formulation of desegregation programs for those areas where local officials fail to take the initiative.

It would undoubtedly speed up the desegregation process and make possible the initiation of programs in many communities where interested citizens are prevented from acting because of local pressures.

Title V

This title would provide the legal process for the enforcement of the plans formulated under Title IV. Such enforcement would occur only after all other methods of seeking compliance had failed.

Title VI

This is an expanded version of Part III of the Civil Rights Bill of 1957. It would protect persons denied equal protection of the laws because of race, color, religion or national origin, public officials who seek to vindicate equal protection of the laws, and persons and organizations who support equal protection.

Action by the Attorney General under this title would not be dependent upon action by the Department of Health, Education and Welfare under Title V, but could be taken at any time the conditions warrant.

This is the most comprehensive of all the versions of Part III.

Title VII

This last title would eliminate the delay required by exhaustion of administrative remedies in any case brought under the previous titles of the bill.

IV. The Administration Program

The Administration, pursuant to the President's Civil Rights Message of February 5, 1959, has submitted a seven point program. This program was submitted by Senator Dirksen (R., Ill.), the Minority Leader and Senator Goldwater (R., Ariz.) in seven separate bills, S. 955, S. 956, S. 957, S. 958, S. 959, S. 960 and S. 942.

Analysis

S. 955

This bill would make it a criminal offense to prevent, obstruct, impede or interfere with, by force or threat, or attempt to do so, the exercise of rights or performance of duties under any order, judgment or decree of court issued in a school desegregation case. It would not apply to a student, officer or employee of a school acting under direction of, or subject to disciplinary action, by school officials.

S. 956

This bill would make it a criminal offense to travel in interstate commerce to avoid prosecution or punishment for damage or destruction by fire or explosion of religious or school property.

S. 957

S. 957 would require election officials under criminal penalties to preserve registration and election records of Federal elections for three years and make theft, destruction or alteration of such records a criminal offense. It would make such records subject to examination by the Attorney General or his representative for confidential use by the Department of Justice.

District courts would be given jurisdiction to compel production of these election records.

S. 958

This bill would authorize appropriations for local educational agencies to aid desegregation programs. Such aid would be for non-teaching technical, professional and administrative personnel and for costs incurred in developing state desegregation programs.

Funds would be available to all states affected by the Supreme Court's decisions. A state's quota of the funds would be based on school attendance for the school year 1953–54. From a state's allotment the Commissioner on Education would pay one-half of the expenses incurred by the State agencies for carrying out its plan of desegregation.

State plans for administering the funds would be formulated under criteria set out in the bill and approved by the Commissioner.

In the event a State fails to make application for funds, such funds could go directly to local educational agencies, with the State's approval or if the State indicates it does not assume responsibility for desegregation.

The Commissioner is authorized to collect and disseminate information on progress of desegregation and to provide, upon request, information and technical assistance to State and local officials to aid them in developing desegregation programs.

Although the bill specifies no amount of expenditure, the estimate submitted by the Secretary of Health, Education and Welfare was for a total of $4,500,000 for the next two fiscal years.

S. 959

S. 959 would amend Public Laws 815 and 874, 81st Congress, which establish the program of education aid to areas affected by Federal activities.

The proposed amendments would allow the Commissioner of Education to operate schools for all children of members of the Armed Services who are prevented from obtaining an education because of the closing of local public schools by State and local government action.

With respect to any schools constructed in the future under these public laws, the Commissioner would be authorized to take possession of them if they are not being used for providing free public education. Upon taking possession the Commissioner would be required to pay the local educational agency a rental fee, based on the local agency's share of the cost of construction.

S. 960

S. 960 would extend the life of the Civil Rights Commission two years and require an interim report by September 1, 1959.

S. 942

The final bill of the Administration program would create a Commission on Equal Job Opportunity under Government Contracts.

The Commission would consist of fifteen members appointed by the President. It would have the authority to make investigations, studies and surveys and conduct hearings. It would be charged with the duty of making recommendations to the President and to government contracting agencies with respect to the preparation, revision, execution and enforcement of contract provisions relating to nondiscrimination.

Government contracting agencies would be charged with performing such duties requested by the President to cooperate with the Commission.

Comment

The chief disappointment of the Administration program is the failure of the President to renew his request for Part III of his Civil Rights Bill of 1957.

The manner in which the program was introduced, in seven separate bills, may make it difficult for the program to be considered in its entirety. This procedure may also give opponents of civil rights an opportunity to delay consideration by successive attacks on each component part. Some consideration should therefore be given to an omnibus bill containing the whole program.

S. 955

The present state of the law with respect to interference with rights under a Federal court decree is in a state of confusion. As a result of this, the Department of Justice has proceeded against obstructionists only as amicus curiae or on invitation of the courts.

This bill would give clear authority for the Department to investigate violence and threats and to prosecute those who seek to interfere with rights enunciated in

the school desegregation cases. If passed, it should prove a great deterrent to the repetition of mob violence of the Clinton or Little Rock variety.[9]

S. 956

The President's message and the statement of the Attorney General indicate that this legislation will involve the FBI in investigation of all arson or bombings of schools and places of worship.

A reading of the bill, however, indicates that this is not a correct technical interpretation of the legislation. Such involvement of the FBI under this bill must be based on a presumption of interstate flight. Such a presumption could be made administratively, for investigative purposes, by the Department of Justice. But there is nothing in this bill to require such a presumption to be made. This could be corrected by writing such a presumption into the bill, such as is contained in the so-called Lindberg kidnapping law.

It should be noted that this bill does not relate to damage or destruction of business or residential property, as suggested by the Association.

S. 957

The purpose of this bill is to make all records relevant to voting in Federal elections available for inspection by the Department of Justice. It would be a great help to the Department in its investigation of voting cases under the Civil Rights Act of 1957.

The proposal to require such records to be retained for three years would block the proposal recently made in Alabama that voting officials destroy election records to cover up discrimination.[10]

S. 958

The technical aid program proposed by this bill adopts the principle of the Douglas Bill, though on a greatly reduced scale both as to the extent of the program and the amount of aid to be given.

It could be of some help to those communities wishing to desegregate and in need of some help and encouragement to do so.

S. 959

This bill would guarantee continuing education to children of all servicemen where local schools close as a result of defiance of the Supreme Court decisions.

It would not, however, reach the basic defect in Public Laws 815 and 874—the failure to require that grants thereunder be used in conformity with the Supreme Court's decisions.

The provision relating to the Commissioner's taking possession of school buildings constructed under these laws would be of limited effect, as it would apply only to future construction.

S. 960

If the life of the Civil Rights Commission is to be extended, as proposed in this bill, consideration should be given to correction of the shortcomings of the Commission. Such shortcomings would include its composition, its tendency to restrict its authority and lack of authority to investigate except on sworn complaint.

S. 942

The Commission provided hereunder would replace the President's Committee on Government Contracts, which operates under Executive Order.

The statutory duties and functions granted the Commission would not differ greatly from those now exercised by the Committee, except that it would be able to make its own investigations and conduct hearings.

It can only be hoped that such a Commission, with duties conferred by statute would be more effective than the present weak Committee.

To insure this, however, some enforcement power and a clear grant of jurisdiction, inclusive of the activities of labor unions as well as employers, should be given to the Commission.

Summary

The Douglas Bill, by specific reference, and the Javits Bill, by approval of the principle embodied therein, were approved by the last Annual Convention of the Association. Both, therefore, should be considered deserving of support by proponents of civil rights.

On the other hand, the Johnson Bill has nothing to recommend it to friends of civil rights. There is nothing in the bill which is not treated more adequately and constructively in other legislation pending in the Congress. In addition, it has one feature, the so-called conciliation provision, which could lead to the denial, dilution and delay of constitutional rights.

The anti-bombing provision of the bill is treated better in the Kennedy Bill (S. 188) and others, which provided for the legal presumption necessary to involve the FBI in investigations.

The subpoena power granted to the Department of Justice in voting cases is so hedged with delaying devices [as] to render it unacceptable. The Administration Bill treats this point much more directly and fully.[11]

The extension of the life of the Civil Rights Commission is, of course, part of the Administration program as well as being the subject of several separate bills.

The following are members of the House and Senate committees to which civil rights bills have been referred:

HOUSE

Judiciary Committee

Emanuel Celler (D., N.Y.) Chairman
Francis E. Walter (D., Penna.)
Thomas J. Lane (D., Mass.)
Michael A. Feighman (D., Ohio)
Frank Chelf (D., Ky.)
Edwin E. Willis (D., La.)
Peter W. Rodino (D., N. J.)
E.L. Forrester (D., Ga.)
Byron G. Rogers (D., Colo.)
Harold D. Donohue (D., Mass.)
Jack Brooks (D., Tex.)
William M. Tuck (D., Va.)
Robert T. Ashmore (D., S.C.)
John Dowdy (D., Tex.)
Lester Holtzman (D., N.Y.)
Basil L. Whitener (D., N.C.)
Roland V. Libonati (D., Ill.)
J. Carlton Loser (D., Tenn.)
Herman Toll (D., Penna.)
Robert W. Kastenmeier (D., Wis.)
George Kasem (D., Calif.)
William McCulloch (R., Ohio)
William E. Miller (R., N.Y.)
Richard H. Poff (R., Va.)
Arch A. Moore, Jr, (R., W.Va.)
William C. Cramer (R., Fla.)
H. Allen Smith (R., Calif.)
George Meader (R., Mich.)
John E. Henderson (R., Ohio)
John V. Lindsay (R., N.Y.)
William T. Cahill (R., N.J.)
John H. Ray (R., N.Y.)

Education and Labor Committee

Graham Harden (D., N.C.) Chairman
Adam C. Powell, JR, (D., N.Y.)
Cleveland M. Bailey (D., W.Va.)
Carl D. Perkins (D., Ky.)
Roy W. Wier (D., Minn.)
Carl Elliott (D., Ala.)
Phil M. Landrum (D., Ga.)
Edith Green (D., Ore.)
James Roosevelt (D., Calif.)
Herbert Zelenko (D., N.Y.)
Frank Thompson (D., N.J.)
Stewart L. Udall (D., Ariz.)
Elmer J. Holland (D., Penna.)
Ludwig Teller (D., N.Y.)
John H. Dent (D., Penna.)
Roman C. Puchinski (D., Ill.)
Dominick V. Daniels (D., N.J.)
John Brademas (D., Ind.)
Robert N. Giaimo (D., Conn.)
James G. O'Hara (R., Mich.)
Carroll D. Kearns (R., Penna.)
Clare E. Hoffman (R., Mich.)
Joe Holt (R., Calif.)
Stuyvesant Wainwright (R., N.Y.)
Peter Frelinghuysen, Jr. (R., N.J.)
William H. Ayres (R., Ohio)
Robert P. Griffin (R., Mich.)
John A. Lafore, Jr. (Penna.)
Edgar W. Hiestand (R., Calif.)

SENATE

Judiciary Committee	Labor and Public Welfare Committee
James C. Eastland (D., Miss.), Chairman	Lister Hill (D., Ala.), Chairman
Estes Kefauver (D., Tenn.)	James E. Murray (D., Mont.)
Olin D. Johnston (D., S.C.)	John F. Kennedy (D., Mass.)
Thomas C. Hennings, Jr. (D., Mo.)	Pat McNamara (D., Mich.)
John L. McClellan (D., Ark.)	Wayne Morse (D., Ore.)
Joseph C. O'Mahoney (D., Wyo.)	Ralph W. Yarborough (D., Texas)
Sam J. Irwin, JR. (D., N.C.)	Joseph S. Clark (D., Penna.)
John A. Carroll (D., Colo.)	Jennings Randolph (D., W. Va.)
Thomas J. Dodd (D., Conn.)	Harrison A. Williams (D., N.J.)
Philip A. Hart (D., Mich.)	Barry Goldwater (R., Ark. [Ariz.])
Alexander Wiley (R., Wis.)	John Sherman Cooper (R., Ky.)
William Langer (R., N.D.)	Everett M. Dirksen (R., Ill.)
Roman L. Hruska (R., Neb.)	Clifford P. Case (R., N.J.)
Thomas E. Martin (R., Iowa)	Jacob K. Javits (R., N.Y.)
	Winston L. Prouty (R., Vt.)

The following bills introduced in the House correspond in general to the Senate bills as indicated:

S. 456—H.R. 3148 (Celler, D., N.Y.); H.R. 618 (Powell, D., N.Y.)
S. 810—H.R. 3147 (Celler, D., N.Y.); H.R. 300 (Dawson, D., Ill.); H.R. 430 (Roosevelt, D., Calif.); H.R. 913 (Powell, D., N.Y.)
S. 942—H.R. 4169 (Kearns, R., Penna.); H.R. 4348 (Celler, D., N.Y.)
S. 955—H.R. 4339 (Celler, D., N.Y.)
S. 956—H.R. 4344 (Celler, D., N.Y.)
S. 957—H.R. 4338 (Celler, D., N.Y.)
S. 960—H.R. 4342 (Celler, D., N.Y.)

H.R. 4457, introduced by Congressman McCulloch (R., Ohio), contains the provisions of S. 942, S. 955, S. 956, S. 957, S. 958, S. 959 and S. 960.

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The analysis of civil rights bills set forth in this report was made by J. Francis Pohlhaus, Counsel of the Washington Bureau. While serving on the legal staff of the Civil Rights Section of the U.S. Department of Justice, Mr. Pohlhaus was able to evaluate the effectiveness of existing civil rights laws and to reach personal conclusions on how these laws could be strengthened. Since joining the Bureau staff, he has given extensive attention to the legislative steps that must be taken to meet the challenges in the civil rights field today.

MS: MP.

1. Just prior to the preparation of this report, Mitchell sent the following statement to Senators Thomas Kuchel and Styles Bridges, to Representatives Everett Dirksen, Leslie Arends, and Charles Halleck, and also to Meade Alcorn:

> We are deeply disturbed by public reports that some members of the White House staff are seeking to water down the president's proposed civil rights program and to make it as weak as the bill suggested by Senator Lyndon Johnson. It would be a drastic retreat if proposals contained in Part III of the civil rights bill supported by the administration in 1956 and 1957 were omitted from the Chief Executive's legislative program in 1959. It would show a significant failure to support the Republican senators from key states who have already introduced legislation of this kind in reliance on the fact that in the past the president and the U.S. Department of Justice approved these principles. Congressional support for the school desegregation program is needed to encourage many who are now fighting desperately to keep the public schools open in a lawful manner. It is especially ironic that some of these schools derive support from funds provided under public laws 815 and 874 for the education of the children of military personnel and other persons in defense impacted areas. It is respectfully urged that you strongly support the inclusion of a provision of Part III in the proposed civil rights message when next you meet with the president. (NAACP IX: 128, DLC)

2. For a wrap-up of activities in 1959, see *Congress and the Nation, 1624–25; Watson, Lion in the Lobby, 421–23.*

3. The civil rights program President Eisenhower submitted on 2/5/59 to Congress also engendered considerable discussion. *CQ Weekly Report, 2/13/59, 277, 282.*

The following were the seven points of the program:

1. To strengthen the law dealing with obstruction of justice in order to provide expressly that the use of force or threats of force to obstruct court orders in school desegregation cases shall be a federal offense.
2. To confer additional investigative authority on the FBI for crimes involving the destruction or attempted destruction of schools or churches, by making the flight across state borders to avoid detention or prosecution for such crimes a federal offense.
3. To give the attorney general power to inspect federal election records, and to require that such records be preserved for a reasonable period to permit inspection of them.
4. To provide a temporary program of financial and technical aid to state and local agencies to assist them in making the necessary adjustments required by school desegregation decisions.
5 To authorize, on a temporary basis, provision for the education of children of members of the armed forces when state-administered public schools have been closed because of desegregation decisions or orders.
6. That Congress give consideration to establishing a statutory Commission on Equal Job Opportunity for government contracts to enable full implementation of the present policy of nondiscrimination that is required by executive orders.
7. To extend the Civil Rights Commission for another two years.

CQ Weekly Report, 2/13/59, 282.

Rep. William M. McCulloch (R., Ohio), introduced the administration's bill in Congress on 2/12/59, specifically to commemorate the 150th anniversary of Abraham Lincoln's birth. He also inserted President Eisenhower's entire message in the *Hearings* record. McCulloch, 3/4/59, *Hearings*, 148–58.

4. This proposal, which the administration had offered in 1957 to give the attorney general authority to file civil suits to end school segregation and other practices the courts had ruled discriminatory (1957 *CQ Almanac*, 564), was omitted from the administration's seven-point civil rights package. Atty. Gen. William P. Rogers said this proposal "might do more harm than good at this time." *CQ Weekly Report*, 3/20/59, 423. See 3/6/59 for further explanation.

5. Roy Wilkins reported to the NAACP board that he had issued a statement assessing the Johnson bill accordingly:

> Senator Lyndon B. Johnson's civil rights proposal must be recognized first of all as an effort to block consideration of effective legislation in this field.

> We regard it as offering liniment to cure a tumor, for it omits entirely the paramount domestic issue of desegregation of the public schools. The courts are full of this issue. State legislatures have enacted hundreds of bills upon it. Troops have been mobilized upon it. Newspapers, magazines, television and radio are full of it. Political candidates are being elected and defeated upon this issue. The prestige of the United States Supreme Court rides upon it. The human dignity and citizenship status of seventeen million American Negro citizens are wrapped up in it. Yet the Johnson proposal sounds as though it did not exist.
>
> Events since the enactment of the 1957 Civil Rights Act have demonstrated clearly that an effective civil rights bill must include the Part III which was cut from the 1957 bill so that the Federal government will have power to enter into all civil rights cases, not merely voting cases. Omission of this provision in the Johnson proposal prompts the suspicion that it is a sugar-coated pacifier.
>
> We reserve final judgment until we have had a chance to study the actual text of the Johnson bills, but thus far nothing has appeared to cause us to cheer. (Report of the Secretary to the Board for the Month of January 1959, 2/9/59)

6. Introducing the bill to create the Community Relations Service, Lyndon B. Johnson, Senate majority leader, said:

> We may as well face the fact that the civil rights issue is not going to go away . . . and it should not go away so long as there are injustices to be corrected in any state in this Union. We must also face the fact that the issue is not going to be solved by force . . . because the ultimate goal is human acceptance and that is never secured by force. If an issue will neither disappear nor yield to force, a third course must be found. (*Congressional Record, vol. 105, 1/20/59, 807–9; Chapman, "A Southern Moderate Advocates Compliance" [Master's thesis, University of South Florida, 3/74, 24])*

Johnson's surprise four-part civil rights proposal, the centerpiece of which was the Community Relations Service, made it probable that any bill passed would contain this provision. *New York Times*, 1/21/59, 1. President Eisenhower, however, expressed doubt that a conciliation service on racial matters would work. *New York Times*, 1/22/59, 1. See also Watson, *Lion in the Lobby*, 421, 422, 567–68.

7. For Mitchell's view, see 6/18/58, *Hearings, 34–43.*

8. For the background of S. 3257, see 3/6 and 6/5/58.

9. In effect, the bill would strengthen the NAACP's demand for enforcing *Brown* with the help of the federal courts. For example, in his 10/1/58 news conference, President Eisenhower said in a prepared statement that it was "incumbent upon all Americans, public officials and private citizens alike, to recognize their duty of complying" with the Supreme Court's school integration rulings, and that any other course "would be fraught with grave consequences for the nation." His statement was made in response to increased resistance to the Supreme Court's September 12, 1958, ruling (*Cooper v. Aaron*, 358 U.S. 1 (1958)) that integration must proceed in the Little Rock high schools.

On September 29, 1958, the court reaffirmed its September 12 decision that states could not nullify the integration decision either directly or through "evasive schemes" to maintain segregation. The unanimous opinion was directed at plans in Arkansas to circumvent desegregation by leasing schools to private groups. *CQ Weekly Report*, 10/3/58, 1256, 1257, 1263. See also "Intimidation Reprisal and Violence in the South's Racial Crisis," a study submitted to the Subcommittee on Constitutional Rights by Roy Wilkins, (86) S1339-0-A, Part 3, Appendix, 1959, *Hearings*, 1573–603.

10. For a summary of the battles over the Civil Rights Commission's attempts to investigate allegations that Blacks were deprived of their voting rights in Alabama, see *CQ Weekly Report*, 1/9/59, 52; *CQ Weekly Report*, 1/16/59, 81.

11. See President Eisenhower's seven-point civil rights program, *CQ Weekly Report*, 2/13/59, 282.