

(Address given by the Reverend Theodore M. Hesburgh, C.S.C., President, University of Notre Dame, before the meeting of the American Academy of Arts and Sciences, Boston, Massachusetts, November 11, 1964)

THE MORAL DIMENSIONS OF THE CIVIL RIGHTS MOVEMENT

Several years ago I attended a lecture by a distinguished South African scholar at Capetown University on the subject: "The Moral Justification of Apartheid". After the lecture, we were driving down the Cape to his home university of Stellenbosch when he asked me: "What did you think of my lecture?" I told him that he had convinced me that there was no moral justification of apartheid. "I had hoped to do the opposite", he replied.

It might be said that I hope to do the opposite today: to show that the civil rights movement here and about the world is not just another economic, political, social, or ethnic movement, although it is all of these, too. There is a deep moral dimension to the whole concern for civil rights in our times. In fact, the moral dimension is the most fundamental aspect of it all. Without it, the movement loses much of its vital dynamism and ultimate thrust. Also, without the moral dimension, the civil rights movement will never be completely understood, or completely successful either.

Even our political leaders have understood this truth. Many of

them have said that we should try to achieve full civil rights for all of our citizens not simply because it will be helpful to our cause in the international field, or because it will make American life more peaceful and productive, but because it is right that this should happen.

As he signed the Civil Rights Act of 1964 into law, President Johnson said:

"Our generation of Americans has been called on to continue the unending search for justice within our own borders.

"We believe that all men are created equal -- yet many are denied equal treatment.

"We believe that all men have certain inalienable rights -- yet many Americans do not enjoy those rights.

"We believe that all men are entitled to the blessings of liberty -- yet millions are being deprived of those blessings, not because of their own failures, but because of the color of their skin.

"The reasons are deeply imbedded in history and tradition and the nature of man. We can understand without rancor or hatred how this all happened. But it cannot continue.

"Our Constitution, the foundation of our Republic, forbids it. The principles of our freedom forbid it. Morality forbids it. And the

law I will sign tonight forbids it"

"The law says", President Johnson continued, "that those who are equal before God shall also be equal in the polling booths, in the classrooms, in the factories, and in hotels and restaurants and movie theaters, and other places that provide service to the public.

"We will achieve these goals because most Americans are law-abiding citizens who want to do what is right"

"Let us hasten the day when our unmeasured strength and our unbounded spirit will be free to do the great works ordained to this nation by the just and wise God who is Father of us all."

If you ponder upon these words, you will see that this is at base a moral statement of the problem. The appeal is directly to conscience, to justice, to equality before God, to inalienable rights, to responsibility in freedom, to the law of basic human dignity as ordained by a wise and just God and echoed in our Constitution and the laws that specify the civil rights that our Constitution proclaims. The appeal of our President is most forceful because one cannot reject his conclusions without rejecting his moral principles which are at the base of what it means to be a human person in the good society.

I am reminded of what often happened during the hearings of the United States Commission on Civil Rights here and there about the country. We would come to a particularly difficult moment when any kind of consensus seemed impossible, either because of the complication of the problem at hand or the hostility of the audience or witnesses. At this point, one of the staff would slip me a note scribbled on the inevitable long sheet of yellow legal paper, saying in effect: "Better give them some theology." All of us can legitimately differ about ways and means, about possible solutions to seemingly impossible problems. But ultimately, anyone who understands anything of the Judeo-Christian tradition at the base of Western Culture must hold some common principles about the nature and destiny of man which alone validate the society in which we live. It is characteristic of our ambivalent age that all too few people ever consciously consider these fundamental philosophical and theological principles, but yet, consciously or unconsciously, they are there, and in a time of great conflict they will be recognized, appealed to, and, however incoherently, understood.

It has always been to me a curious reality that among the multitudinous books that our age produces one finds so very few that address

themselves to the moral foundations of democracy, or correlatively, to the moral dimensions of human rights. Professor John Hallowell of Duke University has written such a book. He justifies it in a few words: "Our democratic institutions require a philosophy of life to sustain them Without a clear understanding of why the institutions exist, we shall have neither the means of defending them intellectually, nor the resolution to defend them by force when the occasion demands it." (The Moral Foundations of Democracy, p. 67) And again, "Democracy rests upon a faith in man as a rational, moral, and spiritual creature, and it is as much aspiration as it is fact. The ideals of democracy never have been and never will be achieved with perfection -- they are goals constantly to be striven for, but never perfectly realized. In the last analysis, democracy is 'a venture of faith in the moral and spiritual possibilities of men when entrusted with freedom.'" (Ibid. pp. 128-9)

Sir Richard Livingstone, one-time Vice Chancellor of Oxford University, made the same point, on both the philosophical and theological level, in a book he wrote during the last war. He was addressing himself to another crisis, but I find his words relevant today as we face the major crisis of

our own times, the drive towards a more complete realization of civil rights. Sir Richard says:

"We shall not understand ourselves and our predicament unless we realize what has happened during the past fifty years. Every civilization grows up round and with a system of beliefs and values, which are its vital principle, the nerve which feeds and keeps it healthy. If that principle perishes, if that nerve is cut, then the structure of society which depends on it still remains, but the life has gone out of it, its self-renewing power is gone, and it declines first into decay and then into death. Those who have lived through the last fifty years have witnessed the steady and progressive destruction of the soul of Western civilization

"The soul of Europe is partly Greek and partly Christian. The vital force of our civilization comes from two sources, beyond which no others count seriously, from Palestine and from Greece. We may not believe in Christianity. We may not like it, but whether we deplore it or not, the main source of Europe is Christianity ... the mass of people drew and still draw the best part of their beliefs and standards in life and conduct from Christianity, however confused and diluted the channels through which they

pass. To attack Christianity was to attack the spiritual life of Europe, to weaken it was to weaken that life and so we get our modern civilization -- a civilization of means without ends, with ample body, but with a meager soul, with a rich inheritance, but without clear values or a ruling principle There is a phrase in Plato which exactly describes our condition the danger of living 'by habit without an intellectual principle.'" (Crisis of Civilization in the Deeper Causes of the War, pp. 98-99, 103-104).

I take it that what Hallowell and Livingstone are telling us is that moral dimensions are historically, philosophically, and theologically discernable, but often taken for granted except in time of crisis, when we come running to them to justify our cause, to inspire heroism, to bolster courage, and to convince ourselves that the battle is really worth fighting. The deeper the crisis, the deeper our principles should run, the more clarion-like they should sound, the more clearly should they be enunciated. The last three Presidents have told our nation that the present crisis in civil rights is the greatest and most important domestic problem facing our nation. Clearly, then, it is again a time for basic principles.

While the principles at issue have recently been enunciated often enough, and clearly enough, as for example in the statement of President Johnson quoted above, the foundations of the principles are all too often assumed rather than demonstrated. Even our Founding Fathers held these truths to be self-evident: That man is endowed by his Creator with certain inalienable rights and that among these are life, liberty, and the pursuit of happiness. This is the tradition, rightly enough, but there is more to it than the mere statement and what it assumes, and wrongly assumes to be philosophically self-evident. It is not self-evident apparently to those who rule a third of the human race today and hold in practice that man has only those rights conceded to him by the State.

Where does one begin then? Since we are talking about human rights and the problems incident to our common humanity, we might well begin by considering more deeply what a human person is, for it is the human person who alone is the subject on earth of these inalienable rights which somehow originate in his nature. It is the human person, too, who bears the responsibility to respect these human rights. It is likewise the human person who is endowed with that inherent dignity and destiny that make a denial of

these rights not merely a bad political, economic, or social situation, but a devastating spectacle of the inhumanity of man to man.

To consider the human person is to enter the realm of metaphysics, the mystery of being as uniquely realized in the inner sanctuary of the individual human being. The metaphysical tradition of the West defines the person in terms of individuality and independence. The person exists not as migrant bird against the Fall sky, the sound of wings, the flash of light against color, but as a reality which subsists spiritually, constituting a universe unto itself, a relatively independent whole within the great overarching whole of the universe and deriving from the Transcendent Whole which is God. A person lives in self-possession, a master of himself, capable of containing himself, thanks to intellect and freedom. This same tradition sees in God the infinite essence of personality, since the very existence of God consists in the infinite and absolute superexistence of knowledge and love.

The individuality of the human person is not like the individuality of other corporeal beings, because personality is not directly related to matter, man's body, but has its roots in spirit, man's immortal soul.

The best description of human personality that I know of comes from Jacques Maritain's Principes d'une politique humaniste: (pp. 13-42)

"What do we mean precisely when we speak of the human person: When we say that a man is a person, we do not mean merely that he is an individual, in the sense that an atom, a blade of grass, a fly or an elephant is an individual. Man is an individual who holds himself in hand by intelligence and will. He does not exist only in a physical manner. He has a spiritual super-existence through knowledge and love; he is, in a way, a universe in himself, a microcosm, in which the great universe in its entirety can be encompassed through knowledge; and through love, he can give himself completely to beings who are to him, as it were, other selves, a relation for which no equivalent can be found in the physical world. The human person possesses these characteristics because in the last analysis man, this flesh and these perishable bones which are animated and activated by a divine fire, exists 'from the womb to the grave' by virtue of the very existence of his soul, which dominates time and death. Spirit is the root of personality. The notion of personality thus involves that of totality and independence; no matter how poor and crushed he may be, a person, as such, is a whole and

subsists in an independent manner. To say that man is a person is to say that in the depths of his being he is more a whole than a part, and more independent than servile. It is to say that he is a minute fragment of matter that is at the same time a universe, a beggar who communicates with absolute being, mortal flesh whose value is eternal, a bit of straw into which heaven enters. It is this metaphysical mystery that religious thought points to when it says that the person is the image of God. The value of the person, his dignity and his rights belong to the order of things naturally sacred which bear the imprint of the Father of being, and which have in Him the end of their movement."

The moral conscience of the human person tells him many things: what is morally right and morally wrong, a knowledge, more or less developed, of what is generally called the natural law, and the rights that any human person possesses simply because he is a person, an independent whole who is master of himself and his acts, who can know his destiny, what is to his ultimate good, who is not a means, but an end. The natural law means nothing if it does not say that the human person has a right to be respected for what he is, and what he is for. As Maritain has said, there is by virtue of man's

ontologically unchanging human nature, an order or disposition which human reason can discover and according to which the human will must act in order to attune itself to the essential and necessary ends of the human being.

There is, of course, progression in the sensitivity of man's conscience and in his perception of the full meaning of the natural law, the full extension of the rights of man . The fact is that during ancient and mediaeval times, more attention was often paid to the obligations, than to the rights of man. The Eighteenth Century finally saw more emphasis on human rights, although, at times, somewhat exclusively. Now today the wheel has come full round. One of the most stirring documents of our times, Pope John's Pacem in Terris, is totally cast in the framework of rights and duties. The transitional paragraph, following the opening outline of human rights, bears quoting here:

"The natural rights with which we have been dealing are however inseparably connected, in the very person who is their subject, with just as many respective duties; and rights as well as duties find their source, their sustenance and their inviolability in the natural law which grants or enjoins them. Therefore, the right of every man to life is correlative

with the duty to preserve it; his right to a decent standard of living with the duty of living it becomingly; and his right to investigate the truth with the duty of seeking it ever more completely and profoundly.

"Once this is admitted, it also follows that in human society, to one man's right there corresponds a duty in all other persons: the duty, namely, of acknowledging and respecting the right in question. For every fundamental human right draws its indestructible moral force from the natural law, which in granting it imposes a corresponding obligation. Those, therefore, who claim their own rights, yet altogether forget or neglect to carry out their respective duties, are people who build with one hand and destroy with the other." (NCWC Edition, Par. 28-30)

There is one more basic consideration which must be studied here: that of human equality in regard to rights, or, as it is often more specifically stated: equality before the law. Historically, this basic truth, a necessary consequence of all that has been said of human dignity, natural law and human rights, has been honored more in the breach than in the keeping. Philosophically, there have been those who could easily rationalize slavery in all its multitudinous forms: the great slave class

of the Greeks and Romans, the lower caste untouchables of India, the millions enslaved and transported from Africa in the name of white superiority, the economically enslaved of the Industrial Revolution, the millions enslaved today in the name of the Marxist-Leninist myth to promote the eventual millennium of the Proletariat. As was declared by a Nazi at Nuremberg, there was in their judgment "a greater distance between the lowest forms still called human and our superior races than between the lowest man and the highest monkey." This noxious poison of racism is still with us in many forms today, and often enough science is prostituted in an attempt to make it intellectually respectable.

Human equality has an almost equal enemy in those who confuse equality with egalitarianism. The human person is not an abstraction; he lives as an individual in time and space. Individually human persons are unequal in many ways, both natural and acquired: in talent, ability, virtue, intelligence, beauty, grace, energy, and health. To all of these natural or acquired inequalities, one must add those that result from long generations of injustice, persecution, exploitation, the whole weight of sorrow that results from bad men and bad institutions. These inequalities of time and

place do not create a new species of man, or produce a man less entitled to his rightful equality before the law and equality of opportunity for all things human. The basic mistake of the idealistic egalitarians is that they refuse to look at the reality of the human situation. They are disturbed by any hierarchy of values. Everything must be leveled. Mediocrity must be the order of the day. There is no place for the superior, no matter in what context it is achieved. Creative genius of any kind must be put into their preconceived straight-jacket. Culture must be, and really is in their society, horribly drab. There are no mountains or valleys among men, only plains. All this is a perversion of human equality, is again an over-emphasis on rights at the expense of obligations. Egalitarians may indeed speak the right words at times, and engage in good causes, but their music is dissonant when one considers that equality in rights is only a moral beginning. Performance differs from person to person. All should have an equal opportunity, but then if history is any guide, within the democracy of equal men there will always be the aristocracy of excellence.

Once more, I believe that of all the philosophers I have read on

this subject, Jacques Maritain best puts the whole problem of equality in clearest perspective:

"If you treat a man as a man, which means if you respect and love the secret he bears within him and the good of which he is capable as an individual person, then to that extent you make effective in yourself his equality or unity in nature with yourself.

"In the experience of misery, in the sorrows of great catastrophes, in humiliations and distress, under the blows of the executioner or the bombs of total war, in concentration camps, in the hovels of starving people in big cities, in common necessity, the doors of solitude fly open and man recognizes man. Also man knows man when the sweetness of a great joy or a great love for a moment makes the eye pure. In helping his fellows or being helped by them, in sharing the same elementary actions and the same elementary feelings, in beholding his neighbor, the humblest gesture shows him, in others and in himself, human nature's common resources and common goodness, a goodness that is primitive, rudimentary, wounded, unconscious, and repressed. At one stroke the real equality and community of nature is revealed to him as a most precious good, an unknown marvel, a fundamental stratum of existence,

of more worth than all the differences and inequalities grafted onto it."

(Principes d'une politique humaniste, pp. 95-131)

Theology adds new dimensions to this philosophical concept of the unity of the human race. One of the mysteries of iniquity is how a Christian people can ever espouse racism in any form when professing to believe that we are all created equal in the same image of God; that we are all members of the same Body of Christ; that we are equally redeemed by Our Lord and Saviour; that we share His same divine life through our common rebirth in Baptism; that together we are striving to possess Him unendingly in the same Kingdom of Heaven; that whatsoever we do to one of these, His least brethren, we do to Him. Against this central belief of Christianity, any form of racism is tantamount to blasphemy.

Every great moral system, philosophical or theological, is in reality an effort to ask man to rise above the human condition, in one way or another. The concrete realization of human equality, especially in the social order, requires great human effort, intelligence, and virtue, since in historical fact man is engaged in a progressive conquest over his nature

and himself. Human equality may well be a philosophical postulate, but in human society it will be assured by the dual dynamism of human law and human understanding. Equality in the social context is, like liberty, a goal to be won, a battle never ending. Pope John summarized it briefly:

"The order which prevails in society is by nature moral. Grounded as it is in truth, it must function according to the norms of justice, it should be inspired and perfected by mutual love, and finally, it should be brought to an ever more refined and human balance in freedom." (Pacem in Terris, NCWC Edition, Par. 37)

This now brings us to a question which I have been asked before. When appearing once before a hearing of the Senate Judiciary Committee, Senator Eastland asked me: "What are civil rights?" On that occasion, which was less friendly than this, since my appointment to the Civil Rights Commission was in contention, I answered more briefly: "Civil rights are the rights granted to every American citizen under the Constitution." Even in the short seven years since that day, the specificity of civil rights has grown appreciably, but the basic principles are the same.

It appears to me that we avoid some of the deviations mentioned above, and place ourselves in the most propitious moral stance, if rights are placed in the context of equality of opportunity to exercise both one's rights and one's responsibilities. Fundamentally, what we are seeking for everyone is the equal opportunity to have free access to everything that bears upon the full development of all of our human capabilities. This means many things in modern American society. First and foremost, it means the right to life. In one county in Mississippi, there was a murder, several shootings, whippings, and beatings during the first five months of this year, without a single inditement of the guilty parties. In one city of 10,401 people, Macomb, Mississippi, there have been 35 bombings, burnings, and beatings this year without punishment, even of the parties who admitted guilt. A Negro citizen of that State told me that his right to life was as tenuous as the good will of every White citizen, since any one of them could take his life with impunity. To develop oneself humanly, one must first live.

Then there is the right to become involved in the political life of the city, the state, the nation. This today is abridged in many ways, first, by the denial of voter registration, then by the denial of the vote to those registered, and, finally, by fraudulent miscounting of the votes cast. All of this is further vitiated by the lack of representation, indeed the

misrepresentation, of many Negroes in the South, and by the inability of many to take any personal part in the political life of their community by holding office.

Next consider the equality of educational opportunity. Juridically, this was settled more than ten years ago by the Brown decision of the Supreme Court. In fact, only 1.2% of the Negro population in the South has been integrated in the past ten years, and in the North, the great majority of Negro children are condemned to inferior segregated schooling because of the pattern of segregated housing. Here we have the perfect vicious circle: Negroes are poorly educated because Negroes are poorly educated. The products of inferior schools staff the schools that gave them an inferior education to produce another generation of poorly-educated children and so ad infinitum. The simple moral mandate here is to break the vicious circle, and on every point of its circumference. This will involve radical educational reorganization in the South and a change of housing patterns in the North, but again, equality is a mercurial element that must be captured by the continued dynamism of a drive for human progress in any society. This must be done without impairing the quality of education for anyone, and it can be done if we prize equality enough to give it a chance to operate in the life of every American. It will be costly, but the

moral imperative is deaf to financial considerations. It must be done because it is right. If we can afford to spend fifty billion dollars every year for defense, we can afford to spend whatever is necessary to elevate the quality of life in America. This, after all, is what we are defending. Without equal opportunity for education on all levels, the door to every other opportunity is automatically closed. We cannot appeal to the weight of past negligence to foreclose the opportunities of the present and the future. We have had enough of conversation. What we need now is imaginative plans and action.

Another large area of opportunity that remains to be opened to minorities in America is housing. Anyone with the money can buy the highest priced car on the market. However, the Negro pays twice as much for his house as the White purchaser, and to compound his problem, he is restricted for the most part to buying only those houses that the White citizen no longer wants in neighborhoods that Whites have deserted. Whatever one says of rights, there is a vast and silent conspiracy to keep this immoral situation as it is. Bankers, builders, and realtors, often aided and abetted by public federal financing, close the normal housing market to

Negroes and other minorities. Again, the moral imperative is clear. Every American should have equal opportunity to buy a decent home in a wholesome neighborhood, wherever his heart desires and his means permit. Our moral blindness in this situation has given us a divided America, an ugly America replete with black ghettos. We can spend forty billion dollars to get a man on the moon where no life exists, and yet we continue to condemn millions of human beings to substandard, unsanitary, and dilapidated housing. We allow children to grow up in city jungles, to attend disgraceful schools, to be surrounded with every kind of physical and moral ugliness, and then we are surprised if they are low in aspiration and accomplishment. Some say: "Why don't they move?" And I ask you, "Where?" Of the hundreds of millions of dollars of FHA assisted private housing, less than one per cent has benefited the Negro, because of the closed market. The moral judgment is clear enough. First grant equality of opportunity and then criticize poor performance, if indeed there is then poor performance. But poor performance in an impossible situation is no reason for withholding the equality of opportunity to improve the situation.

Equality of economic opportunity is likewise on this list. This,

of course, is meaningless without the educational opportunity to qualify oneself. Here, too, we face the vicious circle of denial. Negroes have historically been educated only for menial jobs because only menial jobs are available to Negroes. In times of economic crisis, the Negro is the first fired, naturally, since he was the last hired. Because he makes on the average only half as much as the White citizen, many other opportunities that cost money are closed to him. He presents a dismal picture of personal failure to his children; his wife must work which further corrodes his family life. Thus, each new generation, reared in failure, has no great aspiration to the success that appears impossible. Failure breeds failure and misery begets more misery.

Then there is the matter of the administration of justice, equality before the law. I think it a fair appraisal of history, ancient and modern, to say that the poor have always fared badly with the instrumentalities of justice. Perhaps the many injustices that often accounted for their being poor made them troublesome and sometimes violent, but, once more, the fruits of injustice are no excuse for further delaying justice. If the poor happen to be highly visible, as the Negroes are, then they fare even more badly.

Think of your chances for justice in a county where no member of your race is on the police force, or among the jail personnel, or on the judge's bench, or in the jury box. Add to this situation that of a state where there are only four Negro lawyers and they are intimidated from handling civil rights cases, and there is only one White member of the bar who will promote this kind of justice until he is summarily disbarred.

We have a magnificent record of federal enforcement in many difficult areas like kidnapping, espionage, and inter-state auto theft, but somehow the area of infringement of basic civil rights, even the murder of those promoting their own and other's rights, has generally eluded all of our electronic expertise. What do we do? Perhaps tighten the blindfold on the figure of Justice so that justice indeed is color blind and all men are equal before the law. We might also promote a new passion for justice in all of our law schools. A former president of the American Bar Association has just recently perpetrated a monumental intellectual fraud in misrepresenting the meaning of the proposed Civil Rights Act in an effort to defeat its passage, financed incidentally by public money from his State.

Lastly, there is the matter of equal access to public accommodations,

now clearly a matter of civil rights. Have you ever imagined what it would be like to be insulted ten or twenty times a day? To travel and not know whether you would be able to find a place to wash or eat or rest or sleep, despite the fact that you were surrounded by facilities apparently open to the public? To be looked upon as something unclean when all you wished was a haircut or to try on a suit you would like to buy? To have to drink from a special fountain, to sit in a special seat, the worst one? To be always the last served, if you were allowed to be served at all, to be made to feel inferior even amidst people who were clearly your inferior as persons, to have to do all the menial work, to always be the servant if not the clown, to expect nothing and generally get what you expected? This is the life of second-class citizenship to which we have generally subjected our Negro brethren until most recently. When they began finally to resent it, we were the most surprised people in the world. They actually wanted to eat in the same places where we eat, to swim where we swim, to rest where we rest, to pray where we pray, even to be buried where we are buried. The fact that they surprised us by the vehemence of their desire to enjoy the same human rights and the same human dignity that we claim for ourselves is perhaps the

measure of our own moral blindness. Had we not heard for centuries: "Do unto others as you would have others do unto you."

What is our moral obligation as a nation? To make possible basic human dignity at the very least; to judge human persons for what they are and how they perform when given an equal chance, not by their color, a fact over which they have no control or no choice; to make equality of opportunity a reality in the whole spectrum of human development; this at least would begin to open up the closed society.

The litany of inequality might go on, but I believe that we have at least said enough to establish the depth and range of the moral dimension of the civil rights movement. One more point should be emphasized. Morality is not just one decision; it is a system. The problem of civil rights in America today is an organic problem of many closely articulated parts. The total problem cannot be solved by tinkering with a solution to one of the segments of the problem. We must have an integral moral solution, across the whole spectrum of the problem, if equal opportunity, human rights, and human dignity are to be realized in our times.

The equal opportunity to vote creates further problems without equal

opportunity for education. Equal opportunity for education is an empty phrase without equal opportunity for housing. Equal opportunity for housing is meaningless without economic opportunity, which, in turn, is an empty promise without educational opportunity. Justice before the law is chimerical without participation in the instrumentalities of justice. And, none of this will come to pass in a truly humane fashion until each American is convinced that he cannot detach himself from the problem at hand, for each one of us is involved, and every part of our nation is involved. No man is an island in this total sea of inequality. When one man's dignity is cruelly wounded, every man suffers indignity. When one man is denied equality, none of us is really free. And when all of this happens on a wholesale scale, the whole quality of our life as a nation is debased.

How did we arrive at the ugly impasse we so often see today? President Johnson said in the statement quoted at the beginning of this paper that:

"The reasons are deeply imbedded in history and tradition and the nature of man." A brief look at history might help us understand the agonizing rise and fall of tension, the fluctuations in the moral relationships between

Whites and Negroes in this country. This is, of course, a two-sided history, increasingly so in recent years and months.

We must begin with the state of slavery, more or less passively accepted by both sides for about two centuries, mainly because the Negro could not do very much about it and the Whites did not want to do much about it because of economic considerations. However, America's stated morals finally came to the surface under the pressure of abolitionists. There was a bloody war, Lincoln's Emancipation Proclamation, and the 14th and 15th Amendments to bring the Constitution up-to-date.

After an initial good start, there appeared the original White backlash - a reaction to the excesses of the carpetbaggers. The thrust of this backlash was, as institutionalized for the next eight or nine decades, to keep the Negro in his place, definitely a place inferior to that of the Whites. The Plessy decision of the Supreme Court further silenced any moral inquietude regarding the "separate but equal" situation that resulted. Thus, for almost a century after the Emancipation Proclamation, what was proclaimed did not come to be, and one finds all too little moral concern from any public or private source during this whole period.

At best, the Whites were paternalistic; at worst, they were oppressive and morally insensitive for the most part.

What was the turning point, the new day for civil rights? First, there was World War II which meant greater mobility for Negroes in service or war industries, greater employment opportunity under the stress of labor shortages in the North, East, and West, a breath of new interest from President Roosevelt -- but still, for most Negroes, depressingly servile work in industry and the Armed Forces. President Truman began the work of integration in the Services. The Brown decision of 1954 reversed the earlier Supreme Court decision of Plessy, outlawing separate but equal in education. The walls began to crumble.

President Eisenhower signed the first Civil Rights Bill in eighty years, and established the Civil Rights Commission. Shortly after its first biennial report, another and stronger Civil Rights Bill appeared.

About this time, less than ten years ago, the real birth of the Negroes civil rights movement took place. In Montgomery, Alabama, Mrs. Rosa Parks, who had many times moved to the rear of the bus when told to do so, one day refused to move. When the driver stopped the bus and threatened to

call the police, she said, "Then just call them." The second key event came in North Carolina when some young Negro students staged the first sit-in. No one would have guessed that these two Negro actions would result, within a few short years, in another federal law outlawing for all time what had been the accepted, although immoral custom, of many generations. What was the thrust of the movement that grew from these two seemingly unimportant events?

Philosophically, the roots go deep. In the pre-Christian era, there was the action of Socrates, more than two thousand years ago, that first lit the flame. Socrates drank hemlock rather than concede the right we grant our citizens in the First Amendment. Aristotle quoted Antigone to argue that "An unjust law is not a law." The two greatest intellects in the Christian tradition, Augustine and Thomas Aquinas, agreed that any human law contrary to natural or divine law ought not to be obeyed. In the American tradition, we have Henry Thoreau's essay on Civil Disobedience, that inspired Ghandi's doctrine of non-violence. Together they provide the best descriptive name for the Negro civil rights movement of the past few years: non-violent civil disobedience. It has many dangerous offsprings,

some clearly illegitimate, but this should not distract us from the inherent moral dynamism that, from the first, characterized the best part of the Negro civil rights movement.

To return for a moment to its most recent forebears: Thoreau and Ghandi. In 1846, Sam Staples, the town jailor, interrupted Thoreau's tranquil life at Walden Pond and put him in jail because he refused to pay his poll tax to a government that imprisoned and returned runaway slaves, thus upholding slavery. He was somewhat upset to be released the next day because apparently his Aunt Maria paid the tax for him. Thanks to Aunt Maria's action, we have Thoreau's personal protest in print today. It is the text by which all the world best knows Thoreau.

I shall only give the headlines of his thesis, the bare bones of Thoreau's argument:

"Can there not be a government in which majorities do not virtually decide right and wrong, but conscience? Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? The only obligation which I have a right to assume is to do at any time what I think right. (Henry D. Thoreau, Walden and Civil Disobedience, Houghton Mifflin, 1957, p. 236) a wise man will not leave the right

to the mercy of chance, nor wish it to prevail through the power of the majority (Ibid., p. 240) Unjust laws exist: shall we be content to obey them, or shall we endeavor to amend them, and obey until we have succeeded, or shall we transgress them at once? If the injustice is part of the necessary friction of government, let it go, let it go, perchance it will wear smooth but if it is of such a nature that it requires you to be the agent of injustice to another, then I say, break the law. Let your life be a counter friction to stop the machine. (Ibid., p. 243) I think that it is enough that they (The Abolitionists) have God on their side any man more right than his neighbors constitutes a majority of one already (Ibid., p. 244) Under a government that imprisons anyone unjustly, the true place for a just man is also a prison." True to his word, when Emerson asked Thoreau what he was doing in jail, Thoreau replied, "What are you doing outside?" Thoreau concludes: "A minority is powerless while it conforms to the majority but it is irresistible when it clogs by its own weight. If the alternative is to keep all just men in prison, or give up ... slavery, the state will not hesitate which to choose." (Ibid, p. 245)

This was heady doctrine, even back in 1846, but its relevance

did not later escape either Ghandi or Martin Luther King. Ghandi saw civil disobedience as a constitutional form of persuasion, as a way to reach the minds and hearts of people and thus to mold the law. Thoreau, in one brief phrase, gave Ghandi an insight to a new element adding greater moral weight to the doctrine of civil disobedience. "How much more eloquently and effectively he can combat injustice who has experienced a little in his own person." (Ibid., p. 245)

Ghandi made an eloquent plea to his countrymen for this new element of non-violent, suffering civil disobedience, implicit in Thoreau: "Non-violence in its dynamic condition means conscious suffering. Rivers of blood may have to flow before we gain our freedom, but it must be our blood. Things of fundamental importance to people are not secured by reason alone, but have to be purchased with their suffering (what else characterized the early Christian martyrs in the face of an all-powerful Roman Empire?) Suffering is infinitely more powerful than the law of the jungle for converting the opponent and opening his ears, which are otherwise shut, to the law of reason." Ghandi concludes: "The appeal of reason is to the head, but the penetration of the heart comes from suffering. It opens up the inner understanding in man."

One last footnote is in order to show how this theme is reflected, most recently, in Pope John's Pacem in Terris. Once more, as in Thoreau, the focal emphasis is on conscience.

"As authority rests chiefly on moral force, it follows that civil authority must appeal primarily to the conscience of individual citizens, that is, to each one's duty to collaborate readily for the common good of all." Pope John then makes the point that only God can ultimately command the human conscience, and adds: "...those, therefore, who have authority in the state may oblige men in conscience only if their authority is intrinsically related with the authority of God and shares in it. By this principle, the dignity of the citizens is protected.

...."Since the right to command is required by the moral order and has its source in God, it follows that, if civil authorities pass laws or command anything opposed to the moral order and consequently contrary to the will of God, neither the laws made nor the authorizations granted can be binding on the consciences of citizens, since 'God has more right to be obeyed than men.'" (Acts, 5, 29) (Pacem in Terris, NCWC Edition, Nos. 48-51)

I have already said that this is heady doctrine and, as such, can easily lead to abuses. Arnold Toynbee, in his monumental study of human civilizations, wonders at the patience, forbearance, and good will of America's Negro citizens, despite their cruel human lot. Martin Luther King's "Montgomery Improvement Association" gave American Negroes a way to begin to redress their wrongs in an open, non-violent way through civil disobedience. The many other movements that followed were predicated more or less on the same Ghandian premise that voluntary human suffering in the cause of justice would most effectively and eloquently change the pattern of injustice. The passage of the 1964 Civil Rights Act is ample demonstration of the effectiveness of non-violent civil disobedience, especially in the most difficult area of public accommodations. So much for history.

Now the whole civil rights movement seems to be entering into a new phase which may well reverse the gains of the recent past, since the moral foundations outlined above are being more and more abandoned in many of the latest manifestations of the movement.

Most unfortunately, non-violence is often giving way to violence which loses the moral force and persuasion so essential to Thoreau, Ghandi, and King. Civil disobedience must also consist in direct non-compliance

with what is essentially an unjust law, so that there is clearly established an open, honest protest that has some direct relationship with injustice. Opening water faucets to deplete a water supply, clogging highways to the World's Fair, or booing the President who was at the moment championing a new Civil Rights law is simply another form of injustice, insensitivity, or inhumanity - alienating friends and confirming enemies. Looting, inane destruction of property, hooliganism and violence, personal injury, and irresponsibility are as far from the moral foundations espoused by the true promoters of civil rights as injustice is far from justice, order from disorder, humanity from inhumanity. As Martin Luther King said, commenting on the race riots of Harlem, Brooklyn, and Rochester:

"My position on non-violence and my continued adherence to non-violent philosophy are well-known. I do not think violence can solve the problem in New York, nor can it solve the problem in Mississippi." (Syracuse Post-Standard, July 28, 1964)

Or as Ghandi said earlier: "Suffering is infinitely more powerful than the law of the jungle."

Suffering there has been, and violence has not only risen in the North and among Negroes. Between June 12 and September 19 of this year, in 14 counties of Mississippi, there have been 32 Negro churches burned or bombed. Imagine the reaction if this had happened to White churches or synagogues in Boston,

New York, or Chicago. Clearly violence is no answer.

We might then summarize the moral case for non-violent civil disobedience as legitimate only when all legal redress has failed to change an unjust law. The Lutheran Church in America, at its 1964 biennial convention, stated this clearly:

"If and when the means of legal recourse have been exhausted or have been demonstrably inadequate, Christians may then choose to serve the cause of racial justice by disobeying a law that clearly involves the violation of their obligations as Christians."

However, the disobedient person must be non-violent to preserve his moral stance. He must engage in meaningful protest, not indiscriminate demonstration, and he must be willing to accept the legal penalty for his action. Moreover, the basic aim of non-violent civil disobedience is always the same as regular litigation, to challenge the law and to bring it to a test under the regular legal procedures, only in this case by disobeying it and suffering the consequences.

Who can predict the future, who can forecast further progress if the waters are continually muddied by a perversion of civil disobedience? At best, we can assume that the patience, forbearance, and good will of which Toynbee wrote are apparently wearing thin, even at a time that seemed to be the dawn of victory. All of these symptoms, however, ultimately point

to a profound malady that I suspect has only one great geographic focal point in modern America - the dismal slums of our great cities that can only produce, as long as they are allowed to exist, a continuous caldron of pent-up human frustration, born of miserable living conditions, blighted neighborhoods, over-crowded rooms, broken marriages and promiscuity, education all in the wrong direction, unsanitary, unhealthy, and dilapidated living conditions, play grounds only in crowded streets, children perverted by all around them, poverty, crime, rape, dope, and drunkenness. Everything here speaks of human failure and perpetuates a primordial, primitive human misery. Again, how to break out of this basically immoral and ⁱⁿhuman circle of frustration?

If we can spend forty billion dollars to put a man or two on the moon, and fifty billion annually on defense, then I take it that our affluent society can afford a similar amount to bulldoze our slums into oblivion and to recreate the hearts of our cities. I fully realize that more than physical conditions must be recreated, that there is needed a new moral revolution within the deprived Negro community itself, based on a new pride in what human dignity and human equality can mean in America. As the late President

Kennedy said, "Let us make a beginning."

I said earlier that every great moral system asks man to go beyond his natural condition. The human condition of the world today is ambiguous, to say the least, in the whole area of civil rights. The situation in our own beloved land, the so-called showcase of democracy, is one of great and growing tension. If the great moral tradition we have inherited says anything to us today, it must say this: we are free to deny the human condition, but it will remain what it is despite our denial. We can try to forget it, by indulging in the multitudinous distractions that our age offers. Or, we can accept the human situation for what it is: a great moral challenge to demonstrate in these our times that man is growing, not standing still or falling back; that human dignity means so much to us that we wish to share it with all our fellow countrymen, indeed with all the world; that human equality need not be a bitter and frustrating travesty, but a bright reality to which all of us are committed in the depth of our hearts and souls; and, finally, that all of us recognize each of these tasks as a deeply human moral obligation to which we, too, are willing to pledge today, as our forefathers did in their day, our lives, our fortunes, and our sacred honor.

Non-Violence Re-Affirmed

"The evidence of the last few years supports my faith that through the use of non-violence much can be done to raise the Negro to a sense of self respect and human dignity. It instills in him the nerve to challenge segregation and discrimination in whatever form they exist. Non-violence in so many ways has given the Negro a new sense of somebodiness. . . . It has thwarted the growth of bitterness. It has helped to diminish long repressed feelings of anger and frustration. In the course of respecting the discipline of the non-violent way, the Negro has learned that he must love the adversary who inflicts the system upon him. He learns in the midst of his determined effort to end segregation that a commitment to non-violence demands respect for the personhood of his opponent. . . . It is this type of love that must guide us through this rather turbulent period of transition. It will cause us to enter the new age which is emerging with a wholesome attitude. . . . We will be imbued with the conviction that a philosophy of black supremacy is as injurious as a philosophy of white supremacy." *Dr. Martin Luther King, Jr., at a press conference in Chicago.*

On Being Good at Religion

(H) Please clip to our file of best from his ser-

FOR FURTHER INFORMATION CONTACT

M. Carl Holman
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FOR RELEASE

SUNDAY, NOVEMBER 1, 1964

Phone: 382-1228

WASHINGTON, D.C.---

When school opened for the 1964 fall term, there was some measure of public school desegregation in each of the 17 Southern and Border States for the first time since the 1954 Supreme Court decision, according to a report released today by the U.S. Commission on Civil Rights. The 304-page volume, PUBLIC EDUCATION: 1964 STAFF REPORT, contains a state-by-state account of major public school desegregation developments from the opening of schools in 1963 to the opening in 1964.

Two decisions of the U.S. Supreme Court in the 1963-64 court term significantly affected school desegregation in the fall of 1964. Negro children in Prince Edward County, Virginia attended public schools for the first time since 1959. This occurred after the high court ruled that the county must maintain a public school system and prohibited the state from using tax-supported tuition grants to support private segregated schools.

In another significant education decision, the Supreme Court ruled that review of the grade-a-year desegregation plan adopted by the Atlanta School Board was an appropriate question to be considered by the lower Federal courts. The language used by the court in redefining the "all deliberate speed" decree of the 1954 Brown decision was the basis for a pattern of minimum standards adopted by the Fifth Circuit Court of Appeals. The Fifth Circuit Court fashioned decrees requiring that desegregation begin with the upper grades as well as the lower grades (12th and first grade) for schools in Georgia and Alabama.

A number of school desegregation suits filed in 1964 requested integration of teachers and administrative staff as well as student integration. "Freedom of choice" of schools (on a first-come, first-assigned basis, together with elimination of boundaries and transfer requirements) has also emerged in North Carolina and Virginia as a widely used plan of desegregation.

The report notes that de facto segregation (school populations reflecting segregated neighborhood housing patterns) is evident in St. Louis, Kansas City, Jackson (Tennessee), Wilmington (Delaware), Atlanta, Baltimore and Cambridge (Maryland).

SOUTHERN STATES

In Mississippi, the only state which had no previously desegregated schools, classes began with three school districts desegregated for the first time. In a fourth school district, under order to desegregate, no Negro pupil sought to register at a white school. Four more school districts desegregated in Alabama to bring the total in that state to eight. In South Carolina, which had only one desegregated district in 1963-64, fifteen school districts desegregated for the first time. No major incidents accompanying school desegregation were reported in any Southern state.

Texas and Virginia led the region in the number of newly desegregated school districts with 25 each, followed by North Carolina with 21, Louisiana with 15, Tennessee with 13, Arkansas with 8, Georgia with 6, Alabama and Mississippi with 4 each, and Louisiana with one.

BORDER STATES

Except for Kentucky and Oklahoma, the desegregation picture remained unchanged in the Border States as school opened in September. All biracial school districts in Delaware, Maryland, West Virginia and the District of Columbia, were already desegregated. In Oklahoma, two additional school districts were desegregated, bringing to 199 the number of desegregated districts among the State's 241 districts enrolling both Negro and white pupils.

One new school district was desegregated in Kentucky. Of the State's 165 biracial school districts, only one district remains segregated. In Missouri, nine of the State's 212 biracial districts have not yet desegregated.

SEGREGATED DISTRICTS

The percentage of desegregated school districts in the 17 Southern and Border States has risen from 1,114 (or 37.4 percent) in the school year 1963-64 to 1,244 (or 41.7 percent) in the fall of 1964.

But even with this gain, the majority of biracial school districts in the Southern States remain segregated. This is true of 64 of 67 districts in Louisiana; 146 of 150 in Mississippi; 106 of 114 in Alabama; 171 of 181 in Georgia; 82 of 108 in South Carolina; 207 of 228 in Arkansas; 46 of 67 in Florida; 610 of 899 in Texas; 110 of 171 in North Carolina; and 84 of 142 in Tennessee.

Of the 11 States in the South, only Virginia with 80 desegregated districts and 48 segregated districts, is an exception to this pattern.

In the state-by-state analysis of desegregation developments, the report discusses court decisions of the past year, pending litigation, voluntary efforts by school officials, State and Federal action.

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UNITED STATES GOVERNMENT

Memorandum

TO : Acting Staff Director

DATE: 10/12/64

FROM : General Counsel

SUBJECT: Father Hesburgh's Speech

Father Hesburgh's speech is excellent. I have only a few minor points:

Page 7 - I am not sure that Eisenhower ever said that civil rights was the most important domestic problem.

I know he said it was at least one of the most important problems. JH.

Page 19 - I assume the reference to murders concerns Adams County in Southwest Mississippi. There were not five murders in that county, but one murder and several whippings, beatings and shootings, none of which resulted in indictments.

Page 24 - There is absolutely no question about the accuracy of the statement about Satterfield and I see no reason why it should not be said. The only change I would suggest is that the statement should say "a former President" instead of "the former President," which seems to refer to the person most recently in office.

Page 29 - The Civil Rights Act of 1960 was not stronger but much weaker than the 1957 Act.

in publ. Accon.

As you can see, I find very little to quibble with. The speech is fine.

WLT

P. S. I am attaching a list of church bombings and burnings in Mississippi this summer, which Father Hesburgh expressed an interest in when I saw him.

CHURCH BOMBINGS AND BURNINGS IN MISSISSIPPI -- SUMMER 1964

Adams County

July 12 - Natchez - Jerusalem Baptist Church burned
July 12 - Natchez - Bethel Methodist Church burned
Aug. 5 - Natchez - Mount Pilgrim Church burned

Forrest County

June 15 - Hattiesburg - Holy Rosary Catholic Church burned

Hinds County

June 26 - Clinton - Church of the Holy Ghost firebombed
July 6 - Jackson - McGraven Hill Missionary Baptist Church burned

Jackson County

June 23 - Moss Point - Knight Hall burned

Kemper County

Sept. 19 - a Negro church was burned by firebombed

Lauderdale County

July 29 - Meridian - Mount Moriah Baptist Church burned
Aug. 19 - Collinsville - Pleasant Ridge Baptist Church burned

LeFlore County

July 11 - Greenwood - Pleasant Plain Missionary Baptist Church burned
Aug. 22 - Itta Bena - Perry's Chapel burned

Lincoln County

Sept. 7 - Smithdale - Chisolm Mission AME bombed

Madison County

June 12 - Canton - Pleasant Green Church of Christ bombed
July 19 - a Madison County Christian Union Baptist Church burned
Aug. 11 - Gluckstadt - Mount Pleasant Church burned
Sept. 17 - Canton - St. John's Baptist Church burned
Sept. 17 - Canton - Cedar Grove Baptist Church burned

Monroe County

Sept. 11 - Aberdeen - a church was bombed

Neshoba County

June 16 - Philadelphia - Mount Zion Methodist Church burned
Sept. 19 - Cey - a Mennonite Choctaw Indian Church was burned

Pike County

July 17 - McComb - Zion Hill Free Baptist Church burned
July 21 - McComb - Mount Vernon Missionary Baptist Church burned
July 23 - McComb - Rose Hill Baptist Church burned
Aug. 5 - McComb - Mount Cannon Missionary Baptist Church burned
Sept. 21 - McComb - Society Hill Baptist Church bombed

Rankin County

June 21 - Brandon - Sweet Rest Church of Christ Holiness burned (molotov cocktail)
July 30 - Brandon - Pleasant Grove Missionary Baptist Church burned
Aug. 13 - Pearl - St. Matthew's Baptist Church burned

Smith County

July 6 - Raleigh - a Methodist church burned
July 6 - Raleigh - a Baptist church burned

Sunflower County

June 25 - Ruleville - Williams Chapel bombed

GENERAL SERVICES ADMINISTRATION

ROUTING SLIP

TO	CO	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
NAME AND/OR SYMBOL						BUILDING, ROOM, ETC.					
1.	Taylor										
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REMARKS											
<p>This includes places which suffered only slight damage. For example, the Knights of Pythias Hall, which was burned on June 23 in Moss Point (Jackson County), was only scorched.</p>											
FROM	CO	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
NAME AND/OR SYMBOL						BUILDING, ROOM, ETC.					
						TELEPHONE			DATE		