(Address given by the Reverend Theodore M. Hesburgh, C.S.C., President of the University of Notre Dame, at the Civil Rights Conference sponsored by the Notre Dame Law School, February 14, 1960)

I like to approach the subject of Civil Rights by going back to the first day the United States Commission on Civil Rights walked into the President's office to get sworn in. After we had been sworn in and the usual number of photographs had been taken, the President sent everyone else out of the office and sat down to talk with us. At that point, he was quite serious and he said: "This problem that you are addressing yourselves to is the most serious domestic problem on the whole American scene today. To the extent that we can solve this problem, we will be worthy to hold up our heads in the company of the other nations of the world -- to the extent that we bring some light to this problem, we will be qualified to work on world problems -- because it's rather ridiculous to take a world posture on the meaning of democracy and equality and equal opportunity and not to practice it at home." He continued, "I don't know the answer to these problems, and that's why you gentlemen have been commissioned, and now it is your problem. We'll do all we can to help."

With that we walked over to an empty office on Jackson Place into a room that had a dusty desk and six chairs. We sat down and said, "Where do we begin?" It was quite a long trip from that empty office next to the Brookings Institution off Lafayette Square to a front porch in Land O'Lakes, Wisconsin, last summer when we again sat down around a table -- surrounded by pinewoods and soft breezes from across the lake -- and tried to hammer out a final report for the President and the Congress after some year and a half of hearings and deliberations.

I think it was quite an unusual thing and quite a surprise to us, and

I'm sure a great surprise to many others as has been remarked here this morning, that we came up with a report. If ever there was a Commission that was dissonant and disaggregate in its composition it was the Civil Rights Commission, with three Democrats, two Republicans, and an independent, myself; with three Southerners and three Northerners; with two former governors of states, two law deans, and two university presidents. And yet several things emerged from the year and a half that we met together. I think the most amazing thing that happened was we became very close friends and I think we developed for each other the kind of compatibility and understanding, and even perhaps at times compassion, that was a necessary ingredient in any kind of fruitful solution to this very vexing problem.

Last summer found us in Shreveport, Louisiana, trying to investigate the problem of voting in a state where literally thousands of Negro voters were being swept from the rolls. It was a terribly hot place during July. We were greeted as we got off the airplane with papers from the U. S. Marshall -- a new experience for me anyway. And we were told that our preparation was for nought because there would be no hearing. It was at that juncture, on the verge of the time when we had to get this report written, that we betook ourselves to Northern Wisconsin where a kindly gentleman in the past left an estate to the University of Notre Dame, and we sat down on the front porch, only after having gone out fishing together, and decided that we would try to agree on our findings and recommendations. I mentioned to the President of the United States when we handed in this report on September 8, that perhaps there was one more dimension that he was unaware of when he appointed this Commission, because it not only had the

dissonances I spoke of earlier, but it had had one great unity -- all six of us were ardent fishermen. I don't know if the report as it was written could have been written except in a fishing camp where we interspersed our discussions and conversation with a little angling on the lake, and the Lord was good to us because we caught a lot of fish, too.

In any event, I remember one night when we sat past midnight, and I am told on reliable authority, that some of the staff stayed up the rest of the night -- at least they looked like it in the morning -- and we had come to what was really the crucial point of our report: what were we going to do about voting. There wasn't a man of us who did not recognize that there were literally millions of people qualified to vote who were not able to vote and probably would not be able to vote for the next President of the United States, much less for their Senators, Congressmen, and state officials. We had seen some of these people. These weren't units to us. They were flesh and blood people. Some of them were veterans with long months of overseas duty and decorations for valor in service. Some of the people were ministers. Some of them were college teachers. Some of them were lawyers, doctors. All of them were tax payers. Some were mothers of families who were hard-pressed to tell their children what it is to be a good American citizen when they could not vote themselves. All of them were decent, intelligent American people, and yet they could not cast their ballot for the President of the United States.

Some had gone through incredible hardships in attempting to register and had been subjected to incredible indignities. I don't know if any of you in this room have had to go through this experience, but even vicariously we had to go through it in listening to their tales. They would go to a court house and instead of going in where the white people registered, they would

have to go to a room in the back where they would stand in line from six in the morning until two in the afternoon, since only two were let in at a time. Then people with Ph.D's and Master's degrees and high intelligence would sit down and copy like a school child the First Article or the Second Article of the Constitution. Then they would be asked the usual questions, make out the usual questionnaire, hand in a self-addressed envelope, and hear nothing for three months. And then they would go back and do it over again, some of them five, six, or seven times, some of them standing in line two or three days until their turn came.

All of us -- I'm sure I speak now for not just myself, but for the Southerners and the Northerners, the Democrats and the Republicans -- we all knew that something must be done about this situation and done as quickly and as simply and as cleanly as possible. I think we really came up with two solutions. One of them appears as a recommendation approved by five members of our Commission, and the other is a suggestion -- I don't know what official term you would put on it since it was only approved by the three Northern members of the Commission. The recommendation had to do, as you all know, with federal registrars. Our reasoning was very simple on that point. We simply said that if it was a well known fact, as I think we had established it, that there were people well qualified to vote -- much better qualified indeed than many people now voting in these same localities -- there should be some mechanism known to man whereby this vote could be obtained. And if, as we had demonstrated, it was impossible for these people to vote now -- literally impossible under present circumstances, with all the ingenuity humankind will employ to keep a person from

doing something they don't want him to do -- then it was the duty of the federal government under the Fifteenth Amendment of the Constitution to see that some means were taken to allow these people to vote. And we felt that this means should not involve great expense. It should not involve human indignity or the fear of reprisal or economic sanctions against these people who want to vote. Somehow these people almost should be embraced by the Federal Government and allowed a little extra privilege, if you will, because of the indignity they have had to endure already in trying to exercise their primary right as citizens. That is how we came up with the idea of federal registrars.

It was not our thought that this would be an end-all, that this would clean up the situation for all times, but at least we thought that this was an imaginative, creative approach to see that what could not be done at the state level, would at last be assured on the federal level. We thought that this was in keeping with the Constitution of the United States. I think we demonstrated in our own common act of making this recommendation that this is not a partisan problem in any sense of the word. This is not a Democratic or a Republican issue. It is an issue of the United States Constitution, an issue to which every American should be committed, an issue on which the finest intelligence of our land should be prepared to study and act.

So the little Commission that really didn't look like very much to us in the beginning, and looked less like anything potent to us as we went along our way, came up with a kind of bombshell, it seems. As a result, all of us are here today and have had this very intricate and involved legal discussion this morning about the ways and means of accomplishing this end to which we are all committed.

I would like to add a postscript. I am not a lawyer -- sometimes this is a salvation because you don't see all the difficulties that might come up and you're not constantly preparing for all of the ingenuity that will be marshaled against a law. I would like to mention our second proposal, which was not a recommendation, but a proposal by three members of the Commission. I think it should come as a kind of relief to all of you who have spent so much time this morning looking at the really involved state of affairs that obtains when one tries to accomplish on a federal level that which is not being accomplished on a state level -- with all the intricacies of federal-state relationships involved. We talked this over coming up on the airplane from Shreveport to Land O'Lakes, Wisconsin. We discussed many of the difficulties that have been discussed here this morning. We were trying as hard as possible to find some way, some short-range answer to get the vote for those who are now presently disenfranchised -- by the next election if at all possible. But we thought there must be a simpler long-range answer to this problem. And the answer we came up with was our proposal for an amendment to the Constitution of the United States declaring for all time simply, clearly, undeniably that every American citizen has the right to vote and that this right will not be circumscribed by the federal government, by the state, or by any individual, and that it will depend simply on two easily proven factors, the age of the person in question, and the length of his residence within a given state, and that Congress will make appropriate legislation to see that this right is honored in all of the states of the Union, and that its only limitation would be by reason of legal confinement at the time of registration or voting.

This, I think, goes to the heart of the problem we have been discussing

this morning. To me the seat of infection is as simple as this: that there are literacy tests in the states under question which are being applied in a discriminatory fashion, and as long as man is ingenious and these tests exist there will be discrimination.

There are two approaches to this problem, I think. One is to try to find out some way to direct the ingenuity of man towards a better end than keeping people from voting. The other approach is to ask how serious is the demand for literacy as a qualification for voting in these United States. And here I think we have a very simple answer. I don't have all the statistics at my fingertips, but I can say, with all assurance, being in the business of education, that the United States is more educated today than any time in its history. It is probably the most educated country in the whole world. Literacy is well over 90 per cent throughout the nation and the growth in literacy has been absolutely astounding in these past few years. I think that it is high time that we stood up before all the nations of the world and said a very simple thing, namely that we believe in democracy and we think that the heart of democracy is that everybody -- every citizen -- has a right to vote for those who will govern him. This is the heart of democracy, because the governed himself somehow governs in choosing those who will guide his destiny as a citizen of his state or the union. Once we have said this and say it out clearly in our Constitution, then I defy anybody to find legal ways around this simple qualification for the vote. I cannot imagine law suits going on for two or three years to determine whether someone is 21 years old or has lived in this state for the required period of time.

I believe that this is the long-range answer. But while we work on the short-range answer with all its intricacies, I hope we will work on the long-range

answer, too. Because I think the time is ripe for this, and I think this would be one of the most startling and dramatic things that America could do in the total world situation today when the total uncommitted colored one-third of the world is pressed to choose between our democratic philosophy of life and that of the Soviets. The Soviets cannot say that they believe in the things that are total and essential and substantive in the philosophy of the West: the dignity of the human person, the spiritual nature that gives him the title to certain unalienable God-given rights, the respect which each individual human being may expect, the equality of opportunity that must be his. I think making a fact of universal suffrage would be the most dramatic way to say these things that we believe. We would be saying to the uncommitted third of the world that we really are committed to the system that we would like them to follow.

There are a few other things I want to say. First of all, I would like to say something about Lincoln since we're so close to his birthday. Someone suggested that I say something about the place of the heart in all this since it is Valentine's Day. I don't think that I have time for both, so I'll stay with Lincoln for the moment. Here is one of the most interesting stories I know about Lincoln. I cannot say that it is true or apocryphal, but I did read it in Thomas' Life of Lincoln. This story tells of a time when the City of Washington was beleaguered by the Confederate Army, and it looked as though the Union was at its lowest ebb in the Civil War. As Lincoln pondered on the pressures of the time and the seeming inevitability of military failure and what this would mean to the country of which he was President, it dawned upon him that the real issue at stake was an issue that he himself had not always recognized -- a spiritual and a moral issue: whether indeed all men are created equal. We are told that on this occasion he made a promise to God

that if Washington were spared, if the city were relieved, and things took a turn for the better, he would at the earliest and most appropriate opportunity promulgate the Emancipation Proclamation.

Washington was spared, as you know, and the time soon became appropriate for him to make this proclamation. He called in his political advisers and his cabinet to discuss this. He told them that he was talking to them about this, but that he had already made up his mind about what he was going to write and that this was his sole personal responsibility. They gave freely of their advice. They said that such a Proclamation would be the most politically inexpedient thing to do at this time. It would harden the opposition of the South. It was not politically viable. It was going to have a bad effect on the war; it will make for chaos and ruin in the Union. And yet Lincoln said, "I have made a promise -- the other part of the bargain has been fulfilled and I am going to do my part." So, in the face of all this professional advice, he made the Emancipation Proclamation. We only have to remember that today. We picture Lincoln most proudly as the "Great Emancipator" to know who was right. One does not make mistakes in these human problems when one follows one's conscience and pays most attention to the moral and spiritual issues involved.

What we are discussing today should be as non-partisan as any spiritual or moral issue facing America. We seek only one end -- that all Americans are on equal footing in their participation in the civic order. We must use all of our brains and all of our compassion to find a solution, and that solution must not be tricky in a legal sense, but be as simple as our belief that all men are created equal and that all men are entitled to vote in this country. We must take appropriate, firm, solid, simple means toward that end. I would

think that a clear mandate to that end would shame people into seeing that nothing is done to violate this principle. So I think we should have courses like Lincoln's in promoting a Constitutional Amendment that would establish universal suffrage and say clearly to all the world that our basic principles are more important than legal trickery or political expediency.

I would like to say just one or two more things. I think there are three great dimensions to this whole problem of civil rights. The first dimension is a personal dimension. I don't know of any problem in this country that is more personal to each one of us than this problem of civil rights. I think one can legitimately abstract oneself from the problem of foreign policy -- in the sense that we can all admit to a certain amount of ignorance about the intricacies of the negotiations at the Summit, for example. I think we should be interested in foreign policy. I think we should concern ourselves about it. I think it is the place of intelligence to discuss it and create a great dialogue about it. But I can see how John Doe of Mishawaka, Indiana, could admit in the secret of his heart that he doesn't know very much about the great negotiations going on, the great issues that shape the foreign policies of our nation.

I think one also might plead certain ignorance of the great scientific developments that are taking place in the missile race or that are involved in the great discussions now in progress on defense. I am not making a plea that this ignorance be continue, I'm merely saying that it is conceivable that John Doe in Mishawaka, Indiana, is somewhat ignorant about what makes a missile go and how good our missiles are compared with those of the opposition, and that many citizens do not now know and will not know the scientific intricacies that bear upon problems such as defense or nuclear power and the like.

But I say that when it comes to civil rights, if you so much as meet another human being in the course of your life, and all of us meet many, then you cannot be uncommitted on this problem. This is not the kind of problem about which a person can be detached. Because of the fact that you walk down a street, or live in a neighborhood, or work in an office, or get on a bus, or talk to anyone, you are involved in this problem and you must take a stand. This, I say, is the great pressing reality of this problem: it involves the personal commitment of every American citizen. Our national documents are inspiring and moral and right. I would hope that our individual consciences could be as inspiring and moral and right about what these documents imply -- that every man has dignity, that every person as a sacred human being is entitled to our respect, and that each one of us in our own way, within our own sphere, no matter how small or how great it is, do our best to see that this equality of opportunity reigns and is not a figment or an hypocrisy.

I recall once standing on the 63rd Street Station in Chicago waiting for the South Shore Railroad. There was a young lady -- a Negro nurse -- standing next to me. And since we had about a twenty-minute wait, and I'm not much for standing alone and meditating on the tracks, I decided to have a conversation with her. I asked her about her job and how she found working in Chicago and about her family situation. After the ice was broken, she told me about having a little boy of whom she was very proud, a son four years old. She said, "You know, Father, I was washing him the other day, helping him take a bath, and I told him, 'Now take this soap and scrub yourself real hard.' And he said, 'Mommy, if I scrub myself hard enough will I be white?' And she said, 'No, you're colored and you'll always be colored.' And he said this simple thing: 'It's better to be white.'"

My reaction to this story was: "Did you let him get away with that?" And she said, "Why shouldn't I let him get away with it? Isn't it better to be white in the United States of America?" I said,"Maybe on the surface it's better, but this isn't the way a youngster should think with a whole life before him. Because what is today does not necessarily always have to be and, please God, it won't be the permanent pattern of our United States. It is certainly not the ideal of our Constitution. I think you should have told your little boy that color has nothing to do with how good a person is or what it is better to be as a person. Fundamentally what a person is, is what he is in the sight of God, what use he makes of what talent he has -- how his values square with the good values and the great values of all times, how he feels towards other people and toward the responsibility of using his life in a constructive and helpful way, what his relationship is to his family, to his work, and his God. All of these are the true measure of what a person is, and these are spiritual, not material measures."

But the story brought home one thing to me -- that we're not ever going to solve the problem of civil rights in this country unless somehow we learn to judge people on their quality as persons and not according to the pigmentation of their skin. I think it is one of the nastiest things you can say about many Americans -- maybe all of us in the depths of our hearts -- that we put too much weight and emphasis on the color of our skin, almost instinctively, and that we don't think deeply enough about judging people on what they are as persons, irrespective of how much money they might have or what color they might be or what nationality or what neighborhood or what religion they belong to. This is the great personal dimension of the problem, a problem in which we must

all be engaged, all have a point of view, a deep conviction -- and we must all act accordingly.

The second dimension is simply what I would call the organic nature of the problem. I don't think we would solve this problem if this afternoon we came up with such a bright proposal that these gentlemen go back to Washington and next week enact a foolproof bill that enables every Negro in the country to vote in the next election. The problem would only begin to be solved by that, but it would be still a long way from a total solution. Let me give you a simple formula in the non-legal words of equal opportunity, rather than equal protection of law. If we would honestly say that every American has equal opportunity across the board and then let the chips fall where they may, I think the whole problem would get solved pretty quickly. Every American would have an equal opportunity to live in the main stream of the political process, to hold office, to vote, to participate, to be educated to the extent that his energy, his ambition, and his talent carry him. Every American should have the opportunity to go as far as he could go as long as he had the talent, the intelligence, the ambition to keep working. Then every American should have the opportunity to work where he could do the most good for himself, for his family, for his community, for his country, without artificial bars to such work. He should do whatever he could do best, and the only limitation to his success should be how much talent he had, how well he was educated, and how hard he was willing to work and how devoted he was to good things. And, lastly, every American should have equal opportunity to live in a decent house in a decent neighborhood, and that if he was successful and had made progress, no matter what his race or religion or anything else, he should be able to go up the social ladder and live where his heart desires and where his means permit.

This choice would not be restricted as it is today by all of these cute little covenants and understandings and hypocricies that so characterize every city in the North.

Given these four equal opportunities and given the range of talents that are possessed by all races of human beings, I think the problem would find a solution. I am not naive enough to think that this is going to happen by tomorrow morning. But I think this is the kind of solution that we as individuals can all subscribe to. Insofar as we control education or control jobs or control housing or have some say about any aspect of them, we can follow this viewpoint. If enough of us start doing this, we will be well on the way to a solution.

The third dimension of this problem is that it is not a responsibility of only one part of government. It was said this morning that the judiciary has been unduly overloaded with the burden of this problem. Insofar as it must be solved on the governmental level, it is, of course, going to need the attention of all the powers of government.

Let me give you a few examples to show what I mean when I ask for consistency in all the powers of government in this matter. We know that the Supreme Court has outlawed compulsory school segregation. Yet some universities and colleges, the institutions supposed to be the center of the training for leadership for the next generation, which are being given literally hundreds of millions of dollars of federal support from the Congress and administered through executive agencies (some of which I belong to) some of these institutions getting this federal money simply do not follow the Constitution or the law of the land. I fail to see how the judiciary can clear up this problem if the other two branches of government go quietly along helping those who openly defy the law of the land. I think this is particularly pertinent when we're

talking about the segment of our society that is supposed to be turning out the leaders for tomorrow.

When I say this I am not picking a fight with my fellow presidents and fellow faculty members of other colleges and universities, public and private. I think that most of them think rightly and would like to act rightly on this. Yet, private university and college administrators must face their boards of trustees, and state school administrations must face their legislators for funds. But supposing it were said that all federal funds had this simple tag on them: that they must be spent for all the people, that they must be spent in a non-discriminatory fashion, and that if anyone wants federal funds for either private or public institutions, there is one condition -- you have to agree that in using these funds you are going to follow the Constitution of the United States. What is so revolutionary about this? Yet the fact is that to date, while this proposal is contained in the Report of our Commission on Civil Rights, there has been scarcely a word said about it.

In a sense, I have been cowardly and have been relieved by the silence because one cannot take this stand without opening oneself to a certain amount of criticism from one's colleagues in the university and college world. Yet I think that this is a simple thing that could be accomplished tomorrow morning if those in power would decide to do something about it -- and I am speaking of both the legislative and the executive branches of government when I say this.

The same is true of housing. I think it is no secret that less than two per cent of federally assisted private housing goes to the benefit of the Negroes, despite the fact that this is public money, funneled through private agencies, builders and real estate agents, brokers, and lending agencies. Yet here is a

matter where the three powers of the federal government are working in dissonance -- the judiciary saying non-discrimination is the law and the others blithely going about paying little attention to the law and even rewarding those who refuse to follow the law. This is the third dimension.

If we are going to solve this problem, first, we must all be personally committed to its solution; secondly, we must remember that the problem has several dimensions, that it is an organic problem -- that we must work on all these fronts at once; and lastly, insofar as we are concerned as we are here today with governmental action, let us ask that all the powers of government work together in a non-partisan way in this matter to try to reach some solution that will make real for all Americans, the promise of the Constitution.