The Summer Civil Rights Projects

The summer projects sponsored by the main civil rights organizations gave direction to our youthful missionary impulses. These came late in the civil rights movement, at a time when it had won some victories, but was frustrated and angered by the long hard road and the slow pace of progress. Success after *Brown* still came in fits and starts and at great cost to the participants. Mississippi in particular dug in its heels and refused to budge. In October of 1963 SNCC organized a "freedom vote" in Mississippi to coincide with the state election in November. Negroes would demonstrate their desire to vote by "registering" to vote and casting a "ballot" for an integrated ticket for Governor and Lt. Governor. In late October, calls were made to Stanford and Yale students asking for help. About 50 students from each school came to Mississippi to join the SNCC staff in going door-to-door to "register" Negroes and take them to "vote" at the "polls." About 80,000 "voted" between November 1st and 5th. Although done strictly for show, the effort generated a lot of white Mississippi hostility and national press coverage. From this came the Mississippi Freedom Democratic Party, founded in April of 1964 to challenge the regular Democratic Party and its delegation to the Democratic National Convention in August. From this also came the idea for Freedom Summer, or Mississippi Summer as it was also called. Participants in Freedom Summer would try to register Negroes to vote both through the official processes and into the MFDP. (Payne, 1995, 295-7; Ransby, 2003, 308-9, 313-14, 330)

The 1964 Freedom Summer brought 650 young people from outside the South to work with local students in 36 of Mississippi's 82 counties. It operated under the auspices of the Council of Federated Organizations (COFO), a coalition of SCLC, CORE, the NAACP and SNCC formed in 1961 as an umbrella group to funnel foundation funds into Mississippi for voter registration. (FS number in Rothschild, 1982, 48n2; Branch, 1988, 635) SNCC ran most of the local projects in 1964, and is generally credited with Freedom Summer, though its staff often worked (and clashed) with established NAACP chapters. CORE was active in the Fourth Congressional District. SCLC was present in name only. Registration work was supplemented by 41 Freedom Schools where 75 volunteer teachers tried to make up for the poor education that kept Mississippi Negroes from passing the literacy tests necessary to register. The Freedom Schools were run by Staughten Lynd, a white professor at black Spellman College. (Rothschild, 1982, 101; McAdam, 1988, 255-56; Ransby, 2003, 326-7; Dittmer, 1994, 257-61; https://mississippiencyclopedia.org/entries/freedom-schools/)

The civil rights workers weren't the only volunteers who made the trek to Mississippi, and some stayed. Yale University sent grad students to teach in black colleges for the summer. The National Council of Churches sent two hundred ministers to staff freedom schools and community centers. A group of health care professionals organized the Medical Committee for Human Rights to provide medical care for the volunteers. Three legal organizations set up shop to handle the legal problems from the anticipated flood of civil rights workers. The NAACP Legal Defense and Education Fund Inc., usually called Inc. Fund, had been active in Mississippi for years, but it was focused on school litigation with little time to spare for criminal defense. With only three black lawyers in the state, there weren't enough lawyers to represent civil rights

workers, so two new groups sent volunteer lawyers to Mississippi. The Lawyers' Committee for Civil Rights Under Law was founded in 1963. Done at the suggestion of President Kennedy in a White House meeting with lawyers on June 21, 1963, it was also known as the "President's Committee." The Lawyers' Constitutional Defense Committee (LCDC) was founded in 1964 by activist lawyers. A unit of the ACLU, it was backed by several major law firms. Both expanded their work in 1965, opening offices in Jackson. (Rothschild, 1982, 24; Dittmer, 1994, 229-30; McAdam, 1988, 154; Parker, 1990, 79-81)

When Freedom Summer was announced in the Spring, two women who worked for the National Council of Negro Women – president Dorothy Height and volunteer Polly Cowan – decided to organize society women from the north to go into Mississippi once a week to observe the COFO projects and meet with Mississippi women. They wanted these women to understand how blacks were being oppressed in the South so they could be more supportive. They also wanted them to meet with black *and* white women in the South in order to "build bridges" across race and class lines. To find women of sufficient means to pay their own way to go South once a week, they enlisted the sponsorship of six other national women's organization. This project became known as Wednesdays in Mississippi (WiM). The DoJ was given a weekly list of the participants, so was quite well aware that well-connected women were entering some dangerous situations. A front page story in the *New York Times* said that a total of 48 northern women went to Mississippi over the summer "to improve race relations." In the summer of 1965, WiMs brought 47 Northern society women to Mississippi. This time they found it easier for black and white women to meet together. From WiM came several ongoing projects to provide resources to poor black women. (Height, 2003, 167-79, 184-9; *NYT* quotes in 8-30-64, 1; 9-3-65, 18; *WP* 8-31-65, D2; *NYAN* 9-5-64, 21; https://jwa.org/weremember/cowan-polly)

CORE also ran a summer project in 1964. In keeping with its belief in interracialism CORE tried to place a black and white student in each of 16 north Florida counties. Although Florida was hardly as dangerous as Mississippi, the workers had their share of shootings, arrests and general harassment. But the barriers to registration were minor compared to Mississippi, so they registered a lot more voters. In Mississippi the biggest hurdle was a pervasive fear. In Florida it was apathy. (Due, 2003, 246-53)

By the end of the summer it was obvious that the major civil rights organizations, in particular SNCC and the NAACP, didn't work well together. For the second Freedom Summer each organization planned its own project. As much as possible they tried to work in different counties in different states. By July of 1965, COFO was no more. (Dittmer, 1994, 274-5, 341-2, 343-44)

On April 1, 1965 Dr. King announced the SCOPE project. He said that he had asked 800 colleges to send 2,000 students and faculty to spend ten weeks registering Negroes to vote in 120 counties in seven states. (*NYT* 4-2-65, 24; *WP* 4-2-65) On April 11, James Farmer, executive director of CORE, said it too would run summer projects, in Louisiana, Northern Florida and South Carolina. (http://www.crmvet.org/docs/6505_core_summerprojs.pdf; *NYT* 4-12-65, 49; *CD* 5-5-65, 7) SNCC soon announced that it wanted 50 volunteers to work in Arkansas for the summer, where SNCC had been working for some time. (*SV* 4-30-65, 1) SNCC was also

recruiting a thousand students to go to Washington, DC in June to lobby Congress to unseat the Mississippi delegation in favor of one from the Mississippi Freedom Democratic Party, of which about 200 actually came. In Mississippi the MFDP was running its own summer project. While its project was distinct from SNCC's, many of those who went to Washington in June with SNCC went to Mississippi in July with the MFDP. (*SP* 23:4 April 1965, 1; *NYAN* 5-1-65, 28; *NYT* 6-12-65, 16; 6-15-65, 31; *BAA* 6-19-65, 3) In May, the NAACP announced that it wanted 1,200 volunteers for voter registration drives in Alabama, Mississippi and South Carolina; it claimed it already had 200 applications. (*PC* 5-29-65, 18; *BAA* 5-29-65, 3; *BN* 6-18-65, 32)

The FBI

The FBI read the newspaper reports and sent a memo to department heads: "In order to cope with the problem of identifying subversives who will be attracted to this type of racial activity all offices are instructed to open a separate file...." Since SCOPE was recruiting primarily at colleges, field offices were instructed to ask their sources at those institutions (campus police, administrators) for the names of anyone signing up to work with SCOPE so their names could be "searched through appropriate field office indices to determine whether any of them have subversive backgrounds." It added that "Review of credit and criminal records may be made." The FBI also got names from other places since it asked these same campuses (and sometimes local law enforcement) about lots of specific individuals. Field offices were encouraged to be cautious about who knew that this information was being collected. (Memo of 4-12-65 re: SCOPE, FBI File #157-2925)

The FBI may not have known that the different civil rights organizations ran different summer projects in 1965. In the SCOPE file are reports of background investigations on people going to Mississippi and Louisiana, which were not SCOPE states. The names of the individuals are blacked out, but not the states or towns they were going to; in most cases their school or hometown is also visible. The only "subversives" were a few who were also members of the Socialist Workers Party or the W.E.B. DuBois Clubs. There are many pages in the SCOPE file on these organizations, which weren't running summer projects, to explain what they were. SCOPE is sometimes spelled out as Student Committee on Political Education. COPE was a unit of the AFL-CIO; it did not have a student division.

In the FBI file on SCOPE is a dissection of a 35-page booklet put out by the National Student Association, also called *SCOPE*. (The entire booklet is in the SCLC papers). It described 96 community service projects which were looking for summer volunteers. Many of these were church-related. Some paid stipends; some required that students pay for the privilege of working. Overall they created quite a bit of competition for college students who didn't need to earn money over the summer to continue school in the fall, which may explain why the civil rights organizations got far fewer volunteers than they wanted. (FBI file # 157-933; SCLC IV 169:17) SCOPE would work with some of these other projects in their counties, in particular the Southern Teaching Program (STP) and the American Friends Service Committee (AFSC).

The STP was started by Yale University students in 1964 to send graduate and law students to teach in Negro Colleges during the summer. In 1965 they sent 146 teachers to 27

Negro colleges, including ones in Charleston and Orangeburg. The STP got money from the Carnegie Foundation to pay actual salaries, not just the subsistence pay common to civil rights workers. The AFSC had a wide variety of projects all over the country. In 1964 it had run voter registration projects in a few Southern states. In 1965 its Southern volunteers concentrated on tutoring Negro students in VA, NC and SC to bring them up to grade level, especially those who were going to desegregate white schools in the fall. In Virginia, SCOPE would work with the Virginia Students Civil Rights Committee (VSCRC), a group started by SNCC in December of 1964. Composed of a fluctuating 20 students, roughly 3 whites for every black, attending seven Virginia colleges, with a couple from other states, they worked in Southside, as the Southern counties of Virginia were known. (*SP* 23:4 April 1965, 3; *SP* 23:7 Sept. 1965, 1, 2, 3; Nolan e-mail of 10-22-17) The FBI SCOPE file contains background investigations on VSCRC volunteers, implying that they were part of SCOPE rather than a completely separate organization.

SCOPE

SCOPE stood for Summer Community Organization and Political Education, but this acronym didn't capture what we did. SCOPE's focus would be on voter registration even though that was not in its name. While there would be some political education, SCLC relied on its Citizen Education Program for that. Indeed, the CEP teachers were often the primary SCLC contacts in the counties where SCOPE would work. Community Organization wasn't on the agenda at all. SCOPE went only to counties where community leaders had asked for help. Often this was a group of locals who had worked together through an NAACP chapter or in the CEP. Sometimes it was just one or two individuals who had been trying for years to get something moving and wanted help. Since SCLC worked through the black church, the local contact could be just one minister, or it could be a ministerial association that was affiliated with SCLC. But someone had to find housing for the SCOPE workers and give them a little direction, which meant some community organization had to exist.

SCOPE's primary purpose was *political* organizing, not *community* organizing. At the time neither I nor other SCOPErs understood the difference between the two. What they have in common is collective action – the effort to get people to act in concert to achieve a common goal. They also share a common practice – talking with people one-on-one. But the goal is very different. Community organizers help local people develop their own agenda and find a way to achieve it. They start by listening to what people want, then help them select goals which are achievable and identify some means of reaching them. They help people work together toward a mutually beneficial end. Political organizing is goal directed. Organizers go into a community knowing what they want people to do, and then look for ways to persuade them to do it. The paradigmatic political organization is the campaign, whose goal is to get people to vote for a candidate or a ballot issue. SCOPE's goal was to get people to register to vote.

SCOPE would be under the direction of Hosea Williams, who had joined SCLC in 1963 after making a name for himself leading the Chatham County Crusade for Voters in Savannah, GA. Born into poverty in 1926 in southwest Georgia, Hosea served in the Army in WWII and went to school on the GI bill. After getting an M.S. in Chemistry he went to work for the US

Dept. of Agriculture in Savannah, where he joined the NAACP. The campaigns he led in the early 1960s desegregated Savannah and brought him to Dr. King's attention. In the next two years he took on more responsibility, becoming the Director of Southern Projects. SCOPE was his baby.
(http://www.georgiaencyclopedia.org/articles/history-archaeology/hosea-williams-1926-2000)

Shaping the Southern Electorate

Even more than in 1964, the 1965 summer projects were intended to reshape the Southern electorate. The authors of the Constitution did not intend voting to be a right. They left decisions about suffrage up to the states, only writing into that document the provision that Members of the House of Representatives had to be chosen by the same people who could chose "the most numerous branch of the state legislature." (Art 1. Sec. 2) The Constitution has been amended four times to tell the states whom they cannot leave out (Amendments 15, 19, 24, and 26) but states often found ways around these prohibitions. Nor is voting limited to citizens. States can and have allowed non-citizens to vote. Shaping the electorate – deciding who can vote for what – has always been a political decision in which practical concerns trumped ideological ones. Prior to passage of the 1957 and 1960 Civil Rights Acts, constitutional scholars thought that the federal government could not interfere with a state's right to determine who could vote. (Doar, 1997) The civil rights movement demanded a shift in perspective. It said that voting *was* a right, and one that the federal government was bound to protect. Over time, those in the federal government, if not the Southern states, came to agree, which is why the Voting *Rights* Act became law in 1965.

During Reconstruction, Congress passed laws allowing male freedmen to vote. In 1870 the 15th Amendment was ratified, stating that no one be shall be denied the vote due to "race, color, or previous condition of servitude." The former Confederate states spent over three decades trying out different methods to invalidate this mandate. Conservative Democrats started with threats and violence, then shifted to bribery, intimidation and fraud in order to elect their supporters to governing bodies. By the 1890s they had sufficient control of the state legislatures to pass laws which effectively restricted the electorate to one which would reliably vote for Democratic candidates. (Kousser, 1974, 16, 39) Their overt agenda – the one presented to the public to justify what was done – was to purify the electorate by removing those deemed unfit to exercise the franchise, especially (but not exclusively) Negroes. The covert agenda was to solidify the grip of conservative Democrats on state governments and to keep the federal government from interfering in state affairs. (Kousser, 1974, 144) With a small and manageable electorate, the same men could be elected to Congress over and over until they accumulated enough seniority to chair the important committees. By the mid-1950s over 60 percent of House Committees were chaired by Representatives of the 11 Confederate states. Restricting their own electorate gave the South a tight hold on national policy.

FDR tried to use the federal government to expand and alter the Southern electorate in order to release this grip. A variety of interest groups had the same goal for reasons of their own. These efforts accelerated in the 1960s. One of the goals of the first Freedom Summer was to demonstrate to the national public the strength of Mississippi Negroes' desire to vote, as well as

all the hurdles which the state of Mississippi erected to keep them from doing so. The primary purpose of the second Freedom Summer was to turn them into voters once the Voting Rights Act removed most of those barriers.

Three Murders

The pivotal event for both Freedom Summers was the murder of three civil rights workers just as the first Freedom Summer was beginning. On June 21, 1964 Michael Schwerner and Andrew Goodman of New York, along with James Chaney of Mississippi, were arrested near Philadelphia MS in Neshoba County, held and released after dark. They were then abducted by the Klan which killed all three, burying their bodies in a earthen dam. Pushed by President Johnson, FBI Director J. Edgar Hoover sent in 200 FBI agents to find the bodies and the perpetrators. They interviewed a thousand people, about half of whom were Klan members. The bodies were found on August 4 after an extensive search by sailors from a nearby base and a lead from an unnamed informant. (Drabble, 2004, 366; Whitehead, 1970, 124-4) Publicity about their disappearance occupied the press all over the country for weeks. Those murders put the 1964 Freedom Summer on the map of history, eclipsing much of the work done before and after.

Although no such event occurred at the beginning of the second Freedom Summer, one could sense from the whites we encountered in the counties where we worked that they didn't want *that* to happen to *their* county. They wanted feds flooding their county even less than they wanted civil rights workers knocking on doors in Negro neighborhoods. Those deaths in 1964 made it safer for us to work in 1965 because the federal invasion and the national press created a strong aversion to being put into *that* spotlight. In retrospect, I believe that if LBJ hadn't elevated those murders to a long-running major news story many more would have died.

However, that effort didn't make us *feel* safer because we were all too aware that the same *could* happen to us. After all, the murders didn't stop in 1964. Three activists – one black, two white – were killed during the Selma demonstrations: Jimmie Lee Jackson on February 26 in Marion AL, after being shot by a state trooper as the cops were breaking up a march; Rev. James Reeb on March 11 after he was beaten by a white mob on March 9 in Selma; Viola Liuzzo on March 25 when four Klan members took aim at her while she was driving her car with a young black man as her passenger back to Montgomery after delivering a carload of marchers to their homes in Selma. On June 2, whites fired on two black deputies recently hired by the Bogalusa, Louisiana police department, killing Oneal Moore and wounding his partner. As we started work in the second Freedom Summer those deaths were on our minds.
(https://www.splcenter.org/what-we-do/civil-rights-memorial/civil-rights-martyrs)

SCOPE Planning and Recruiting

Five months of planning led up to Dr. King's April 1 announcement of SCOPE. In November of 1964, about the time that President Johnson ordered the DoJ to draft a voting rights bill, the SCLC Executive Committee asked Hosea to prepare a proposal and budget for a summer project. SCOPE was intended to be "a sustained voter registration drive, political education and community organization program in 120 southern counties with 40 per cent or more Negro population...." plus "ten urban counties." The proposal envisioned a staff of 912 persons supervising the work of 1,500 volunteers on a budget of $578,374.00. Conscious of politics, counties were chosen in twelve specific Congressional districts in hopes that more Negro voters would "liberalize the political philosophies of the United States Congressmen." Elsewhere, the aim was " the election of Negroes or right-thinking whites." A later proposal reduced these numbers to 500 volunteers working in 75 rural counties and 6 urban ones for a total cost of $162,844.29. (Quotes in SCOPE: Proposed Budget and Program, April-August 1965, SCLC IV 169:13; January-June 1965, SCLC IV 169:12)

After the Executive Committee authorized SCOPE in January, SCLC sent out 4,000 letters to college presidents and chaplains at 2,000 colleges, as well as to the many teachers and professors in its files who had at one time or another written Dr. King. These letters asked them to tell their students that SCLC was looking for volunteers who were willing to spend a summer doing something that was important, interesting, slightly dangerous, but didn't pay. In 1965 the typical school year went from mid-September to mid-June, with a 13 week summer "vacation." SCLC wanted students to give ten of those weeks to working in the South, preceded by a one-week orientation. Signed by Dr. King or Hosea, typing all these letters kept the office staff busy for weeks while the executive staff was involved with the Selma campaign. Dr. King's letters went to college presidents, asking for help in recruiting students. Hosea's went to other people and were more specific. He wrote "you could lead a drive on your campus to recruit and organize a group of capable young men and women for the project." Another one said SCLC had "launched a program giving college communities the privilege of adopting southern black-belt counties." He said that each college would be responsible for recruiting, screening, programming and fundraising. "Students should plan on having about $150.00 each to cover their expenses. Room and board cost about $10.00 per week." SCLC would assist by making "necessary advance arrangements in the project community." The office prepared 400,000 brochures on SCOPE to be sent to those who replied to help them set up SCOPE chapters. (Quotes from letters in SCLC IV 168:14-15; numbers in SCLC IV 170:9p486)

Individuals who wrote Dr. King expressing support of the movement also received letters about SCOPE, signed by Hosea. Typical was one dated January 27, 1965 to Andrew Leeds, a 19-year-old Bard College student from Scarsdale New York. After briefly describing SCOPE and the orientation week that would begin on June 13, it said "[a]ctual field work will start, for a three-week period, on Monday, June 22." Leeds was also sent a four page description of how each college should organize "a SCOPE unit" with detailed directions on the "Duties of SCOPE officials." This was far more complex than anything likely to be done in a few months, let alone by one person. Indeed no one organized "a SCOPE unit" at Bard College but Leeds went to Atlanta in June and spent six weeks working in Henry County, Alabama. (Letter to Leeds in SCLC IV 168:15p460; project proposal sent to author by Leeds) Hosea sent a similar letter to Prof. Herman Keiter, the head of the Religion and Philosophy Department of Hartwick College

in Oneonta, New York. No SCOPE unit came of this letter either, but it led one student, Bill Brault, to work in Hale County, AL for the summer. (SCLC IV 168:15p457)

Dr. King didn't publicly announce SCOPE until April 1, after the march to Montgomery was over. Recruiting didn't begin until April 10. (*NYT* 4-2-65, 24; SCLC IV 169:14) While work in Selma delayed *organizing* SCOPE, it was also a great boost to *recruiting*, bringing in money and volunteers anxious to *do* something. Many of the young people who came South for the march were inspired to return for the summer and to bring others with them. A few weren't quite ready to go home when the march ended. Hosea paired them with staff and sent them all over the country to recruit for SCOPE. Staff member Leon Hall went to New York with Tony Scruton, who had come from the University of Washington for the Selma march. Carl Ferris traveled throughout Illinois and Wisconsin. Ben Clarke, originally from Savannah, and Mark Harrington, originally from Detroit, flew to DC, Boston, Detroit and the Bay Area. George Shinholster, also from Savannah, and Bob Kay were sent to Southern California. J.T. Johnson (Albany GA) and Bill Treanor (Washington DC) drove to college campuses in Colorado, Utah, Montana, Washington and Oregon. Leroy Moton, the young man who had been in the car with Viola Liuzzo when she was shot after Selma, went to Pennsylvania. Bob Heard, who had left Chicago in 1963 to join the SCLC staff, stayed in Atlanta to co-ordinate the teams, giving out assignments as they called in with progress reports. (*SFC* 4-12-65; *NYT* 5-8-65, 9; *NYAN* 5-8-65, 3; *Marquette Tribune*, 5-5-65; Harrington e-mail of 4-11-14; Heard e-mail of 8-29-14; Treanor e-mail of 1-12-15; June 9 report in SCLC IV 169:14p74-86; SCLC IV 170:9p487-8)

Recruiters primarily visited college campuses and contacted local civil rights groups where they could find them. SCLC had sent material to its campus contacts who put up posters and arranged for recruiters to speak to interested students. Success varied enormously from place to place. Recruiters were most effective where there was already a local civil rights group, often a CORE chapter, with members who had worked together on local actions and just needed to be mobilized for the summer project. When Leroy Moton got to Dickenson College in Carlisle PA, SCLC's faculty contact sent him to Larry Butler, a student who was the chairman of the Carlisle CORE chapter. Larry arranged for meetings at Dickenson and Gettysburg Colleges and organized a SCOPE chapter after several students expressed interest in going South. They held a fundraising drive, with donations going to the college chaplain's office. (Butler, 1965, 1; *Gettysburg Times* 5-17-65, 1) Carl Ferris spoke to SURE (Students United for Racial Equality) at Marquette University in Milwaukee, where eight students pledged to work with SCOPE. Two of these, Dan Stefanich and Tim Mullins, had marched in Selma. (*Marquette Tribune*, 5-5-65) Chicago was harder; it sent only a couple people to work with SCOPE. Carl spoke at Roosevelt University on May 20.

Some existing campus organizations served the same purpose even when they weren't explicitly a civil rights group. The Young Democrats recruited for SCOPE at several colleges. At Wayne State University in Detroit a SCOPE chapter was organized by John Hutchinson of the University Christian Center, but most of the seven people – six students and one nurse – who went to South Carolina knew each other through the campus Newman Club for Roman Catholics. (*Daily Collegian*, 3-24-65; Mike Brown e-mail of 1-10-15) The three boys who drove South from the University of Montana knew each other through various left-wing causes. They brought together about 15 students to help them raise money for the summer project. (Ralph Bennett e-mails of 1-18-15 and 2-1-20)

The five students who joined SCOPE from Wittenburg College, a Lutheran school in Southwestern Ohio, had a history of activism. The local CORE chapter had helped the students organize Students Advancing Freedom and Equality (SAFE) in 1963, in the upsurge of civil rights activity that followed the demonstrations and bombings in Birmingham. SAFE worked with CORE off campus. On campus it looked for discrimination to eradicate and found it in the Greek houses. As we had learned at Berkeley several years earlier, the Greeks limited members to people of the same race, sex and religion. Even when the local houses wanted to cease their racial exclusivity (sex and religion weren't issues then) their national charters wouldn't allow it. At Cal a student organization called SLATE had pressed the university to prohibit the Greek houses from practicing racial discrimination since its founding in 1957. Early in 1959 California Attorney General Edmund G. "Pat" Brown issued a legal opinion that the university could not recognize discriminatory organizations. The UC Regents gave the Greek houses until 1964 to bring about changes in their national charters or disassociate themselves from the national fraternity. (Freeman, 2004, 79) SAFE finally persuaded the Wittenberg administration and faculty to come out against Greek discrimination in 1965. That Spring, physics professor John Ginaven organized a SCOPE group. (Kinnison, 2011, 177-78) They went to Gadsden County, FL, right below the Georgia border, where there were about 10,000 Negroes of voting age still not registered to vote.

One of Dr. King's letters went to the president of Saint Mary-of-the-Woods College, near Terre Haute, Indiana. Two Sisters on the faculty of this small Catholic women's college volunteered to lead a group because they wanted "to be counted with the doers." In June they brought four students from SMWC and two from Indiana St. U to work in Dougherty Co. in Georgia. Its largest city was Albany, which had been the scene of a major movement a few years earlier that was a learning experience for SCLC. (Abbott, 2013, quote on 531)

Another letter went to Associate Dean of Students Leonard Zion at Brandeis University in Boston, who set up meetings to recruit for SCOPE in March, before Dr. King even formally announced the project. The campus administration chose Columbia, the state capitol of South Carolina, and county seat of Richland County, as the place for its SCOPE chapter to work because it wanted to set up faculty and student exchanges with the two Negro colleges there. Allen University was affiliated with the AME church. Benedict College was a Baptist school. Columbia was also home of the University of South Carolina. By the time 18 Brandeis students left for Atlanta they had added two students from Harvard, two from Wellesley and one from Wheaton College to their group. With $5,000 from Brandeis and a $10,000 donation from syndicated columnist Drew Pearson, they had raised almost $20,000 for the summer. (*The Justice* 3-9-65, 1; 6-8-65, 1; Venable, 2017, 12)

Dr. Matt Stark of the University of Minnesota (UMN) had worked with SCLC previously and was ready to do so again. Operating out of the student affairs office, he had rented a bus to send University students to the Selma march. He worked with grad student Jack Mogulson, who had been in Mississippi for the first Freedom Summer, to put together a SCOPE project. Using an office on campus, they distributed information and reviewed applications, finally selecting 22 people, including a high school teacher, one student from the St. Paul Catholic Seminary and two from a local Catholic women's college. The core group were members of Students for Integration, a UMN organization headed by Judy Larson. They raised money by selling SCOPE buttons at $1 each and by speaking at local groups and churches asking for funds, telling everyone that they needed $13,000 to cover their expenses for the summer. (Grefenberg, 2009,

5-7; *Minn. Daily* 4-26-65, 1)

Four Columbia University history professors who had marched in Selma received letters from Dr. King, prompting them to take on the job of recruiting students for SCOPE. Two students were named as campus co-ordinators, notices were posted on Columbia U. bulletin boards, flyers were left at the Columbia-Barnard Democratic Club table and ads put into the *Columbia Spectator*. The Columbia faculty and the Democratic Club table raised almost four thousand dollars for the project and Prof. James Shenton accompanied the volunteers to Atlanta. (*Columbia Spectator* 5-3-65, 1, 6; 5-5-65, 11; 10-21-65, 1, 3)

Some people were self-recruited. Leon Gutherz, a 40-year-old history teacher in New Rochelle, NY went to the National Council of Churches headquarters looking for a project to join. He left his name, expecting it to be given to someone from SCLC and someone from the NAACP. He only heard from SCLC. (Gutherz phone interview of 3-14-14) Judith van Allen, a Cal grad student living in San Francisco, had wanted to participate in the first Freedom Summer, but didn't make it. This was her second chance. She was going to apply to SNCC, but friends in New York told her about SCOPE. It sounded better, so she hunted for the SCOPE representative in the Bay Area. (Van Allen KZSU interview, 1965) Jennifer Sather read about SCOPE in the student newspaper at Oregon State University and called the professor named in the article. She was the only volunteer from OSU, so he and other professors bought her a bus ticket to Atlanta in time to arrive for orientation. (Westerman e-mail of 4-21-15)

Most of the summer volunteers were inspired by the Selma-to-Montgomery march. Some had gone to Montgomery for the final rally; everyone had read about how hard it was for Negroes in the South to register to vote. They believed that voting was such a fundamental right of citizenship that all those restrictions were wrong. Peggy Fiero had gone to the Selma march with 13 other students from Cornell's Religious Life Council. Listening to Dr. King's speech at the Alabama state capitol convinced her to return for the summer. (Gaasadelen, 2014) When Dr. Ben Reist of the San Francisco Theological Seminary returned from the Selma march he persuaded the Board of National Missions to fund a summer project in Wilcox County AL, where the Presbyterian Church ran a boarding school for Negroes called Camden Academy. They sent four young seminarians and the wife of one to work on voter registration with SCOPE. All lived in the Academy dorms, along with several other SCOPErs who rotated in and out of Wilcox Co. that summer. (Worcester e-mail of 2-14-15; Gitin, 2014, 8, 47, 61, 113)

Almost 30 percent of all SCOPErs came from California. While only a few had gone to the Selma march, all were educated about race discrimination by the campaign over Proposition 14 in 1964. Proposition 14 amended the state constitution to bar governmental action in the sale, lease or rental of real property. Sponsored by the real estate association and promoted by several right-wing organizations, it killed the Rumford fair housing law passed by the legislature in 1963 to make race discrimination in real estate transactions illegal. The No on 14 campaign raised awareness of race discrimination and created an urge for action among many who were not ready to picket or sit-in. They were dismayed when California voters overwhelmingly voted against the fair housing law while even more overwhelmingly choosing President Johnson from Texas over Californian Richard Nixon. Statewide, the vote was 4,147,837 for Prop. 14 and 2,133,134 against. Even in San Francisco 159,314 voted Yes and 134,611 voted No. Many liberal Democratic voters didn't want the government to tell them to whom they could (or could not) rent or sell their real estate. Federal reaction was swift. The Feds cut off housing assistance to the

state. The California Supreme Court found the amendment to the California constitution to be a violation of the US Constitution in 1966 and the US Supreme Court affirmed its decision in 1967. These court decisions had not yet happened in 1965 when young people were thinking about civil rights. (*Reitman v. Mulkey*,1967)

The UCLA SCOPE unit approached the ideal of a campus SCOPE chapter, adopting a county and providing it with back-up as well as workers. Dr. King spoke to 4,500 UCLA students on April 27, inviting them to join SCLC's summer project. He inspired at least 50 students to meet and form committees to raise funds, study potential counties, and recruit students to go South. Joel Siegel, editor of the campus humor magazine, took on the job of project director. SCOPE became an official student organization so it could operate freely on campus. A committee researched the possible counties and decided to go to Georgia. They were torn between Bibb Co., which had in it in the modest sized city of Macon, or Peach County, a rural county which was also the home of one of the three state-supported Negro colleges in Georgia. The committee chose Peach County. Students raised money by soliciting donations from churches and synagogues and sponsoring dances but only raised $2,100 before the group left in June. Those who stayed in L.A. raised more money and organized a drive for books suitable for children and sent them to Georgia. One fundraising effort was aimed at those living in group housing. They were asked to "Fast for Freedom" by donating the cost of one meal to the SCOPE fund. The dormitory residents raised $110 and the Greek houses raised nothing. Some students were given money by different groups they were affiliated with. Willy Leventhal said his rabbi paid for five Jewish students to go South. The interfraternity council offered to pay the summer expenses of one brother. Charles Hammonds applied. He was surprised when the council told him that he was the only applicant. Then he realized that it was just a gesture as the council didn't expect *any* fraternity brother to want to spend the summer working in the South. (*CD* 4-28-65, 29; 4-29-65, 3; 5-1-65, 14; *BAA* 5-8-65, 14; *Bruin* 5-6-65, 1; 5-13-65, 1; 5-18-65, 1, 6; 5-20-65, 4, 5-27-65; 6-18-65, 1; 7-13-65, 1; 7-30-65, 2; 8-5-65, 1; Leventhal 2013 LoC interview; Hammonds e-mail of 12-16-14)

The UCLA students who traveled to Atlanta were a diverse group, not all of whom went to UCLA, and only a few of whom had been politically active before going South with SCOPE. Neil Reichline wrote for the student newspaper, *The Daily Bruin*. He and Joel Siegel wrote a series of articles for the paper about SCOPE's work throughout the summer.[1] Willy Leventhal was a baseball fan. Ken Long was a Republican. At 28, Larry Cloyd was the oldest. He had been working since he got out of high school and would start community college in the fall. Chuck Hammonds was a frat rat. Not long after hearing Dr. King speak he brought a Negro girl to his house for lunch. After she was gone, his Delta Tau Delta brothers confronted him and said "Don't you ever bring a nigger here again." That was an eye-opener. Diane Hirsch had just

[1] I'd like to thank Ryan Leou, a student reporter on the *Bruin* in 2015, and David Bair, a librarian at the Brookings Institution, for providing me with copies of these stories after I couldn't get them from Neil Reichline. They all say that there were 18 SCOPErs from UCLA, but that number is not accurate. All the lists I've seen have fewer than 18 actual UCLA students. If you add those in the group who were not UCLA students, there were more than 18. The FBI reports on UCLA say that 20 people went South with SCOPE, but all names are blacked out. That number isn't accurate either.

finished her freshman year. The child of progressive parents, she had grown up on a picket line and was one of the few UCLA students who had some civil rights experience. She wanted to go South with SNCC, but SCOPE was willing to give her a stipend and SNCC wasn't so she went with SCOPE. She would switch to working for SNCC after she got to Georgia. (Hammonds e-mail of 12-16-14; Hirsch e-mail of 4-19-15; Cloyd, Hirsch, Leventhal, Siegel, Zvonkin KZSU interviews, 1965; *Daily Bruin* 6-18-65, 1; 6-22-65, 3)

Dr. King's UCLA speech caught the attention of more L.A. residents than just the students who heard him talk. Three Negro men in their thirties took their vacation days to go to Atlanta for orientation and a week or two of working in a county. Shelby Jacobs, 30, and Norman Hodges, 32, were engineers on the Apollo program. Their employer, North American Aviation, gave them an extra week's vacation to work for SCOPE. At orientation, Shelby, a UCLA alum, was attached to the UCLA group and Norman was sent to Dublin, GA. Albert W. Hampton, 39, was a meter inspector. He spent his vacation in Henry Co. AL. Ned Moore, 28 and Norma Daniels, 35, both white, also came from L.A. They were sent to Pike County, AL. (Jacobs e-mails of 8-19/20-15; Pike County Log)

The four young men who left Santa Barbara for Atlanta on Friday, June 11 planned to work in Prince Edward County in Southern Virginia. This county was still suffering the effects of a complete closing of the public schools between 1959 and 1964 to avoid desegregation. The schools had finally reopened but the Negro students had missed several years of education and were behind their white cohorts, most of whom had gone to private academies in the interim. The SCOPErs were: Bob Waterman, a 23-year-old military veteran attending Santa Barbara Community College, and three University of California at Santa Barbara (UCSB) students, Lanny Kaufer, 18, Gary Imsland, 20, and Phil McKenna, 18. Mickey Bennett, 27, also a UCSB student, and Ivan Rasmussen, 30, a high school teacher, joined them later. (*Santa Barbara News-Press*, 6-13-65, A6; Kaufer e-mail of 4-11-16; Rasmussen e-mail of 4-16-16; SCLC IV 169:7p854)

Berkeley was an anomaly. It had plenty of pre-existing groups working for civil rights and related causes but didn't create a SCOPE chapter. Although only about two percent of the students were Negro (and most of those were from Africa), the student body had been exposed to the civil rights movement for years. SLATE sponsored speakers and conferences on racial issues two or three times a year. The campus had been consumed by the 1963-64 Bay Area Civil Rights Movement. The Berkeley Free Speech Movement (FSM) which emerged in the fall of 1964 was motivated by the belief that the University administration wanted to suppress recruiting students for civil rights demonstrations. This very intensity made it hard to organize a support group. The universe of liberal/progressive students at Cal was large, but fractured by the ancient battles of the left and the more recent ones in the FSM. Before the FSM, rules against political activity made it difficult to impossible to meet on campus. Student political groups met in Stiles Hall, home of Cal's YMCA, which had its own building across the street from the campus. Even after student political groups could meet on campus it remained an organizing center. I and the other Berkeley students who applied to SCOPE found out about it at Stiles, or through word-of-mouth from someone who learned about it there. CORE and SNCC also recruited for their summer projects through Stiles. (Freeman, 2004, *passim*)

I applied to all three and most likely would have gone with CORE had I been accepted. Instead it was the only one of the three projects which sent me a rejection letter. I wasn't

surprised. When I walked into the interview I saw Barbara Garson on the selection committee. We had been in opposing factions in the FSM where I had learned that radicals were unforgiving of those whom they saw as "sellout/ratfink/traitors." When I got the letter that said I had insufficient experience in civil rights to work in the South, I just laughed. I knew I was better prepared to do civil rights work in the South than all of the selection committee put together. I was predisposed toward CORE because I had worked with it in the Bay Area Civil Rights Movement and had a positive impression of how it operated. I had no experience with SNCC and knew nothing about SCLC's SCOPE project. However, a former roommate's boyfriend had gone to Mississippi for Freedom Summer and stayed through the fall. Ted Jacqueney told me that SCLC was "saner" (his term); that SNCC staff were difficult to work with and were taking out their anger at white supremacy on the white volunteers. SCOPE was new, without a track record, but he still thought it the better choice. Absent other information, I took his advice. (Freeman, 2004, 259)

SCOPE recruiting at Berkeley was very compressed and happened mostly while we were writing our term papers and taking final exams. Those who indicated any interest were interviewed on the evening of May 23 at Stiles Hall and those going South met there for orientation on Sunday, June 6. About two dozen people heard a few speakers and saw a couple films. The organizers had hoped to raise some money, but there just hadn't been enough time. We were told to pay for our own travel and bring money for room and board of roughly $10-$12 a week. I had already raised my money by selling buttons at a marathon teach-in on Viet Nam held on campus on May 21-22. (Freeman, 2004, 257) After the program, those who needed rides were grouped with those who had cars to travel together to Atlanta in time for orientation on June 14. I was sorry that I couldn't go with them. Cal graduation was on Saturday, June 12, after the car pools left town. My mother wanted to see me go through the ceremony wearing a cap and gown. I wanted her signature on SCLC's parental consent form, required of all those under age 21. We each got what we wanted.

I didn't know any of the dozen Cal students who went South with SCOPE. From looking at the names years later, only John Kimball and Mark Dinaburg had been arrested with the FSM. I didn't recognize any who were arrested in the 1963-64 Bay Area Civil Rights Movement. I later learned that there were two more. Judith van Allen was involved in both but didn't get arrested in either. Richard Reichbart had been arrested in the FSM, but transferred to the University of Minnesota for the spring semester and joined up with SCOPE from there. A few more FSMers gravitated toward SNCC, which had cachet. The only one I knew personally was Margot Adler, a sophomore from New York who went to Belzoni, Mississippi after lobbying for the MFDP in Washington, D.C. Other FSMers who worked in Mississippi that summer were Nina Wax, Eric Bond, Lynn Hollander, Richard Saunders and Mike Smith. Roy Torkington went to Louisiana with CORE. A school that was legendary for campus activism sent very few students to work in the South in 1965.

SCLC had its western office in Los Angeles, but otherwise had no presence in California. SNCC, however, had Friends of SNCC groups throughout the state. Some of these helped with SCOPE recruiting even though SNCC and SCLC were barely speaking to each other in Atlanta. Friends of SNCC at San Francisco State College sponsored the SCOPE recruiting tables so they could be set up on campus. Mike Miller, head of the Bay Area Friends of SNCC, spoke at the June 6 SCOPE orientation in Berkeley. At UCLA, Rick Tuttle, who had worked for SNCC, was

an informal advisor to the emerging SCOPE chapter. This degree of co-operation did not hold throughout the country. At some schools (e.g. Harvard) SNCC supporters undermined SCOPE recruiting, which is why the only the only two Harvard students who joined SCOPE went with the Brandeis group. (Tuttle e-mail of 9-13-15; *Harvard Crimson*, 4-29-65)

Young people came to SCOPE with a variety of experiences. Quite a few had been involved in the civil rights movement in their home towns or schools when it expanded in the North in 1963-64. Dick Klausner of Iowa and Judith van Allen of San Francisco were among these, as was I. (Klausner and van Allen KZSU interviews, 1965) Often they worked with CORE. Started in 1942 by people associated with the Fellowship of Reconciliation (founded in 1915), CORE applied the Ghandian principles of non-violent direct action to fight segregation. The organization was stronger in the north than in the South, where *de facto* rather than *de jure* segregation was the norm. CORE was committed to interracialism, but its Northern chapters were heavily white, while its Southern chapters saw few white faces among their members. It got a major membership boost in 1963 from all the publicity about civil rights – the Birmingham movement, the assassinations, the March on Washington and the church bombing which killed four little girls. All over the country CORE chapters organized or revived in places that hadn't seen any civil rights activity in a very long time, if at all. CORE revived in the Bay Area that fall, demonstrating against several businesses that wouldn't hire or promote Negroes. Already sympathetic, I was pulled into the movement by these demonstrations. Many who went South with SCOPE in 1965 had already been trained in non-violent direct action by CORE.

CORE also gave us our name. We were called "freedom riders" by local people even though few of us were old enough to have actually been a freedom rider. We were old enough to have read about the 1961 freedom rides that CORE organized to test a 1960 Supreme Court ruling that the stopover stations for interstate buses could not be segregated. (*Boynton v.Virginia*, 1960) Leaving from Washington, D.C. on May 4 and headed to New Orleans, the freedom riders were physically attacked in Alabama, creating lots of news coverage. This was fresh in the minds of the Negroes in the small towns where we worked in 1965. None of us, and probably few of them, knew about the Journey of Reconciliation through the upper South that CORE had organized in April of 1947. The JoR tested a 1946 decision by the Supreme Court that segregation in interstate travel placed "undue burdens on interstate commerce." (*Morgan v. Virginia*, 1946) Some states ignored the interracial pairs who shared seats, but in others they were beaten and arrested. The publicity didn't force the carriers to desegregate but it did attune many newspaper readers to the injustices of segregation.

SCOPE was never as big as originally conceived. The numerous press releases said that it would operate in 120 rural counties and 10 urban counties in six (sometimes seven) states. On June 28, SCLC's public relations director wrote that there were "306 student volunteers ... in 49 counties" augmented by 28 SCOPE staff, for a total of 334 persons working in the field. Those numbers were already inaccurate. Some of the people listed in that memo never came South; some came for a few days and left; many more came after orientation ended who were not on that list. Nor were they all sent to the counties in which they were listed. Some counties that had asked for SCOPE workers didn't get any. Some county leaders changed their minds at the last minute and opted out of the summer project altogether. Some staff moved projects and people

from one county to another. Some county leaders were sufficiently demanding that they got SCOPE volunteers redirected to their counties even if they weren't on the June 28 list. A few SCOPE workers switched counties on their own initiative. There was never a final list of who worked where and when. Overall, the best estimate is that roughly 350 SCOPE volunteers worked for various lengths of time in roughly 60 counties in Alabama, Florida, Georgia, North and South Carolina and Virginia. The seventh prospective state was Louisiana; sending SCOPErs there was never more than wishful thinking. (Junius Griffin memo of 6-28-65, SCLC IV 145:29)

Orientation

SCOPE orientation began on Monday morning, June 14, at Morris Brown college, Hosea's alma mater, and lasted for six days. It was one of the colleges in the Atlanta University Center, a consortium of several Negro schools whose students could take each other's courses for full credit. Roughly 250 volunteers attended orientation, which was about half of what was expected based on applications and phone calls. There was no official count. People came and went so the numbers varied over the week. Community leaders and staff – many recently added – also attended some lectures and discussions, giving the impression of greater numbers. (Demerath, et. al. 1971b, 12; SCLC IV 168:16p488)

Hosea started planning for this week as soon as the Selma to Montgomery march ended, but like most movement events, it didn't go quite as planned. On April 19 he phoned Prof. Walter Johnson, a politically active historian at the University of Chicago, and asked him to prepare the academic part of orientation. The next day Johnson wrote 47 "fellow marchers," all historians, to ask them to conduct classes in "history, politics and race relations." He got a "very good" response. His plan was to have two academic lectures a day followed by discussion groups. He also prepared two reading lists, one of books to be read before arriving in Atlanta, and the other of short pieces SCLC should give volunteers to take with them. While there were plenty of lectures at orientation, the only ones by academics were those of C. Vann Woodward of Yale University, John Hope Franklin of the University of Chicago and August Meier of Roosevelt University. The professors who came to orientation mostly led discussions. All but a few were white historians. (SCLC IV 165:15p434-50; Demerath, et. al. 1971b, 12)

The local leaders who would welcome SCOPE groups to their counties had their own orientation on June 5 at Ralph Abernathy's West Hunter Street Baptist Church. After listening to talks by SCLC's executive staff on "[w]hat is SCOPE" and the "voting bill," they filled out forms providing key facts about their counties. They also gave SCLC information on the families who would house workers, the locals who would work with the project, the number of cars available and what office facilities had been arranged. Based on this information SCLC estimated that SCOPE would be able to work in 110 counties. When the volunteers left to go into the field three weeks later, they would go to half of these. (SCLC IV 168:16p488; 169:5; 169:7p855:7, 169:8p905)

Although Hosea was in charge of SCOPE, Bayard Rustin was in charge of orientation. At that time Rustin headed the A. Phillip Randolph Institute in New York. Rustin was a civil rights activist before there was a civil rights movement, preaching non-violence through the Fellowship of Reconciliation and participating in CORE's direct action projects, including its 1947 Journey of Reconciliation. A protégé of A. Philip Randolph, he was behind the organization of SCLC in 1957 and chief organizer of the 1963 March on Washington. However, he stayed out of the limelight as much as possible, both because he had once been a member of the Communist Youth League and because he was gay. Either made him fodder for those who would denounce the civil rights movement as immoral.

Rustin's assistant that week was Norman Hill, who had joined CORE while a grad student at the University of Chicago, leaving the University to pursue a career in activism. As CORE's National Program Director, he had organized the demonstrations at the 1964 Republican National Convention in San Francisco, July 13-16. That week I was on trial (for the second time) in a San Francisco court as a result of my participation in the Bay Area Civil Rights Movement. When not in court I joined the CORE picket lines at the Cow Palace where the delegates were selecting Barry Goldwater to be the Republican nominee. Hill soon left CORE to join the AFL-CIO's Industrial Union Department in order to be its liaison with the rapidly growing civil rights movement. That's probably why Thursday was devoted to the labor movement in the South and the connection between civil rights and labor issues.

A few days before orientation a station wagon arrived at the Freedom House driven by Fr. James Groppi, 34, a Catholic priest who was making a name for himself as a civil rights activist in Milwaukee. On June 4, he and four other clergymen had been arrested when they blocked a school bus. They were among 50 demonstrators protesting the Milwaukee School Board's policy of keeping Negro children in separate classrooms in otherwise white schools. The Board was under court order to bus children from overcrowded Negro schools to white schools to foster integration, but it didn't want to integrate the classrooms. Fr. Groppi had become sensitized to Negro poverty and white racism after he was assigned to be the assistant pastor of a Catholic parish in a Negro neighborhood in 1963. With some of his parishioners he went to the 1965 Selma march. His influence brought quite a few Catholic youth, Negro and white, into the civil rights movement. Of the ten from Milwaukee who worked with SCOPE that summer, two had been arrested with him on June 4. Three boys and four girls were in his station wagon; four came intending to stay for the summer and three to check SCOPE out. They helped put together the orientation packets and set up chairs before driving to Bullock County, AL to meet the local people they would work with. Liking what they saw, five stayed in Atlanta when Fr. Groppi returned to Milwaukee with the two of the girls. The latter gave notice to their employers so they could go South in July. Fr. Groppi drove to Bullock Co. again in August to spend his two-week vacation from his pastoral duties working with SCOPE. (*Milwaukee Journal*, 6-4-65, 1, 4; 6-9-65, 3; Rozga e-mails of 7-24-14, 9-15-15; Stefanich e-mail of 9-20-15)

SCLC planned SCOPE in expectation that the Voting Rights Act would become law sometime in June. Indeed, Dr. King wrote on June 19 that Vice President Hubert Humphrey had told him that a bill would pass by the end of June. (*NYAN* 6-19-65, 3) SCOPErs were to spend the summer getting local Negroes registered to vote unimpeded by the many restrictions and hurdles the Southern states had erected to keep them out of the electorate. When Clarence Mitchell, chief lobbyist for the NAACP, spoke at orientation, Congress had not yet agreed on the final language. The Senate had passed its version of the VRA on May 26; it was still being debated in the House. Mitchell began his talk by urging all of the volunteers to write their M.C.s and tell them to adopt the Senate version, which was stronger than the one before the House. He was "hopeful that this bill will be passed and signed into law before mid July." (SCLC IV 169:9p944)

In their packets the volunteers found a detailed agenda for the week. It was frequently changed, teaching the students that the movement didn't operate like the academic world they

were used to. In addition to talks by all the executive staff, they heard talks from NAACP lawyers, union leaders and representatives from federal agencies, but not always at the time or on the topic in the printed agenda. Dr. King was supposed to greet them Monday morning; he spoke to a larger audience on Tuesday night. (*BAA* 6-26-65, 13; transcript of speech at SCLC IV 169:8p889-894)

Messages about proper conduct were repeated over and over. SCLC wanted all SCOPErs to look, dress and act respectably. Southerners believed that the 1964 Freedom Summer volunteers were all bearded beatniks and promiscuous girls. (Silver, 1966, 255) SCLC didn't want the same labels appended to SCOPE. Separate meetings were held for boys and girls with the same message: *Don't drink or date*. In their talks, Andy and Hosea stressed "cleanliness and neatness." Abernathy emphasized that if struck, they should never fight back. The volunteers were also told to avoid demonstrations and any behavior that might unnecessarily antagonize local whites, such as bi-racial socializing. Hosea said that there should be absolutely no hanky-panky during the summer, and he meant just that. If it had been up to Hosea, every SCOPEr would have taken a vow of poverty, chastity and obedience. (Venable, 2017, 24-5; *WP* 6-21-65, A2; 7-12-65, A3; *NYT* 6-20-65, 61; *AC* 6-21-65; *Daily Bruin*, 6-25-65, 1)

Volunteers were also urged to minimize costs. Letters were preferable to phone calls when they needed help or advice from Atlanta. No one was to call Atlanta direct from their host's telephone because it would be charged to the host's phone bill. They were told to call collect, but "only in urgent situations, and whenever possible after 8:00 p.m." (when rates were lower). In those days calling collect required dialing "O" for operator and giving a specific name, or just the phone number. The latter was cheaper, but charges were incurred if someone merely answered the phone. If the operator asked for a specific person, a message would be taken and the call returned after 8:00 p.m in order to take advantage of the lowest rate. Person-to-person calls were more expensive than station-to-station. This could be a problem for the Alabama SCOPE counties, which were in the Central Time Zone. After 8:00 in Alabama was after 9:00 p.m. in Atlanta. This method of gaming the system was well understood by the students because that's how they called home from their schools. (quote in SCLC IV 169:6p812) SNCC had a WATS line (Wide Area Telephone Service) which allowed unlimited calls to be made from its Atlanta office for a flat monthly fee. SCOPE didn't have such a resource so frugality dictated discipline.

Apart from this and Jim Bevel's talk on non-violent self-defense, their only practical training came when Hosea sent them to help get out the vote for a special election held on Wednesday, June 16. Georgia was one of many states which fell under the relatively new mandate to redraw its electoral districts so that they were roughly equal in population. When the legislature failed to act, the federal court did. Hosea sent the SCOPE volunteers to canvass for the seven Negro Democrats running to fill newly drawn House districts in Atlanta. (Faust e-mail of 6-27-15; Venable, 2017, 20; Kornrich diary, 1965 ; Wolfe, "Orientation,"1965)

SCLC had a professional public relations office whose relationships with reporters had been expanded and strengthened by the need to constantly feed them information during Selma. It set up a press room on campus to brief reporters on daily events. Staff put together press kits,

wrote daily press releases which were sent out as telegrams, arranged interviews with SCLC's Executive Committee, made hotel reservations for reporters and provided transportation. A press-release form was designed and filled out for every SCOPE volunteer at orientation. There were blanks for each worker's name, parents names, school and the county they were expected to work in. It was addressed to the editor of each volunteer's hometown newspaper. SCLC sent press releases to these newspapers, which often published stories on the children of local residents who were going to be working in the South. The FBI instructed its resident agents to collect these stories and use them to identify summer civil right workers for background checks. (SCLC IV 168:7 to 169:3; 169-6p807-08, 825-26; FBI File # 157-2925)

The reporters who came to see what SCOPE was all about were mostly from Atlanta news outlets and Atlanta bureaus of national publications, including the *Los Angeles Times*, *TIME* and *Newsweek*. The exception was *Look* magazine which sent two reporters and the *Milwaukee Sentinel* which sent one. There were also two students from the Stanford University radio station, KZSU. Eight of them were spending ten weeks traveling from one civil rights project to another doing interviews with volunteers, staff and locals. The *Sentinel* reporter followed the Milwaukee students to Bullock County and wrote a series of four articles on their work that was published in July. *Look* did a story on the group that went to Albany GA which was headed by two nuns but waited until November to publish it. The other press gave SCOPE an honorable mention in stories on Dr. King's speech Tuesday night or his press conference at the Dinkler Plaza hotel on Wednesday, or in stories on the many summer projects by the various civil rights groups. Coverage of SCOPE by national publications was a tiny fraction of what it gave to the 1964 Freedom Summer. (*CD* 6-15-65, 4; *NYT* 6-20-65, 61; SCLC IV 169:6p804-7; 169:11p1005; *BAA* 6-19-65, 3)

Although SCOPE drew its recruits from college campuses and several professors had accompanied their students to Atlanta, Hosea didn't care much for academic studies. He displayed his disdain by giving a very cold shoulder to three professors from the University of Wisconsin who had come to Atlanta to study SCOPE. Nicholas J. Demerath III, Gerald Marwell and Michael T. Aiken, had wanted to study the volunteers for the 1964 Freedom Summer, but couldn't get any co-operation from SNCC or COFO. They decided to try again when they learned about SCOPE in the Spring of 1965. After failing to get a response to letters or phone calls, two of them drove to Atlanta in late May to make a personal appeal to Hosea. All they wanted was to be allowed to pass out a questionnaire to summer volunteers attending orientation and persuade them to fill it out. Hosea did not encourage them, though he didn't say no. Mostly he ignored them. He agreed to meet with them, but didn't show. The researchers returned the weekend before orientation to try again. Once more Hosea shunted them aside, merely expressing indignation that they hadn't sent the questionnaire to him for review.

That night, in a state of despair, the three sociologists wrote a long letter to Bayard Rustin, and slipped it under the door of his room in the hotel where they were all staying. The next morning they got a call from Norman Hill, inviting them to meet with Rustin and himself. Rustin persuaded the researchers to wait until Dr. King returned on Tuesday and bring up the matter with Dr. King himself. He arranged a brief meeting with Dr. King after his speech to SCOPE. Dr. King gave his provisional approval. Hosea wasn't there to object. The researchers

began distributing the questionnaire the next morning, with Rustin's support if not Hosea's. By Wednesday they were known to the students as they had led several workshops in the previous two days, so co-operation was good. The researchers calculated that the response rate was over 80 percent, though it's hard to do an accurate percentage without an accurate denominator, which they knew they did not have. (Demerath, et. al. 1971a, 64; 1971b, 2-18)

During the week, Hosea told everyone where they were going to work. Some groups had already picked counties. Most had not. There were a lot of individuals who had come on their own, without the backing of an organized group. At different points in time Hosea said there were between 19 and 28 SCOPE chapters which had adopted counties. (*CD* 6-22-65, 21) Only one HBCU (Historically Black College or University) had formed a SCOPE chapter. Johnson C. Smith College of Charlotte NC sent ten students (including one from Winston-Salem St. College) to work in Bertie County at the opposite end of the state. The dearth of SCOPE chapters from HBCUs was probably due to the fact that the NAACP recruited heavily from those schools for its own summer project.

There was no guarantee that a SCOPE group would be sent to its adopted county. Assignments to counties kept changing. Groups were broken up and created, sometimes more than once. Hosea did try to split up couples. When he knew that two people were going together, he sent them to different counties, preferably in different states. Some SCLC staff recruited for their own projects. James Orange recruited Tim Mullins and Marc Lewis of Milwaukee to go to his project in Hale County, AL. He told them that Hale Co. "was about to pop, and [their] job was to help make it happen." Tim was head of the Bullock Co. project, but he gave it up for this more exciting opportunity. (Quote in Mullins e-mail of 1-19-17; Venable, 2017, 24)

UCSB SCOPE was diverted from Prince Edwards Co. to Sussex Co., still in Virginia. One of their six guys, Bob Waterman, was sent to neighboring Surry Co. and Peggy Poole, an 18-year-old freshman at Chico State College in California who had come on her own, was added to the Sussex group. Over the summer three others came from Santa Barbara to work in Sussex: Elke Wiedenroth, a German exchange student, and two teachers, Eleanor Mackey and Paul Raymond. (Kaufer e-mail of 4-11-16) All six volunteers from Fresno went to Amelia County, VA. Of the four students who had driven to Atlanta together from two different colleges in eastern Washington State, three were sent to Sumter County, GA and one to Lunenberg Co. VA.

The students from Pennsylvania State University were diverted from Beaufort Co., at the southern tip of South Carolina, to Fairfield Co., in the northern part of the state. They had been recruited by "Penn State in the South" a committee composed of several PSU student groups, most with a religious purpose. After investigating which civil rights organization it wanted to work with and evaluating several counties, the committee chose SCOPE and Beaufort Co., to which it intended to send ten people. Only Leverett Millen, Linda Bankes and David Tanner went to Atlanta for orientation. Hosea sent them to work in Fairfield Co., SC. No one from SCOPE went to Beaufort Co. (PSU *Daily Collegian*, 5-1-65, 1; 5-8-65, 1; 5-20-65, 1; 5-21-65, 4; 5-28-65, 1; 5-29-65, 1; 7-15-65, 4; SCLC IV 169:7p871)

The Berkeley students hadn't formed a cohesive group in Berkeley and weren't kept

together in SCOPE. At some point Berkeley was put on a SCOPE list as having adopted Mobile Co. in Alabama. But no one told us. Most of the Berkeley group who went to orientation were sent to Charleston, SC, while the rest were scattered among several different counties in Georgia and South Carolina. Those who went to Charleston soon found themselves working elsewhere. (SCLC IV 169:7p853, 864, 870)

Three students from the University of Montana – Blaine Ackley,21, Ralph Parmeter Bennett, 22, and Sheldon Thompson, 20 – were sent to Mobile County, along with Mark Elliott Sheingorn, 20, from Dartmouth College. Two locals, including their host, were at orientation. Together they made the five hour drive to Prichard, a town of 47,000 on the northwest edge of Mobile. Mrs. Dorothy P. Williams put them up in her two-story home. They worked primarily in Prichard, only going into the City of Mobile to take people to the county courthouse to register. (SCLC IV, 169:7p868)

When the UCLA group was told on Thursday that they were going to Peach and Houston Counties in Georgia, they were "ecstatic." A rural county was just what they wanted. The next day Hosea told them the University of Minnesota group was going to Peach. He wanted them to go to Bibb Co., with the major urban area of Macon. They were disappointed, but did as he asked. (Quote in Zvonkin Diary, 1965, 2) Because Macon had a large population, a few people who came to orientation on their own were added to the group. These included Shelby Jacobs, one of the two Los Angeles engineers, Nan Ohlinger from Hunter College in New York, Denny Lienau from Midland Lutheran College in Nebraska, and a few students from Maryknoll College in Glen Ellyn, Illinois. (Lienau e-mail of 3-13-15; Ohlinger KZSU interview, 1965; *Daily Bruin* 6-22-65, 3; 7-2-65, 1, 3; Simons KZSU interview, 1965)

The University of Minnesota SCOPE didn't go to orientation. In May it chose to adopt Burke County, near Savannah. After project director Jack Mogelson and Sandy Wilkinson drove to Georgia to check out some counties they switched their choice to Peach County, in part because it had one of the three state Negro colleges in Georgia. Their advisor, Matt Stark, used his personal connections with SCLC to get Peach County for his group. Before leaving Minnesota, they held their own orientation, including instruction in first-aid and non-violent self-defense. Their trainers emphasized that the SCOPE group should be "clean, sinless and respectable." While they raised over $8,000 and some in-kind contributions, they didn't have any cars. They took a train to Macon, Ga, and arrived in Fort Valley, the Peach County seat, by bus on June 26. (*Minn. Daily* 5-4-65, 14; 5-25-65, 4; 5-28, 2; 6-7-65, 6; quote in Grefenberg, 2009, 7)

With 23 students, Brandeis SCOPE was a bit unwieldy. Several thought they should split up and spread out to nearby rural counties. Hosea agreed, and so did Ben Mack, SCLC's state director for South Carolina. Others in their group thought they should stay together. They left for Columbia still undecided as to what to do. (Venable, 2017, 22-23)

The New York City group arrived at orientation in Atlanta expecting to go to Liberty County, GA. In preparation they had collected a few hundred books and shipped them to its county seat, Midway, GA. At orientation they were told that Liberty County wasn't ready. With

17 people, mostly students at Columbia University, they were a large and cohesive group. They met with the different state directors and decided to go to South Carolina, specifically the adjacent counties of Orangeburg and Dorchester. They intended to start in the smaller and more rural Dorchester County but when they called Rev. Robinson, the local contact, to tell him they were coming he said "not so fast." The people who had offered housing had withdrawn it after the local newspapers wrote that a bunch of young Communists were coming to stir up trouble. They were afraid of retaliation for housing "Communists." Next they phoned SCLC's local contact in Orangeburg. Earl Coblyn was a Massachusetts lawyer teaching at South Carolina State College – the main public college for Negroes. Coblyn told them to come on. (Coblyn KZSU interview, 1965; Orangeburg KZSU interview, 1965)

When the Wisconsin researchers analyzed their questionnaires they found they had 120 male and 103 female white volunteers and 32 black volunteers.[1] Among the whites, 84 percent were between age 18 and 23; 3 percent were younger and 13 percent were older. A third came from major cities, and almost half from cities of less than 100,000. About 17 percent came from small towns or rural areas and five percent were from other countries (attending US colleges). Religion was a major motivator for some, but not for others. The SCOPErs who answered their questions clustered at either end on the spectrum of religiosity; most being very religious or very secular. When asked for religion, 36 percent said they had none. Of the rest, 12 percent said they were Jewish, 17 percent were Catholic and 33 percent were Protestant. Compared to the population at large, Jews were over represented and Catholics were under represented. This is consistent with what has been found in other surveys of political activists. The survey found that the white participants leaned heavily toward the liberal end of the political spectrum, but only one in twenty thought of themselves as a radical. For the most part, their political orientation came from their parents. (Demerath, et. al. 1971b, 25-27, 29-30, 34-5)

[1] The authors report that they didn't analyze the questionnaires filled out by blacks because the "backgrounds, experiences and motivations of the black volunteers were quite different from those of the whites" and by themselves weren't large enough for a statistically viable sample. (Quote on 26) Although I was not at orientation, 32 seems larger than what I would estimate from those who filled out forms which were microfilmed for the *SCLC papers*. I believe that number includes some local Negroes who came to orientation because they would be working in their home counties with SCOPE. They were SCOPErs, but they weren't outsiders. All the whites were outsiders; the few white Southerners in SCOPE did not work in their home states, let alone their home counties.

Driving East, Going South

During my few days in Northridge, my mother was visibly unhappy about my going South, but she didn't try to talk me out of it. I couldn't tell how much of her concern was fear for my safety and how much was fear of what her siblings would say. At 19, I was still legally a minor, but I had just graduated from college and was using my own money to do what I wanted to do. She knew there was nothing she could say which would change my mind. She did prepare food for me to share with the young man I met through the Western SCLC office, along with the driving. By stopping only for gas, water and hot food, we did the trip in two and a half days. We were exhausted when we got to Atlanta.

Mississippi

On the way we listened to news reports on the car radio about marches going on in Jackson, MS. The MFDP had told its summer workers that their first action would be to organize a major demonstration at the state Capitol. The state legislature was expected to change its voter registration laws in order to claim that the voting rights bill then before Congress did not apply to it. The MFDP claimed that all of these legislators had been elected fraudulently because Negroes were unconstitutionally excluded from the electorate. On Sunday, June 13, they passed out flyers calling for daily rallies at Morning Star Baptist Church, about a mile from the state Capitol. On Monday they began daily walks from the church to the Capitol, always on the sidewalk and never blocking traffic. The police began daily arrests. That day 472 people were arrested after walking only four blocks. Charged with parading without a permit, they were trucked to the state fairgrounds where they were kept in two huge exhibition buildings. March leaders and white females were later transferred to the city jail. Some of these went on a hunger strike to protest the segregation. Each day brought more marching and more arrests; 203 on Tuesday; 51 on Wednesday; 27 on Thursday; 103 on Friday. Initially only the juveniles were released by the authorities, while a few of the leaders made bail. The rest spent their days and nights on concrete floors, sometimes blasted with cold air from blowers or gaseous clouds from a large sprayer. At night they were repeatedly awakened when the cops banged night sticks on garbage cans or played loud music. On Wednesday, June 24, just as most were being released on bail provided by a northern businessman, 74 more were arrested while assembling in a parking lot. They linked hands and lay down, forcing the police to lift them into the trucks. They were charged with unlawful assembly and resisting arrest. By the end of June, 1,025 demonstrators had been arrested, including 425 juveniles. Most of them spent about two weeks locked up. (*NYT* 6-12-65, 16; 6-15-65, 1; 6-16-65, 1; 6-17-65, 21; 6-18-65, 24; 6-19-65, 19; 6-24-65, 15; 6-25-65, 19; 6-26-65, 13; *CD* 6-15-65, 1; 6-17-65, 14; Dittmer, 1994, 344-346; http://www.crmvet.org/docs/6506_jackson_ncc.pdf; letter from John Doar to Sen. Brewster (D-MD) 8-9-65, in Belknap, 1991, 9:151)

When we were driving through northern Mississippi we were sorely tempted to detour South and join the demonstrations. It sounded like another Selma in the making. Neither of us had marched in Selma and we both wanted to be part of an historic march. We resisted that temptation once we realized that there really wasn't much marching, just a lot of arrests. Going

to Jackson just to get incarcerated for who-knows-how-long would keep us from getting to Atlanta in time to join a SCOPE project. We were already missing orientation; how much more could we afford to miss?

By the time the Jackson demonstrations ended in July, my co-driver and I had gone our separate ways, ensconced in our respective SCOPE projects. The local papers in my county didn't tell me what happened in Jackson, but the national papers said that civil rights lawyers had persuaded a federal appeals court to enjoin the Jackson authorities from using the parade permit requirement to stop the protests. Protected by the June 30 federal injunction, 140 civil rights activists, Negro and white, marched on the State Capitol on July 1. They kept marching for several days, following rules written by the court. No one was arrested; eventually the protests faded. In 1967, that court decided that the ordinance under which the marchers had been charged "cannot be squared with Federal Constitutional standards and is thus void on its face." (*WP* 7-2-65, A4; *NYT* 7-3-65, 7; 7-4-65, 26; quote in *Guyot v. Pierce*, 1967; see also *Strother v. Thompson*, 1967)

The Freedom House

SCLC's western office had told us to go to 563 Johnson Ave. NE when we got to Atlanta. We found it at the end of an expressway, scheduled to be demolished as the road was lengthened and expanded. At that address was a large house with a porch spanning its front that reminded me of the elegant old houses in Berkeley, and was probably built in the same decade. As was true of other places where civil rights workers worked and slept, it was called the Freedom House. I later learned that it had been the home of Dr. King and his family. He had given it to SCLC when he moved his wife and four children to a more modern house elsewhere in Atlanta.

The front door opened to a wide hallway which led to the back, flanked by rooms. There was a parlor on each side at the front, though these rooms had been turned into offices. The middle room on one side was Hosea's office. The room on the other side, in what had probably been the dining room, had a TV and some chairs; that's where staff could relax at the end of the day. In the back was the kitchen, which seemed rather small. A large staircase to the right of the hallway led to four bedrooms, three of which were for SCOPErs and staff. The two at the back were for boys; one at the front was for girls and the other was for a house mother. In each one were multiple bunkbeds, placed in a spiral to maximize the number of beds in a room. The girls room had five bunkbeds for ten girls. I didn't go into the boys' rooms; looking through the open doors I saw a similar layout. Not everyone who worked in the offices slept in those bedrooms; full-time workers had their own lodgings someplace else. Most of the beds were used by transients, though some appeared to have permanent lodgers. The upstairs bathroom was assigned to the boys and the downstairs bathroom to the girls. In the basement was a darkroom and boxes of material intended to go to the SCOPE counties.

Tribal Loyalty

The South that I returned to in 1965 was still a tribal society based on race. Setting aside the small population of Native Americans, the Southern world consisted of two tribes, black and

white, in uneasy co-existence. Rooted in slavery, this division was reinforced and strengthened by segregation. The attitude of both tribes was captured by the phrase “my country [tribe], right or wrong.” Since the white tribe was the more powerful, it wrote the rules of engagement, generally to the detriment of the black tribe. Whites didn’t want their money to pay for the education or health care of blacks, which is why separate schools and hospitals could never be equal.

The South had developed an elaborate racial etiquette, reflecting the primacy of caste over class or any other form of social division. Whites felt entitled to constant deference from Negroes. Whites expected to always go to the front of the line, not only for jobs but in everyday life. Stories abounded of blacks who were beaten because they didn’t step off the sidewalk to allow whites to pass, or take off their hats to show respect, or were killed for some minor slight. Even if the actual incidents were exaggerated, the stories were told and retold to convince blacks to always defer to the wishes and convenience of whites, and to convince whites that they were entitled to such deference.

Within each tribe there were many categories and ranks, which determined who was favored and disfavored in Southern society. In the white tribe these were generally determined by class and kin, though region and religion sometimes played a role. In the black tribe skin color was also a factor in determining status and access to resources. I learned a new ditty, popular in the black world that was unknown in the white. “If you’re light you’re all right; if you’re brown, stick around; if you’re black, stay back.” All of these distinctions faded in black-white encounters, whether genteel or confrontational. Then, everyone was either “one of us” or “one of them.”

White civil rights workers were generally adopted into the black tribe. There were some culture clashes, and Negroes sometimes deferred to Northern whites as they would to Southern whites, but for the most part we were accepted by the Negro community as “one of us.” Similarly, white Southerners viewed us all as “one of them.” Indeed we were the worst of “them” as we were the outside agitators who were upsetting otherwise cordial race relations. White civil rights workers were traitors to our race.

Politics in the South was still governed by the settlement patterns of the late 18th and early 19th Centuries, and these in turn were determined by geography. Although internal migration had brought Negroes from rural counties to urban ones, in 1965 the cities were still majority white. Most Negroes still lived in rural counties, especially those constituting the blackbelt, where single-crop plantation agriculture based on slave labor flourished in the decades before the War. On a map the blackbelt looks like a crescent running from Virginia to east Texas, with an arm extending up the Mississippi river into southwest Tennessee. This arm is known as the Mississippi Delta. Originally “blackbelt” came from the color of the soil, but it evolved to mean those counties with a majority black population. There were more such counties in the five Deep South states than in the others. Whites in these counties had different economic and social interests than those in whiter counties but their numbers were smaller. To stay in charge of state institutions they created rules to enhance their power, including representation based on total population with voting restricted to whites.

Collective Denial

Except for a small strata of racial liberals, whites in the South lived in collective denial. Indeed a 1966 survey done for *Newsweek* found that Southern whites were only two-thirds as likely as whites in the rest of the country to believe that Negroes were discriminated against. (Brink and Harris, 1967, 125) For the most part, ordinary whites did not know how bad things were for their Negro neighbors and they did not want to know. They found it convenient to rationalize white brutality of blacks as most likely due to the recipients' bad behavior and to dismiss Negro protests as prompted by outside agitators, especially northerners.

Collective denial went into overdrive when black churches were burned and civil rights workers were killed. For example, Mississippi whites insisted that the three civil rights workers who disappeared while in Neshoba County, Mississippi at the start of the 1964 Freedom Summer had left the state voluntarily. They said that the movement was publicizing their disappearance for the purpose of creating northern sympathy in order to raise money. They even insisted that the church burning that the workers were investigating was also a hoax. The white view was reinforced by statements by politicians from Sen. Eastland (D. MS) on down saying the disappearance had to be part of a Communist conspiracy. (Mars, 1977, Chapter 3; Weill, 2001, 42) The locals may have known that the three men were killed by the Klan in co-operation with sheriff's deputies. They just didn't want to admit it.

Especially in the five Deep South states, there was a great deal of collusion between the authorities and the Ku Klux Klan. Just as militaries often have "black ops" arms who act outside the Rules of War, official law enforcement relied on the KKK to do the things it could not do – like burn churches and assassinate uppity Negroes and civil rights workers. Authorities would provide Klan leaders with crucial information and then look the other way when it was used to harm people and property. Local law enforcement barely investigated these crimes because in their eyes no crime had been committed. These were social control measures to enforce white supremacy. In some rural counties, local law officers were members of the KKK. A House Committee investigation of Klan activity from 1964 to 1966 found that "klansmen were found to be sheriff or deputies, police chiefs and policemen, highway patrolmen, constables, justices of peace, or state game wardens." (Bailey interview, 1985; HUAC *Report*, 1967, 73)

By 1965 the KKK had gone sufficiently overboard that this complicity was declining. The Birmingham church bombing on Sept. 15, 1963 which killed four little girls and the 1964 Neshoba County murders were turning points. These events made international headlines and were in the news for months. They brought ignominy to the South, with the result that the "better elements" no longer turned as blind an eye to interracial violence as they had before. President Johnson also forced the FBI to investigate at least some racially motivated crimes. The FBI instituted an "anti white hate" program which slowly undermined the Klan.

As tragic as they were, the church burnings, bombings, assassinations and deaths also contributed to raising Southern white awareness of racial iniquity. Of greater importance, and not

as tragic, were the marches, boycotts and demonstrations. Direct action made whites sufficiently uncomfortable to get their attention, if not their agreement. It was harder, though not impossible, to believe that Negroes were happy and enjoyed their relations with whites when they were marching in the streets and going to jail. Two groups were most likely to rethink their assumptions. One were civic leaders and businessmen in urban areas who traveled widely to attend meetings and conventions in other parts of the country, or even the world. When your home state is in the national headlines for coming down hard on civil rights protestors and minorities, and you are attending a conference outside the South, you have to explain what happened to a lot of fellow conventioneers. (Smyer interview in Raines, 1977)

The other group was young Southerners who came of age during the civil rights era, especially college students. SNCC started a White Southern Student Project in the fall of 1961 to take the message of the civil rights movement to white colleges in the South. Its success was spotty. There were some white colleges, such as Millsaps College in Jackson MS, with a cluster of professors who "developed a climate allowing students to consider the injustices of the rigid line between the races." (Reiff, 2016, 35) Some students at the Universities of Texas, Virginia and Florida also showed interest; a few became active. In April of 1964 "45 young people from 15 predominantly white colleges and universities in 10 Southern states" met in Nashville TN to form the Southern Students Organizing Committee (SSOC). (Michel, 2004, 13-25, quote on 24) To appeal to the regional pride on which all white Southerners were raised while emphasizing SSOC's support for racial equality, SSOC adopted a logo which showed clasped black-and-white hands (the SNCC symbol) over the classic Confederate battle flag (the Southern symbol).[1] I found buttons with this logo when I visited the NYC SNCC office in late August of 1964. I bought a bunch and sold them for $1 each when I returned to Berkeley. (Michel, 2004, 50; Freeman, 2004, 139)

Those students who attended Northern colleges were more likely to bring radical ideas home. A few white students who were home for the summer of 1965 worked with SCOPE in the cities but not in their hometowns. They had to be careful not to incur the wrath of their parents and neighbors, who in turn might be subject to condemnation by the white Citizens' Council. Even if they did nothing, the presence of whites their own age working for black civil rights gave them something to think about.

To do that "new thinking" they had to overcome a cultural consensus taught in the schools as well as their homes. In 1960 Mama Mitchell gave me an elementary school history book entitled *Know Alabama*. Copyright in 1957, it told children that the worst thing that ever happened to the state was Reconstruction. Negroes, Native Americans and women come off pretty well in this book; sometimes misguided, sometimes ignorant, sometimes heroic, but never evil. Northerners don't. Called Carpetbaggers, they turned "the Negroes against the white

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1 Michel wrote that the logo was created by a black Harvard student working with SNCC. Among the photos in that book is one showing "SNCC's John Lewis and SSOC's Archie Allen posing outside SNCC's Atlanta office, July 1964." The two men are holding the Confederate battle flag behind their clasped hands.

people," used Negro votes to get themselves elected to the legislature, and "passed laws to get something for themselves." The Ku Klux Klan was formed by "loyal white men" to "bring back law and order" and "get the government back in the hands of honest men who knew how to run it." (Owsley et. al, 1957, quotes on 144-46) A few years before she died, my Huntsville cousin gave me three textbooks she had used to teach Alabama history in middle school. Published in 1957, 1975, and 1987, the mis-rule of Reconstruction was a common theme. Northern invaders were bad people who came South to enrich themselves at the expense of innocent white people who were not allowed to vote. During the 1960s, all but a few white Southerners viewed the Second Reconstruction pretty much the same way they viewed the first, as an unmitigated evil imposed on them by Northern invaders. The only difference was that this time we weren't there to enrich ourselves, but because we were Communists and Commie dupes.

Even with my Alabama roots, I didn't fully appreciate the fear and loathing with which we were held by the white South. I doubt many of us knew how profound a cultural change we were demanding. We thought we were advocating basic American values. We believed that Southerners should conform their institutions and practices to those values. We did not realize how thoroughly white supremacy structured all of Southern society and how committed the white population was to maintaining it. The movement for white supremacy that swept the country in the late 19th and early 20th century became frozen in the South as the decades progressed, while it became fragile in the North. White supremacy was alive and well in the North in the 1960s, prompting civil rights campaigns all over the country, but the institutional practices were vulnerable, which was not true in the South. Visible segregation and discrimination in places of recreation and public accommodations in Northern states had been mostly removed in the 1930s with direct action campaigns and boycotts. Similar campaigns in the border states had less success; they weren't even tried in the Deep South. (Meier and Rudwick, 1976, 339-42) While institutional racism was certainly practiced in the North, in the South it was state policy. Although Negroes voted at lower rates than whites in the Northern cities where they had immigrated, they weren't disfranchised as they were throughout the South. In the states where most of the white volunteers came from, going door-to-door in Negro neighborhoods to encourage people to register to vote and provide information on how to do so would have been seen as normal politics, even good citizenship. In the Southern counties where we worked in the summer of 1965, such activity was seen as a dangerous threat to the Southern Way of Life. It was a call for Revolution.

The Southern Way of Life

> You do not go to the same schools. You do not swim in the same swimming pools. Negroes use their own bathrooms. They do not use the white people's bathroom. The two races do not sit together on the city bus. If you are white, you go to a white man's show. A Negro goes to his own show. We do not live side by side. The Negro has his own part of town to live in. This is the Southern Way of Life. This is the way Negroes and whites can live in the same land. We do not live together.
> *A Manual for Southerners* prepared by the Citizens' Councils in 1957 for distribution in the white public schools. (Excerpted in Muse, 1964, 173-5)

I often heard white Southerners tell us Northern invaders that we were there to destroy the Southern Way of Life. At the time I denied it; I replied that we were there not to destroy but to make it possible for black people to enjoy the rights and opportunities that white people took for granted. By the time I left the South I realized that our white detractors were right; white supremacy was so embedded in the moral order of the South that equality of any kind between blacks and whites *was* destruction of the Southern Way of Life.

Southern society was structured on the political, social and economic subjugation of its Negro population. The set of attitudes and opinions about persons of African descent that we now call racism was refined and crystallized in the defense of slavery when it was under assault by the Abolitionist Movement. Southerners didn't invent racism but their efforts to defend their "peculiar institution"[1] drove them to develop arguments as to why it was a positive good. As the War drew closer, these were articulated in some widely read texts. Whether legal (Cobb, 1858), religious (Ross, 1859), social (Hammond, 1858), natural science (Nott, 1854, Hotze, 1856) or economic (Fitzhugh, 1854), they all rested on the assumptions that race was a natural category, that the races were distinct, and the white race was superior to the black race. These arguments shaped thinking about race for generations to come.

Abolitionism also led to a clampdown of what we now call civil liberties. Laws were passed criminalizing the circulation of seditious material and northern editors were indicted who had never set foot in the South. Anti-slavery tracts sent through the mails or shipped to the ports were seized and burned before they could be distributed. To prevent "the commission of the most aggravated crimes," in 1835 Andrew Jackson's Postmaster General authorized the detention of these tracts before shipment from northern cities. (Sellers, 1950, 365-66) Preachers who talked about emancipation, even gradual emancipation, were lucky to be tarred and feathered and run out of town. The unlucky ones were lynched.

After slavery was abolished, Southerners struggled to find other ways to achieve much the same condition. By the end of the 19th Century, the institutions of subordination were taking

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[1] The expression "peculiar domestic institution" dates from its use by South Carolina Senator John Calhoun in 1830. (Stampp, 1956).

final shape. To keep the Negro out of politics, he was disfranchised. To avoid the Southern incubus of social equality the races were segregated. To keep them on the bottom of the economic ladder, doing the tasks that most whites would not do for wages that few whites could live off of, the doors of education and opportunity were closed. To make the Negro population accept these restrictions without revolt, they were kept in a state of fear.

Disfranchisement

Reconstruction ended as the former Confederates recaptured their state governments from the Republicans through a realigned and reorganized Democratic Party. By the time federal troops were withdrawn in 1877 the Democratic Party had regained control of the government in all of the Southern states. Officially the Republicans were defeated in elections. In fact much of their defeat was due to rampant violence, fraud and intimidation of voters, especially Negro voters.[2] Although the Fifteenth Amendment, ratified in 1870, clearly stated that "the right of citizens of the United states to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude," by the beginning of the 20th Century Southern Democrats controlled, manipulated and disfranchised the Negro voter. They believed, as S.C. Sen. Ben Tillman told northern audiences, that "All men are not created equal and the 'niggers' are not fit to vote." (Quote in *WP* 8-5-01, 1; *Sun* 8-5-01, 2; *NYT* 8-5-01, 1)

Initially this was done through subversion of the democratic process. Particularly in the blackbelt, where whites were significantly outnumbered by Negroes but controlled their economic existence, local elites bought votes outright, bribed election officials, and when necessary, simply "counted out" their opponents.[3] Republicans who lost Congressional races often challenged the results in the House, creating a lengthy record through numerous hearings and investigations. Sometimes they secured a reversal. (Rowell, 1901) Those who lost state races to fraud had no means of contesting the outcomes as illicit.

In 1888 the Republican Party pledged to combat election fraud, putting into its platform a plank to "demand effective legislation to secure the integrity and purity of elections." After winning both Houses and the Presidency, Republican Members of Congress introduced the

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[2] Some of these activities in Alabama and the rationale for them are described in the memoirs of John L. Hunnicutt, *Reconstruction in West Alabama,* which wasn't published until 1959. Lemann, 2006, described the same methods in Mississippi. In 1901 Sen. Ben Tilliman of South Carolina toured Northern states lecturing "on the race question from a Southern standpoint." After describing the "misrule" of reconstruction he he said that white men took back their government with shotguns and lynching. (*WP* 8-5-01, 1; *Sun* 8-5-01, 2; *NYT* 8-5-01, 1)

[3] Going, 1950, chapter 3, describes these activities in Alabama. Lemann, 2006, describes them in Mississippi. "Counting out" means recording the vote as desired, without regard to the actual vote. In a 1909 speech to the "red-shirt reunion" in South Carolina, Tillman describes how they voted "early and often" or otherwise stuffed the ballot box. (1909, 29, 32) See also Perman, 2001, chapter 1, for an overview of what the Confederate states did during this time.

Federal Elections Bill of 1890 to permit the federal courts to appoint supervisors to oversee elections and investigate bribery, intimidation and fraud upon petition of a hundred citizens. Denounced by the South as a "force" bill, it passed the House but was defeated in the Senate. This and subsequent failures reflected changes in Republican priorities; as the abolitionist generation died out, support for the rights of Negroes faded from the party's agenda. The Republican Party in the South split into the "black and tans" and the "lily whites." The Democratic Party continued to be a white man's party which deferred to the wishes of its Southern members. Southern whites still thought of themselves as "a conquered people" for whom the infamies of the War and Reconstruction were still fresh in their minds. Sen. Ben Tillman of South Carolina told the US Senate in 1902 that "Southern white men intend to govern their own country. We will not submit to Negro domination under any conditions." (Perman, 2001, 18-19, 38-39, 43-45; Welch, 1965, 514; last two quotes from *Cong. Rec*. 57th Cong., 1st Sess., 1902, 5102)

After the Democrats retook Congress and the Presidency in the election of 1892, they repealed the election laws passed during Reconstruction. Southern Democrats expanded their search for legal ways to restrict their electorates so that visible fraud, bribery and violence would not be necessary to win elections. The biggest hurdle was that pesky Fifteenth Amendment. Since Negroes could not be explicitly disfranchised, it was necessary to do so indirectly. (Kousser, 1974, 29-31) By the 1890s the Democratic Party in the South had sufficient control of state politics to pass laws and amend state constitutions which would restrict the ballot and reduce the electorate. These measures had political as well as racial goals. Overtly aimed at eliminating Negroes from the electorate, these measures also reduced the number of lower class white voters. The ruling elites, aptly called Bourbons, were threatened by the more numerous lower class whites who had often voted for opposition political parties — Greenback, Independent, Populist and even Republican – in the 1880s and 1890s. They were particularly frightened by the possibility that lower class whites and Negroes might vote for the same candidates, under any party label, and elect men who would undermine Bourbon rule. Reducing the white underclass in the electorate, as well as eliminating Negroes, would protect the conservative Democratic Party from the possibility of defeat. (Kousser, 1974, 170, 238, 248)

Legal disfranchisement was facilitated by two ideas which swept the country in the 1890s. One was a movement to institutionalize white supremacy. Historically, the practice of white supremacy had been fluid, varying with time, place and circumstances, and enforced informally. The North warmed to the idea as waves of immigrants entered the United States from eastern and southern Europe whose different cultures were viewed with alarm by the Germans and Anglo-Saxons who had shaped our institutions. They were viewed as different races. The word "race" had a different meaning in the 19th Century than it does today. President Theodore Roosevelt repeatedly warned that Anglo-Saxons risked "race suicide" by using birth control which kept them from producing as many progeny as immigrants. When the 1898 Spanish-American war made the US a colonial power with possessions in the Caribbean, the Pacific and Asia, the paternalistic version of white supremacy provided a ready-made framework for how to treat these "little brown peoples."

The second movement was one for election reform. The old system of voting in person,

or putting tickets passed out by parties into a box, had led to extensive corruption. Men were paid to vote early and often wherever needed. The Australian ballot, introduced to the US in 1888, was hailed as the solution. Printed by the state, listing all offices and candidates to be marked in secret by the voter, it was adopted by eight Southern and 30 Northern states by 1900. In the South, the secret ballot was openly embraced as a legal means to purge the electorate of illiterates – the voters who were most likely to oppose the conservative Democratic Party. To mark the ballot, one had to read it. In the Southern states in 1900 a majority of the Negro adult males were illiterate, as were about a seventh of the white adult males. (Kousser, 1974, 51-53)

Following Mississippi's lead at its 1890 constitutional convention, the Southern states adopted other measures to complicate the act of voting, to make it especially difficult for those men with little or no education. Seven states had explicit literacy tests. Six required registration, and sometimes re-registration, many months before an election or referendum. Three states required that voters put different ballots into different boxes for different offices. By 1908 every former Confederate state imposed a poll tax, which often had to be paid several months before an election. The voter had to show the receipt to get a ballot. Some states had lengthy residency requirements to eliminate transient sharecroppers. Just in case these didn't work, many states put discretion to determine whether one was qualified to vote into the hands of local registrars. (Kousser, 1974, 47-50, 63, 239; Bontecou, 1942, 10-11; Ogden, 1968, 3-4)

These devices did not keep *all* Negroes from voting in the South, but the white primary in six states kept them from voting in the only election which mattered. As a self-professed white man's party the Democrats often excluded Negroes from whatever means the Party used to choose its candidates. Exclusion was carried over into primary elections as they became the most common means of selecting candidates. The first statewide primary was held in Louisiana in 1892; the first law mandating a primary was passed by Mississippi in 1902. Primaries were usually restricted to whites by Democratic Party rule; in 1923 Texas became the first state to put a racial restriction into law. As the states passed laws which regulated parties and the election process, they slowly turned parties from strictly private organizations into quasi-public ones. The extent to which the state was involved in party rules which excluded Negro voters from candidate selection procedures would lead the Supreme Court to conclude in 1944 that these rules were unconstitutional. This decision uncorked the bottle of voter registration drives. Within twenty years, Negro registration in the South had tripled. (Marshall, 1957, 249-50; Kousser, 1984, 23-26; *SP* 3:1, 4-5; *Smith v Allwright,* 1944; Matthews and Prothro, 1963, 41; Rosenberg, 1991, 60)

There was enormous variation throughout the South in the degree to which Negroes were kept from voting. Numerous studies have shown that "[t]he proportion of the county population which is Negro is the single most important social and economic factor for explaining its rate of Negro voter registration" (prior to the 1965 Voting Rights Act). Generally, where Negroes were few, they were not perceived as a threat. But where the number of Negroes in a county was over 30 percent, the percent of NVAP permitted to register to vote declined with each percentage point. (Matthews and Prothro, 1963, 29, quote on 32)

Restricting who could vote had numerous repercussions. Turn-out on election day

plummeted. After 1910 only about half of adult white men voted in the most contentious state elections. (Kousser, 1974, 236; Bontecou, 1943, 20-21) In many Southern states less than ten percent of the voting age eligible population voted in Presidential elections. After the 19th Amendment gave women equal suffrage in all states, the burden of paying the poll tax kept many more women than men from actually voting. (Ogden, 1958, 177, Podolefsky, 1997) Lack of party competition removed incentives to expand the electorate. Political fights took place only within the Democratic party because other parties couldn't organize an effective opposition. Demagoguery prevailed when campaigns became contests over personality rather than policy alternatives. Actual policy decisions were kept from wide public view, which facilitated elite control. Elites preferred low taxes and minimal investments in health, education and welfare for whites as well as blacks; throughout the South, that's what they got. (Lewinson, 1932, 180, citing *Atlanta Constitution*, 9-1-29, 188-89)

The small vote in Southern states made elections easier to control, returning the same men to Congress year after year. Their seniority led to Southern domination of committee chairmanships and other positions of power within Congress, which they used to block all attempts to bring change to the South. Fifty years after losing the War, the Southern elites who tried to secede from the Union had a firm grip on the reins of federal power.

Segregation

In 1883 the Supreme court held that the Civil Rights Act of 1875, which gave to "citizens of every race and color"... "equal enjoyment of [all] accommodations" was unconstitutional. This opened the door to segregation laws. Separate but not equal had always been the rule for race relations, but the boundaries were fluid. There were frequent exceptions and punishing transgressions was not the job of law enforcement. In 1887 Florida passed a law mandating segregated seating on public conveyances. Other states and municipalities soon followed. Rail travel, both within cities and between them, flourished in the late 19th Century. Negroes with education and money paid extra to sit in the first-class cars rather than in the more raucous "smoking cars." Segregation laws were aimed at excluding this class of Negroes, prioritizing caste over class. These laws were passed over the objection of the railroads, which did not want the expense of providing separate cars and the problems created by enforcing separation. As Negroes were disfranchised, elected officials accommodated white pressure to embed white supremacy in everything. Segregation laws spread from interstate railroads to city streetcars and beyond. A New Orleans citizen's committee challenged the constitutionality of the coach laws with a carefully arranged test case. After the Supreme Court upheld the law in *Plessy v. Ferguson* by a 7 to 1 decision on May 18, 1896, segregation laws spread to every area of public life. (*Civil Rights Cases*, 1883; Perman, 2001, 246-9, 261-62)

Negroes responded with streetcar boycotts in at least 25 Southern cities between 1900 and 1906. Savannah held out until 1907. Organized by the business and professional classes of the black community, they lacked outside support. Although some lasted as long as a couple years, eventually the walkers returned to riding, in separate sections or separate cars. But coming at a time when white supremacy was riding high and the federal courts took a hands-off attitude, the amazing thing is that streetcar boycotts happened at all. (Perman, 2001, 265-66; Meier and

Rudwick, 1969; Tuck, 2001, 20) In 1950, on the eve of the Court's revision of this view, state law required segregated busses in 11 states, railroads in 14, and waiting rooms in 10. (Konvitz, 1951, 430)

While custom kept the races separate in virtually all public places, most Southern states made race-mixing a crime in public "parks, playgrounds, bathing and fishing facilities, boating facilities, amusement parks, race tracks, billiard and pool rooms, circuses, theaters and public halls." State law also required segregation in hospitals, mental institutions, jails and prisons, bathrooms and schools. Many municipalities had their own segregation ordinances. (Konvitz, 1951, 431-2) After Woodrow Wilson became President, he ordered the federal departments to create segregated work spaces, as well as bathrooms and cafeterias. (Sullivan, 2009, 27-29) Laws prohibiting intermarriage between whites and other races were passed in over half the states, not just in the Southern states. (Konvitz, 1951, 427) While few states outside the South passed segregation laws, it was not uncommon for individual proprietors to create segregated sections in theaters and other places open to the general public.

Those Native Americans who still lived in the South found themselves to be an almost invisible third race, misfits in a bi-racial society. While they generally had a social status between whites and blacks, when this was applied to the use of segregated facilities, the results were highly varied. Some states prohibited whites from marrying anyone of Native descent; some did not. In World War II, some draft boards classified some Natives as "colored" and some as white. (Rountree in Williams, 1979, 44) In Richmond, Virginia, the local Natives could ride in the "white" coaches of trains provided they could prove their membership in the local tribes. In Mississippi "Choctaws were forced to use facilities designated for blacks." (Peterson, Jr., in Williams, 1979, 147) In Robeson Co. NC, the law required three of everything – bathrooms, drinking fountains, seating areas, etc. (Evans in Williams,1979, 54) School policy varied as well. A few states had separate schools for Natives in counties where there were sufficient numbers. Others required that they attend black schools if they had a Negro ancestor, and white schools if they did not. Some Native communities had no schools, unless they provided their own, or they were provided by missionaries.

The movement for white supremacy swept even white resistance from its path. Berea College in Kentucky had been founded by abolitionists before the War as a biracial and co-educational school. Throughout the 19th Century its students were as likely to be black as white. In 1904 Kentucky passed "An Act to Prohibit White and Colored Persons from Attending the Same School," making it illegal for any person or institution to teach black and white students in the same place, or at the same time. This law was clearly aimed at Berea, which fought it all the way to the Supreme Court. With two dissenters, the Court found in 1908 that the state had the power to prohibit even private institutions from practicing racial integration. Berea set aside funds to establish a school near Louisville for black students. In 1950 it became an integrated institution once again when Kentucky amended its law to allow voluntary integration in colleges. (*Berea College v. Kentucky*, 1908; https://www.berea.edu/about/history/)

The Court finally set the boundary for segregation laws in 1917 by prioritizing private property rights in another Kentucky case. It found that a municipal ordinance forbidding the sale of property to a buyer who was not in the majority race of the other occupants on that block

violated the 14th Amendment. (*Buchanan v. Warley*, 1917) This was the NAACP's first successful test case of the segregation laws.

Education

Southern states couldn't afford one decent school system, let alone two. During Reconstruction the Freedmen's Bureau founded Negro schools though the actual teaching was provided by the missionary societies of various denominations. School attendance was limited by both geographic proximity and economics – families had to pay school fees for their children. (Bond, 1939, 85) As the Southern states rewrote their constitutions and laws after Reconstruction, they wrote in clauses requiring racial separation in the schools and limiting the taxes that could be used for education. The inadequacy of the schools was one of the grievances aired during the protests and rebellions of the 1880s and 1890s. When the franchise was reduced between 1890 and 1908 there "was a virtual assault on the status of black schools." As Negroes were removed from the electorate, white school boards took the money provided by their state governments for public education and disproportionately gave it to the white schools. The higher the percent of Negroes in a county, the greater was the disparity. The difference grew between 1890 and 1910. (Quote in Wright, 1986, 123; Margo, 1982, 1985, 9-10; Lemann, 1991, 17-18)

The fact that Southern schools were among the poorest in the nation attracted the attention of northern white philanthropy. The first funds came from the General Education Board (GEB). Established in 1902 with a one million dollar gift from John D. Rockefeller, its primary purpose was to help rural schools in the South without regard to race and to modernize farming practices. Rockefeller contributed another 42 million by 1907, as the first stage in a total gift of 180 million dollars. The GEB also distributed one million dollars donated by Anna T. Jeanes in 1907 specifically to train Negro teachers in Southern rural schools. After taking classes at black colleges, the Jeanes Supervisors visited other rural schools to train their teachers. Almost all were women. Over six decades, roughly 2,300 Jeanes Supervisors worked in 16 southern states.

The most generous philanthropist was Julius Rosenwald, president of Sears, Roebuck Company. Befriended by Tuskegee Institute president Booker T. Washington, he created the Rosenwald Fund in 1915. Between 1917 and 1932 it spent 4.4 million dollars to construct 4,977 small schools for Negroes in the 15 former slave states where the Negro population was highest. One in five rural Negro schools, serving roughly 40 percent of Negro children, were Rosenwald schools. To get a Rosenwald school, black communities had to raise matching funds and white school boards had to agree to operate the schools. Jeanes Supervisors helped raise that 4.7 million in matching funds. (http://www.encyclopediaofalabama.org/article/h-2126; Deutsch, 2011)

The John F. Slater Fund was established in 1882 to provide money for Southern Negro education. In the 20th Century it focused on secondary schools, building its first in 1913. By the time the program ended in 1933 the Slater Fund had built 612 schools in 15 Southern states. However, only half provided a full four years of secondary education. In addition to teacher training, they were supposed to teach boys "scientific agriculture" and girls "domestic science." These funds paid for buildings but teachers' salaries were paid through a combination of county

and state funds; Negro teachers were always paid considerably less than whites. (Redcay, 1935, 76)

All public schools needed public funds. If white schools were starved, colored schools got crumbs from the table. Over the next few decades, the number and percent of Negroes going to school, particularly secondary school, rose at a higher rate than did that of whites. Outlay struggled to keep up. In 1950-52, on the eve of *Brown,* the "annual current expenditure per pupil in average daily attendance was $115.67 for Negro schools and $190.69 for white schools" in the eight states plus DC that practiced "separate but equal" and kept records. (HEW, 1957, 23, 62)

As 1950 began, 17 states segregated institutions of higher education by law. Many of these would pay the costs of Negroes to attend college in another state if the desired program was not offered in the public colleges for Negroes. On June 5 the Supreme Court ruled unanimously in Texas and Oklahoma cases that at least for graduate and professional education, separate could never be equal due to the many intangibles involved in getting such an education. (*Sweatt v. Painter*, 1950; *McLaurin v. Oklahoma State Regents*, 1950) By the 1952-53 academic year at least a thousand Negro students had integrated programs in 22 public institutions of higher education in 12 segregation states. Only the five Deep South states held out. Despite alarmist predictions, there were no incidents; indeed at many of these schools white students welcomed the Negro pioneers. (Johnson, 1954, 318-19, 322; Williams, 1998, 79, 179)

When the Court ruled that "[s]eparate educational facilities are inherently unequal" on May17, 1954, there were 17 states plus the District of Columbia that required segregation in its pubic schools by law and four states – Arizona, Kansas, New Mexico and Wyoming – which allowed local districts to require school segregation. Only sixteen states prohibited segregated schools. The rest had no laws one way or the other. Thurgood Marshall, chief lawyer for the plaintiffs, told the *New York Times* that the public schools would be fully desegregated within five years and "segregation in all forms" would be gone by 1963. (*NYT* 5-18-54, 16) He was unduly optimistic. While *Brown v. Bd. of Ed. of Topeka, Kansas* reverberated well beyond schools, it mostly stimulated a Southern backlash. The South engaged in numerous strategies to keep black and white children from attending the same schools, ranging from closing the schools completely to paying white parents to send their kids to white private schools. Only in 1965 did Southern schools begin to attempt more than trivial desegregation; it wasn't a change of heart but the new availability of federal funds which lowered the barriers of resistance. (Rosenberg, 1991, chart on 51)

Violence

Violence has long been part of the South. Extralegal execution was typical of the frontier, when institutions for enforcing the law and maintaining order were weak and undeveloped. In the South it lingered long past the frontier's demise, becoming a tolerated if not exactly embraced means of enforcing social rules. During Reconstruction whites organized vigilante groups to enforce white supremacy with mass terror. While the Ku Klux Klan is the best known of these groups, it was only one of many paramilitary organizations which engaged in low-level guerilla warfare against freedmen and their white allies. Other groups known as the Red Shirts,

Rough Riders and White Leagues used violence to keep Negroes from voting until they were legally disfranchised. (Hunnicutt,1995; Tillman,1909; Rable, 1984; Lemann, 2007) After Reconstruction ended, lynching emerged as a social control method aimed primarily at Negroes. Before the War lynching was used almost exclusively against whites; control of black slaves was the responsibility of their owners. (Cash, 1941, 45) After the War whites were less than ten percent of those lynched. The numbers peaked during the Populist movement of the1890s when white elites feared that poor whites and Negroes might jointly vote for candidates running against the conservative Democratic Party. (Tolnay and Beck, 1995)

What distinguishes terrorism from ordinary violence, including murder, is that the real target is not the immediate victims but the larger population of which they are a part. The perpetrators want their acts to be well-known, even while keeping their personal identities secret. Mississippi Democrats regained control of state government in 1875 by mobilizing whites to systematically kill politically active Negroes and office holders, especially in the majority black counties. The Republican vote was a fraction of what it had been in 1873. (Lemann, 2006, Chapter 4) The most common pattern was described by Sen. Ben Tillman of South Carolina in 1909. Democrats regained the government in 1876 by encouraging Negroes to be provocative, "then having the whites demonstrate their superiority by killing as many of them as was justifiable." (Tillman, 1909, 28) Whites justified their actions as necessary to put down uprisings.

Terrorism can be engaged in by both state and non-state actors, though it is usually done by the latter. In order for terrorism to be successful, state actors have to look the other way. No one is charged with a crime, if it's even admitted that a crime took place. By keeping the Negro population in constant fear for their lives, families and property, whites could take advantage of Negroes whenever they wished without fear of complaint or retaliation. Lynching also served to take down Negroes who had grown too rich, or were too competitive with whites in the same business (usually farming). Whites liked to say that Negroes were lazy and shiftless, but when they prospered more than their white neighbors they became targets for white animosity. Lynching was a way to teach a lesson to the Negro population by taking down someone who had become too big or acted impudently. (Grant, 1975, 4; Grossman, 1989, 34-35)

These motives were obscured by the myth that lynching was done to avenge an "outrage" on a white woman by a Negro man. During the War whites had portrayed their slaves as docile and loyal, devoted to looking after the families who owned them even while the white men of the plantation were away fighting to keep them enslaved. After the War, whites portrayed these same people as sex-crazed brutes who had to be kept in check with violence. They blamed this change on the carpetbaggers, especially those teaching in Negro schools. During the 1880s, the Southern white press regularly printed stories about rape and lynching. This prepared the ground for a surge in racial violence in the 1890s, when white elites were trying to keep blacks and poor whites from aligning politically. (Feimster, 2009, 85-7; Bond, 1939, 114-18)

Just as elites in the Northeast developed the "cult of true womanhood" to encourage women's submissiveness to men, elites in the South created the "cult of white womanhood" to justify "protection" of white women from black men. Virginia Foster Durr called it the "cult of Pure, White Southern Womanhood." She was raised in that cult, though she eventually rebelled

against it. (Durr, 1971) A pillar of this cult was the conviction that white men had to protect white women from the brutal black male. Senator Ben Tillman ranted that "Whenever the Constitution comes between me and the virtue of the white women of the South, I say to hell with the Constitution." (Bass, 2009, 65; Burton, 1985, 227) He told the Senate in 1902 that rape "robbed (a woman) of that jewel which is the most precious possession of a woman's life." He spoke these words while criticizing US invasion of the Philippines, which he compared with the Northern invasion of the South. (quote from *Cong. Rec*. 57th Cong., 1st Sess., 1902, 5102)

Articulated most thoroughly during the decades when the segregation laws were being written and lynching was popular, "protection" was brought up whenever "news of that awful crime against women" came up. Rep. J. Thomas Heflin of Alabama used it to chastise a Republican in a debate over immigration in 1914: "Southern womanhood is the priceless jewel of the southern household, and we will safeguard it and protect it with the last drop of our blood." Judge Brady captured its essence in 1955 when he wrote in *Black Monday* that "The loveliest and the purest of God's creatures, the nearest thing to an angelic being that treads this terrestrial ball is a well-bred, cultured, Southern white woman or her blue-eyed, golden-haired little girl." According to Southern mythology, white women were so sacred that mere touch by a Negro man was taboo, but so attractive that only the fear of violence kept Negro men from "polluting" them. Emmett Till's murderer told his interviewer: "And when a nigger even gets close to mentioning sex with a white woman, he's tired o' living. I'm likely to kill him." That same myth held that rape was a crime that could only be committed by black men against white women. White men were largely exempt. For white woman, only the most egregious rapes by white men were even condemned; for black women it took a lot more than that. (Second quote in *Cong. Rec.* 63rd Cong. 2nd Sess. p. 2893, 2-4-14; third quote in Brady, 1955, 45; last quote in Huie, 1956; Johnson, 1943, 219-220; earlier sources with quotes in Vander Zanden, 1959, 400-02)

There have been various enumerations of lynching using different definitions. The *Chicago Tribune* began publishing a lynch inventory in 1882. Decades later, both the NAACP and the Tuskegee Institute collected the stories and counted the victims. Contemporary scholars looked at these sources and more. They counted 2,805 victims lynched between 1882 and 1930 in ten Southern states (good records don't exist for the other Southern states or for earlier years) of which 284 were white. Of the black victims, they calculated that 94 percent were killed by white mobs and the rest by black or bi-racial mobs. The peak year for these ten states was in 1892, though the numbers were high for the rest of the 19th Century. Lynchings were most common in the counties with Negro majorities. The 20th Century saw a gradual decline, until the numbers were reduced to single digits in the middle of the Depression. After that lynchings didn't disappear, but became sufficiently few that they garnered national publicity when they did happen. (Tolnay and Beck, 1995, ix, 93, 96, 260; Cash, 1941, 174, see 306; Perman, 2001, 269; *Historical Statistics of the U.S.*, 2006, Table Ec251-53, 5-251)

Opposition to lynching and general terror took many forms. In 1879-80, several thousand Negroes left the lower Mississippi Valley for Kansas to escape rampant racial violence. (Painter, 1977) In the 1890s and 1900s more and more of the better educated or most productive Negroes – the ones likely to be attacked for doing well – left the South looking for opportunity. This was

the predecessor to the Great Migration that began with the Great War in Europe and continued until well after WWII, with a long pause during the Depression. During the first phase over one and a half million Negroes moved from Southern rural regions to larger Southern towns and nearby cities and then to major Northern cities. Retreating from violence, they were also lured by the hope of jobs and better treatment by agents of northern industry who toured the South recruiting replacements for the immigrants halted by the outbreak of war in Europe in 1914. Southern elites, panicked at the loss of cheap labor, tried to restrict migration by criminalizing labor recruitment. Negro newspapers which promoted northern emigration, particularly the widely circulated *Chicago Defender*, were confiscated and burned. Elites also put a damper on lynching, realizing that indiscriminate violence was one reason their labor force was leaving. (Grant, 1975, 116-118; Grossman, 1989, 16-17, 32, 44-4, 76-7; Slaughter, 1995, 40; Hall, 1979, 166-67; Lemann, 1991, 16)

Throughout these decades Negroes held meetings and conventions to identify ways to limit lynching. A few national organizations were formed, but they didn't last long. The Afro-American League (1890-93) the Afro-American Council (1898-1908), and the Niagara Movement (1905-08) were among the more durable of the early organizations. They appealed to whites for protection, to state legislatures for better laws, and to the federal government for an anti-lynching law. How to stop lynching was also debated in the Negro press, but carefully. Negro newspapers in the South were perennially short on funds and subscribers. If editors wrote too strongly against lynching they could be killed or put out of business. The most prominent of the anti-lynching writers was Ida B. Wells, who wrote for a small newspaper in Memphis. After three of her friends were lynched in 1889 she began to investigate lynchings and to publish her findings. Her reports made her a national figure. Using figures from the *Chicago Tribune* and newspaper stories, she found that rape was only *alleged* in one-third of lynchings, and without a trial, that number was suspect. In several publications she said that most interracial liaisons were consensual, challenging a fundamental tenet of white supremacy that none but a degenerate white woman would willingly consort with a Negro man. These allegations inflamed Southern sentiments, leading to the destruction of her newspaper by whites in 1892. Her life was threatened so many times that Wells moved to Chicago to continue her crusade. (Grant, 1975, 76-82; Wells, 1892, 1895; on white women who slept with Negro men see quotes and cites in Vander Zanden, 1959, 401n79)

Urban riots, aimed at decimating the Negro sections of town, were less frequent than lynching, but more destructive. Some were explicitly political. In 1898 white Democrats in Wilmington, NC attacked Negro neighborhoods and burned the only Negro newspaper in the state in order to depose the duly elected bi-racial Republican city government. The 1906 Atlanta riots were provoked by inflammatory rhetoric in the city's two newspapers during an election campaign as they competed to denounce Negroes for alleged atrocities against whites. (Weldon, 1898; Feimster, 2009, 193-7) Other riots grew out of lynching attempts. In 1900 New Orleans, a Negro man shot a white police officer and escaped. Whites tore up the Negro sections of town for five days until he was found and killed. The 1908 Springfield IL riot started from an attempted lynching, defeated by a sheriff who moved two Negro suspects out of town. Frustrated, the white mob attacked Negroes at random and burned Negro neighborhoods. (Perman, 2001, 268-69; *NYT* 8-16-08, 3; 8-18-08, 5; 8-19-08, 2)

The Springfield riot in particular catalyzed discussions and meetings which led to the formation of the National Organization for the Advancement of Colored People (NAACP) in 1909. It brought Negroes and white sympathizers together with enough resources to investigate, report and organize opposition to white attacks on Negroes. For two decades this issue was at the top of the NAACP's agenda. It persuaded two Republican Congressmen to introduce a bill in April 1918 to make lynching a federal felony while the US was fighting to "make the world safe for democracy." Known as the Dyer Anti-Lynching Bill, it passed the house in 1922 but was filibustered by Southern Senators. For the next forty years nearly 200 anti-lynching bills were introduced into almost every Congress, and occasionally passed by the House. In the Senate, Southern Senators kept them from coming to a vote. (Sullivan, 2009, 6-17, 73-77; http://www.naacp.org/pages/naacp-history-anti-lynching-bill)

The NAACP focused heavily on changing the law through legislatures, Congress and the courts. It created a Legal Redress Committee in 1911 which evolved into a Legal Bureau within the larger organization. In 1940 a separate NAACP Legal Defense and Education Fund Inc., was created which could receive tax deductible contributions. It remained close to the NAACP until 1957 when its executive director and chief attorney, Thurgood Marshall, separated it completely. From then on, Inc. Fund, as it was commonly known, had a completely separate headquarters, staff, and archive. (Sullivan, 2009, 19, 42-3; Hooks, 1979)

The urban riots paused in 1910, only to return with a vengeance in 1917 as blacks leaving the South competed with ethnic whites in cities for jobs in war industries. The worst was in East St. Louis, IL where white workers invaded the Negro section of town causing extensive property damage and about a hundred deaths. This prompted the NAACP to organize a "silent protest against acts of discrimination and oppression." On July 28, close to 20,000 watched as 8,000 Negroes dressed in white paraded down New York City's Fifth Ave. (*NYT* 7-4-17, 5; 7-23-17, 10; 7-29-17, 12) In 1919, as Negroes returned from service in the Great War, there was an epidemic of racial violence, leading to Congressional hearings and more organizing efforts. The National Association of Colored Women (NACW), founded in 1896, raised funds for an anti-lynching crusade and paid Ida B. Wells-Barnett to organize anti-lynching clubs. They were the "backbone of the anti-lynching crusade." Predominately white organizations, such as the newly formed American Civil Liberties Union (ACLU) and the Commi
ssion on Interracial Cooperation (CIC), took up the cause. After a 1920 conference on race relations in Memphis, white women working in the Southern branch of the Methodist Church formed small clubs to use social pressure and shame against those identified in lynching mobs. All of these activities led to the formation of the Association of Southern Women for the Prevention of Lynching (ASWPL) in 1930, after a sudden resurgence of lynching. Through it, white women sought to repudiate the myth that lynching was done to "protect" white women. Speaking throughout the South on the evils of lynching, they obtained the pledges of over 40,000 Southern white women and over a thousand Southern sheriffs to oppose lynching as a reprehensible crime that wasn't "protecting" anyone. It was slow going. When they made that argument to Southern legislators and Members of Congress they were attacked as loose women who wanted to sleep with Negro men. (Terborg-Penn, 1991, quote on 148, 157; Nordyke, 1939, 683-6; Hall, 1979, 154, 159-64, 212-17; Durr, 1990, 171-72)

Even after lynching declined Negroes were safe targets for that small portion of the population that enjoyed hurting others. There are some men (and a few women) in every society who get off on gratuitous violence. Many join the military; some become cops or corrections officers; some become hit men; some are just itinerant terrorists. Modern law enforcement spends a disproportionate amount of time trying to remove such men from places where they can harm innocent parties, few though they may be. In the South, those who were white could freely pray on Negroes without fear of retribution. Not all were in law enforcement. Some itinerant terrorists joined the Klan, where they gravitated to its "enforcement" bureau. Some were too vicious even for the Klan. Summer civil rights workers, evoking the historical dread of northern invaders, were catnip for those who enjoyed inflicting physical harm.

The ASWPL noted in 1940 that random murders of blacks that were never prosecuted increased as mob violence declined. (Whitfield, 1988, 101) Casual cruelty, known colloquially as "nigger knockin'" and "eggin' a nigger" was engaged in for sport. The perpetrators were mostly young, white men who would go out in groups and pick a Negro (usually male) at random to abuse and torture. When automobiles became common a group would stick a broom handle out the window of a car as it approached a Negro walking on the shoulder of the road. The broom handle would hit him in the back of the head, usually downing him and sometimes causing significant injury. The perpetrators bragged about seeing a Negro on the ground writhing in pain. Unlike lynching, there are no statistics on this kind of casual brutality. Few incidents would have been carried in the newspapers, or even reported to the police. It's only from anecdotes that we know it happened, and we don't know how often. Nonetheless, there are plenty of anecdotes. (E.g. Slaughter, 1992, 25; Vander Zanden,1959, 399; Tuck, 2001, 12-13; Reavis, 2001, 90; Payne, 1995, 48, 53, 298-99)

Epidemics of violence often followed efforts to open up opportunities for Negroes. The Court's 1954 and 1955 school desegregation decisions led to a "deterioration of law and order within the South... [as] mobs,... wielded violence and economic power in a bitter and defiant protest..." Three national groups collected information on 530 cases of "racial violence, reprisal and intimidation in eleven Southern states" in the four years beginning Jan. 1 1955. (*Intimidation...*, 1959, 1) Eight Negroes were lynched in 1955. (*Historical Statistics of the U.S.*, 2006, Table Ec251-53, 5-251) During the 1964 Freedom Summer there were "35 shootings, 30 bombings, 35 church burnings, 80 beatings and at least 6 murders" in Mississippi alone. (USCCR 11-14-65, 13) In 1965, "there were 17 race related deaths in the South." (SCLC news release, 2-4-66, 2)

White Fear

Although it was quite common for white Southerners to talk about their good relations with Negroes, in fact the two communities lived in fear of each other. Fear is often the foundation of prejudice even when it is contrived. White fear exploded with the Haitian slave revolt of the late 18th Century, especially after the massacre of the remaining whites on the island in 1804. When ships of white refugees landed in New Orleans, they spread the word that black slave revolts meant white massacres. The largest slave revolt in US history took place in the

Territory of Orleans in 1811. It was suppressed in three days after five plantations were burned and two whites killed. While the very few slave revolts in the South were quickly suppressed, sometimes individual masters and overseers were killed in ways that added to the underlying current of fear. Whenever there was even a rumor of a slave revolt, whites tightened their grip. It became a crime to teach slaves how to read. Whites had to be present at Negro worship services. Free blacks leaving a state could not return. Manumissions, which had created the population of free blacks in the 18th Century, became difficult and then impossible in the early 19th Century. (Aptheker, 1943; Rable, 1989, 42-3)

After the War, Southern white fear was stoked by claims that any concessions would lead to "Negro domination." That line was used to keep whites from coalescing with blacks during the populist movement and it was used again whenever conservative elites felt threatened. It worked especially well with lower class whites because they were afraid that they would be the losers if Negroes were ever in charge. "Bottom rail on top," was a common summary of that belief. As one Mississippi newspaperman explained: Southerners have "grown up with a heritage of fear that this large minority or actual majority of the population is patiently awaiting an opportunity to rise up and in one fell swoop exchange its position of inferiority and servitude for one of dominance." (Carter III, 1959, 210) This was put more crudely by one of Emmett Till's killers: "As long as I live and can do anything about it, niggers are gonna stay in their place. Niggers ain't gonna vote where I live. If they did, they'd control the Government." (Huie, 1956)

Fear was also used as a social control mechanism. White men used fear to control white women, intimidate black men and exploit black women, all the while feeling good about themselves. Southern white cultural mythology said that white women needed the "protection" of white men from black men who could not control their sexual urges. Because white women needed protection, they could not be independent actors. White men used "protection of Southern womanhood" to justify intimidating and brutalizing black men whenever they felt like it. Only a small handful of whites did truly ugly things, but their freedom to do these things was maintained by a system of justice which rarely condemned them for acts against Negroes which would be severely punished if done against whites. The judges and the jurors were the "better class" of whites who wouldn't do ugly things themselves, but would always find a rationalization to excuse those who did.

Fear, or at least its manifestation, increased as the ratio of Negroes to whites increased in a geographic unit. From secession through the populist movement through the 1960s, white intransigence to any change in racial norms was strongest in the blackbelt. Blackbelt elites led the movement to disfranchise Negroes. The 1948 Dixiecrat revolt originated in the blackbelt; votes for its candidates rose with the black/white ratio in a county, even though few Negroes could vote. (Bartley, 1969, 33, 103) After the 1954 *Brown* decision, "racial tensions ran highest and white intransigence was greatest in areas where the Negro population was the most dense." (McMillan, 1994, 6) The Voting Rights Act, which made it likely that Negroes could elect all county officials in majority black counties, was positively petrifying to whites in those counties and those with a substantial Negro population.

Fear of Negroes was sufficiently embedded in the culture to be present even in places

where their numbers were few. The summer I spent in Alabama my grandmother showed me where she kept her gun (in her dresser underneath her lingerie) to protect herself against an intruder. I was left with the impression that potential intruders were black. While I don't remember actually meeting a Negro in Marion County that summer, when I found out ten years later that there were only a few hundred blacks in the entire county – a mere three percent of the county population – I was quite surprised. My childhood memory was of a much greater, and somewhat threatening, presence. The illusion that dark skinned men were an everlasting menace to white women was perpetrated by stories which were repeated until a minor incident many years ago one or two counties away was magnified into a threat sufficient to require constant vigilance.

It was this fear that made Southern whites so determined to keep the Negro suppressed and the federal government out. It was this fear which led them to view Northern invaders with the same hatred that their ancestors had viewed Union troops.

Federal Action on Civil Rights before 1965

Federal civil rights policy has always been tied up with partisan politics. The Thirteenth, Fourteenth and Fifteenth amendments were Republican measures. From 1866 through 1890 not a single Democratic Member of Congress, even from northern states, voted for *any* civil rights bill. (Kousser, 1992, 149-50) By the end of the 19th Century all but a couple sections of the civil rights laws had been found unconstitutional by the Supreme Court or repealed when the Democrats took control of both Congress and the Presidency. (Washington, 1951, 334-5)

The first phase of the Great Migration brought between one and two million Negroes to northern cities, where the big city machines co-opted rather than excluded them from the electorate. Most of the machines were Democratic. Under their influence and that of FDR's New Deal programs, Negroes shifted from voting overwhelmingly Republican prior to 1932 to over two-thirds voting Democratic in 1936. (Ladd and Hadley, 1975, 60) In 1928, Chicago elected Republican Oscar De Priest as the first Negro Member of Congress from the north, and the first anywhere in the 20th Century. After the Democratic machine took control of Chicago, it defeated him in 1934 with Arthur Mitchell, a former Republican who switched parties to become the first Democratic Negro *ever* elected to Congress. Both men were born in Alabama. It would be more than thirty years before another Negro was elected to Congress as a Republican. (Wasniewski, 2008, 278-90)

During FDR's first term Southerners held over half the committee chairmanships and most of the leadership positions in Congress. He needed their support to pass his economic recovery measures. The Southern system of restricting the vote made it easier for the same Senators and Congressmen to be re-elected again and again. The fewer people they had to ingratiate in the Southern style of "friends and neighbors" politics, the easier it was to stay in office. Once in Congress, the seniority system by which Members advanced to become ranking members or chairmen of committees put them in position to bottle up FDR's legislation.

FDR's administration was the first in the 20th Century to pay *any* attention to improving opportunities for Negro Americans. (Schlesinger, 1965, 925) As early as the 1933 Act which created the Civilian Conservation Corp, clauses were put into New Deal legislation which provided "[t]hat in employing citizens for the purpose of this Act no discrimination shall be made on account of race, color, or creed." (48 Stat. 22) If not explicitly in the law, similar requirements were "read into" the acts with agency regulations. However, these were little more than statements of good intentions, as there were no enforcement mechanisms. Their ineffectiveness was highlighted by the systematic exclusion of Negroes from the new jobs created by the mushrooming defense industries prior to World War II. Even before the United States entered that war, Negro leaders pressed President Roosevelt to sign an Executive Order with teeth in it that would ban discrimination in these industries. They knew that asking Congress for action was hopeless. Faced with a threatened march on Washington, Roosevelt issued Executive Order 8802 on June 25, 1941. It established the Fair Employment Practices Committee with the modest powers to investigate complaints of discrimination and take "appropriate steps." (Sitkoff, 2009, 237-244; 6 *Fed. Reg*. 1941, 3109) Although its authority was extended to all federal contractors in 1943, its enforcement power was limited to negotiation and persuasion. The FEPC was killed in 1946 when Southern Congressmen cut off its funding. In its short life, it received 14,000 complaints. (Burstein, 1985, 8; Graham, 1990, 12-14).

Because of the roadblocks in Congress, most of what FDR's administration did for Negroes did not require legislation. Eleanor Roosevelt set the tone by saying and doing things which showed sympathy for the Negro's plight. Government sponsored conferences on the "Problems of the Negro" drew national press. At the urging of the CIO and the NAACP, Attorney General Frank Murphy announced the creation of a civil liberties unit within the Criminal Division of the Justice Department on February 3, 1939 to address lynching and the intimidation of labor organizers. Renamed the Civil Rights Section (CRS) in 1941, it used what was left of the Reconstruction-era civil rights laws to prosecute cases of fraudulent elections, establishing that primary elections could be within the scope of federal protection. The CRS built on these cases to challenge the white primary, the poll tax, peonage, and police brutality. While not always successful, these cases laid the basis for more far-reaching decisions by the Supreme Court in later years. (Washington, 1951; McMahon, 2004, 144-175; Sitkoff, 2009, 66; Eliff, 1971, 606-7; 18 U.S.C. §§ 241, 242; *United States v. Classic,* 1941)

Secretary of the Interior Harold Ickes took the lead in bringing Negroes into New Deal programs. A Bull Moose Progressive and former head of the Chicago NAACP (1922-24), Ickes brought a number of Negroes into the administration, especially as race relations advisors in various agencies. By 1940 there were over a hundred. They met together regularly, becoming known as FDR's Black Cabinet. Ickes also issued non-discrimination orders for those agencies under his control, in particular the Public Works Administration. In addition, a significant number of white Southerners who were racial liberals held important positions where they could bring Negroes into their programs. Whatever happened at the top, most New Deal programs were administered on the local level by people who held the local attitudes and practiced the local customs on race. (Lubell, 1966, 59-60; Kirby, 1980, 21-22, 34, 48, 106; Schlesinger, 1960, 423-36; Sitkoff, 2009, 37-9, 45, 58-59, 62)

Everything in President Truman's background should have predicted a conservative attitude on race. But, as he wrote in 1948, "my very stomach turned over when I learned that Negro soldiers, just back from overseas, were being dumped out of army trucks in Mississippi and beaten.... I shall fight to end evils like this." (Truman, 1973, 392) His first Attorney General, future Supreme Court justice Tom Clark, investigated the activities of the KKK in seven states and put it on the DoJ's list of subversive groups. (Feldman, 1999, 305; HUAC *Report* 1967, 10) Both men realized that "evils like this" could not be eradicated on a case by case basis, but required a comprehensive program. It was the Cold War which elevated civil rights to a priority on Truman's crowded agenda. Every incident of brutality or injustice to Negroes was used by Communists as propaganda against the American system. (Dudziak, 2000, 121, 159, 169-70; see statement by Truman's Sec. of State Dean Acheson in Muse, 1964, 12) Defeating Communism gave Truman an argument for action that FDR had lacked.

In a series of speeches and actions he made his intentions clear. On December 5, 1946 Truman issued E.O. 9808 creating a President's Committee on Civil Rights to recommend "effective means and procedures for the protection of the civil rights of the people of the United States." On June 29, 1947, speaking from the Lincoln Memorial, Truman became the first President to address the NAACP. On October 29, 1947, the Committee issued its 178 page report, *To Secure These Rights*, which the *Washington Post* called "social dynamite." Specifically calling for "the elimination of segregation, based on race, color, creed or national origin from American life," its recommendations were a blueprint for federal action for the next two decades. (*WP* 10-30-47, 1) Truman's message to Congress on February 2, 1948 contained ten legislative goals to attain civil rights. (Kluger, 1975, 250, 253, 255)

Although various civil rights bills were introduced into each successive Congress, the only items that Truman could implement were those that didn't require Congressional approval. Attorney General Tom Clark later said that getting any money that might advance Truman's civil rights programs was "like pulling eyeteeth.... We'd have to hide the money for this little old Civil Rights Section under another name or it would never get out of the Committee." (Gardner, 2002, 149) The need to be discrete kept the CRS small and underfunded. Limited by the number of cases it could prosecute itself, the CRS filed *amicus* briefs opposing segregation in five key cases before the Supreme Court. The decisions on these cases, all written by one of the four Truman appointees to the Court (usually Chief Justice Fred Vinson), created precedents for *Brown*. Truman also used executive power when he could. He issued Executive Orders 9980 and 9981 on July 26, 1948; ordering desegregation of the federal work force and the armed forces. (Washington, 1951; McCoy and Reutten, 1973, 46; Gardner, 2002, passim; McMahon, 2004, 186)

Truman's audacity provoked the South. On January 26, 1948, the Alabama Democratic Eexecutive Committee (DEC) warned against putting into the Democratic Party platform any "attack upon racial segregation." On May 10, several thousand "States Rights Democrats" met in Jackson, Mississippi where they heard South Carolina Governor Strom Thurmond declare that "not all the laws of Washington, or all the bayonets of the Army can force the Negro into our homes, our churches, and our schools, or into our places of recreation and amusement." When a strong civil rights plank was put into the Democratic platform at its mid-July convention in Philadelphia all of Mississippi's delegation and half of Alabama's walked out. Meeting in the Birmingham Municipal Auditorium on July 17, six thousand States Rights adherents declared their support for Thurmond for President and Mississippi Governor Fielding Wright for Vice President. They held an even larger convention in Oklahoma City on August 14 where they adopted a party platform. In November this ticket was listed under the Democratic Party emblem in four states, and it won in all four: South Carolina, Alabama, Mississippi and Louisiana. (Starr, 1970)

Eisenhower was comfortable with segregation. Born in 1890, he grew up during the era of white supremacy and spent his professional life in a segregated army. While sensitive to Southern feelings, he was acutely aware that the Soviet Union used racial incidents and ongoing discrimination to portray the US badly with newly emerging nations. His UN Ambassador, Henry Cabot Lodge Jr., called race the "Achilles heel" of American foreign policy. To improve America's image abroad, Ike was willing to support desegregation in those areas where federal authority was clear, but not in those (e.g. schools) which were traditionally run by state or local bodies. (Burk, 1984, 16) During his administration progress was made in the desegregation of the military, veteran's hospitals, the District of Columbia and the civil service, but not much else. While Ike is remembered for sending federal troops to Little Rock, Arkansas to escort nine Negro students into Central High School in 1957, he did so reluctantly and only after pleas from the Mayor of Little Rock that troops were necessary to protect the school from mob violence. Pandering to popular opinion, Governor Orville Faubus was using the National Guard to keep the students out of the school contrary to the decision of the local school board and a federal court order that they be admitted. Eisenhower removed the Arkansas Guard by federalizing it, then sent in the Army's 101st Airborne Division to keep order and protect the students. The Supreme Court later confirmed that desegregation could not be suspended due to the threat of violence. (Burk, 1984, 176-188; Belknap, 1987, 33-34; Muse, 1964, 122-145; *Aaron v. Cooper* 1956; *Cooper v. Aaron*, 1958).

There were some within Ike's administration who did want to enlarge the federal government's role in protecting civil rights, particularly Attorney General Herbert Brownell, Jr. A liberal Republican from New York, he had a long political career before becoming A.G.[1] He looked for civil rights proposals that Eisenhower could support, and ways around those that Eisenhower was reluctant to endorse. One of the first was interstate travel. The issue arose when the NAACP filed complaints against several railroads with the Interstate Commerce Commission late in 1953. When asked by the press, Eisenhower declined to support legislation to desegregate interstate transportation. The DoJ concluded that the ICC already had sufficient legal authority and filed a brief in favor of an administrative ruling for desegregation. In November of 1955, the ICC banned segregation aboard interstate passenger trains and buses. (Burk, 1984, 146-47, 154) However, this did not apply to the privately owned bus and train stations; those in Southern states continued to have separate (and not very equal) sections for "white" and "colored."

While Eisenhower would have preferred that the federal government stay out of *Brown v. Board of Education*, the Supreme Court asked the DoJ to file a brief. Written by DoJ attorneys under the direction of Brownell, the brief was objectively neutral, but essentially favored the view that segregation in public schools was unconstitutional. Thus Ike's appointee as Chief Justice, Earl Warren, and his Attorney General, Herbert Brownell, did what the President did not want to do, and brought the country a sea change in the law on race relations which reverberated throughout Eisenhower's administration. (Brownell interview, 1985)

National publicity surrounding the gruesome murder of 14-year-old Emmett Till in Mississippi on August 28, 1955 and the acquittal of the defendants (who later publicized their complicity) less than a month later, led Brownell to explore ways that the federal government could enforce civil rights generally. (Nichols, 2007, 117-119) Two Mississippi murders of "race men," and the beginning of the Montgomery bus boycott prompted him to ask the Civil Rights Section to draft a bill in December. (Burk, 1984, 208) Eisenhower kept his distance, knowing that an election year was not a good time for an extended fight over a civil rights bill. Ike's 1956 State of the Union address extolled the progress being made in civil rights, but Brownell's bill was introduced into Congress without a Presidential imprimatur. (Nichols, 2007, 122, 128) HR 627 passed the House, but was stopped in the Senate. Containing provisions initially proposed by Truman in 1948, it would create a Commission to study discrimination due to color, race, religion, national origin or sex. "Sex" had been added by a vote of 115 to 83 with a floor amendment by a California Congressman at the request of the National Woman's Party. (Gardner, 2002, 80; Freeman, 1991, 171-2) Ike's cautious approach paid political dividends when he won re-election that fall with significant votes both from Southern whites – who continued their drift out of the Democratic Party that began in 1948 – and Negroes – who still retained much of their traditional allegiance to the Republican Party. He also did better among women than men. (Nichols, 2007, 140-41; Freeman, 1991, 171; 2008, 177)

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[1] A distant relative of Susan B(rownell) Anthony, he was born in Nebraska, went to Yale Law School, and became a Wall Street lawyer before going into politics. He served in the NYS Assembly, was chairman of the Republican National Committee, managed Dewey's 1944 and 1948 campaigns for President, and was an early supporter of Eisenhower. Dewey had promoted New York's Fair Employment Practices Law in 1945 and was generally a supporter of improved opportunities for Negroes. (Brownell, 1993)

Reintroduced into the new Congress in 1957, Public Law 85-315 was the first civil rights legislation passed since 1875. The publicity over the civil rights bill gave direction to the newly formed Southern Christian Leadership Conference. Right before it became law on Sept. 9, 1957, 115 Negro leaders meeting with SCLC decided to organize a Crusade for Citizenship, with the purpose of registering enough new Negro voters to affect the 1960 elections. Run by Ella Baker, the program set up voter education clinics throughout the South, using mass meetings to inspire local Negroes to register and vote. Despite the clinics and the mass meetings, very few additional registrations occurred. Although it didn't officially end until sometime in the 1960s, the Crusade largely took place in 1958. The poor results for those state and local elections gave SCLC a greater appreciation of the many barriers to voter registration faced by Negroes in most of the Southern states. (Morris, 1984, Chapter 5)

Much of the DoJ's 1956 bill was lost in the political fray. Among sections that survived were ones creating a US Commission on Civil Rights (USCCR) as an independent agency, and an additional Assistant Attorney General in the DoJ. The USCCR was authorized to investigate and collect information on the deprivation of voting rights on the basis of "race, religion or national origin" and on the denial of equal protection of the laws under the Constitution. It had two years to submit a final report and dissolve. The new AAG was to head a Civil Rights Division (CRD) in the DoJ, which would be created administratively from the Civil Rights Section. Unlike a section head, an AAG was a Presidential appointment, requiring confirmation by the Senate.

Although Brownell had wanted authorization for the DoJ to intervene when civil rights in general were violated, there was consensus only for voting rights. The final compromise was shaped by Senate Majority Leader Lyndon B. Johnson, who wanted a weak bill. It only gave the A.G. the power to seek an injunction from a federal court to prevent anyone from interfering with the right to vote and made intimidation, threats, or coercion illegal if used to affect that right. South Carolina Senator Strom Thurmond staged the longest filibuster by a single person in Senate history in hopes of delaying passage. For 24 hours and 18 minutes he read from various texts until he couldn't talk any longer. (Burk, 1984, 225-6; Nichols, 2007, 144-6, 159-60, 163-67; Belknap 1987, 44; Caro, 2002, 886-990) The first civil rights bill to become law in 82 years was signed by Ike on September 9, 1957. Brownell retired on October 27 of that year, to be replaced by his chief deputy, William P. Rogers, also a New York lawyer. The constitutionality of the injunction provision (42 U.S.C. 1971(c)) was challenged in the very first case brought by the new Civil Rights Division (CRD) against the registrars of Terrell County GA. The adverse ruling of the three-judge District Court wasn't reversed by the U.S. Supreme Court until February of 1960. (*U.S. v. Raines*, 1960)

In 1959 new bills were proposed to fix some of the problems identified by efforts to enforce the 1957 Act, but the only one that passed extended the life of the Civil Rights Commission until 1961. It was apparent to both parties in1960 that there were enough Negro votes up for grabs in crucial states to be worth defying Southern intransigence in the Senate. Senate Majority Leader Lyndon Johnson, who was running for President, wanted to get credit for passing a civil rights bill, but a mild bill that would only irritate the South, not alienate it. The President also wanted credit for such a bill, even though he wasn't running again. The student sit-ins that began on February 1, 1960 and swept the South added impetus to passage. While Southern Senators mounted the longest filibuster in history, they finally agreed to a bill that focused on voting. (Nichols, 2007, 252-4)

The President signed P.L. 86-449 into law on May 6, 1960. One key provision required that registration and voting records be preserved and be turned over to the Attorney General on request. This was a response to the Southern county registrars who had destroyed their records rather than turn them over to the feds. Another authorized a federal district judge to declare that an applicant was a qualified voter, if that person had been denied by local authorities and there was a "pattern and practice" by those authorities of depriving a class of persons of the right to vote. The court could appoint a referee to examine the records and decide if the voter met the state's requirements to be a registered voter. Missing were several proposals in earlier bills to appoint federal voting referees or registrars – an attempt to get around county registration boards who found trivial reasons to disqualify Negro applicants that they didn't apply to whites.

The sleeper in the 1957 and 1960 Civil Rights Acts was the Civil Rights Commission. The USCCR held hearings in several Southern states and wrote reports detailing denials of various civil rights, some of which irritated the DoJ because they documented its failures to act. It constantly prodded the DoJ for information. Voting was a primary subject in its 1959, 1961 and 1963 reports. From the hearings, the Civil Rights Division gleaned the names of Negroes active in their communities who knew about failed attempts to register to vote. These people led the DoJ attorneys to those who swore out the affidavits needed to file suits in federal courts. Many of the recommendations in the USCCR reports became the basis for provisions of the 1965 Voting Rights Act. (Dulles, 1968; Martin, 2010, 26)

Throughout most of his political career John F. Kennedy walked a tightrope between his desire for Negro votes to win elections and his need for Southern votes in Congress to pass his legislation. While he supported civil rights bills when he was in Congress, they were not a priority; his primary interest was in foreign affairs. As President he discovered that public support of Negro aspirations dovetailed with his foreign policy goals. By the 1960 election the Negro electorate had grown to roughly five million voters, concentrated in northern cities in states rich with electoral votes. Both parties viewed Negro votes as important to winning these states but they also feared a white Southern backlash. At their nominating conventions that summer both parties put strong civil rights planks into their platforms but did nothing more. Pursuing a "Southern strategy," Richard Nixon's campaign ignored Negroes, while JFK's courted them with symbolic gestures. Negroes rewarded Kennedy with 76 percent of their votes. All of Mississippi's electoral college votes and half of Alabama's went to "unpledged" electors. They voted for Harry Byrd, the Virginia Senator who had called for "massive resistance" to the 1954 *Brown* decision. (Bryant, 2006, 161-63, 166; Ladd and Hadley, 1975, 112-14)

Civil rights was not on Kennedy's legislative agenda, but it was on his administrative agenda. Like FDR, JFK did not believe he had the votes to pass new civil rights laws and feared what powerful Southern Members of Congress would do to the rest of his policy proposals if he tried. Thanks to their seniority, Southerners chaired almost three-fourths of the Senate Committees and two-thirds of the House Committees. (*CN* II, 46a-49a; Bryant, 2006, 192-93) JFK appointed a special assistant for civil rights with instructions to find non-legislative ways to improve opportunities for Negroes, preferably ones that would be covered by the Negro press without attracting national publicity. On March 6, 1961 he signed Executive Order 10925 to implement nondiscrimination polices affecting government contractors and federal employment. He nudged government agencies to find and promote Negroes and appointed Negroes as ambassadors. (Schlesinger, 1965, 928-37)

The new Attorney General, Robert Kennedy, decided that voting rights should be the top

civil rights priority. It was less controversial than school desegregation and there were two civil rights acts providing enforcement mechanisms. How to do this was the topic of the first CRD staff meeting on March 6, 1961. (Bryant, 2006, 248) DoJ officials talked with civil rights organizations about the best way to promote a voter registration campaign. One such meeting took place on July 28, 1961. CRD representatives asked SCLC for county contacts in seven counties in Georgia, two of which had a reputation for violence. It wanted SCLC to start voter registration campaigns in order to generate the evidence necessary to win a law suit. SCLC was urged to take Negroes to be registered in groups of five to ten so that witnesses would be available to testify to any incidents, and to carefully document registration attempts. (SCLC IV 134.4)

Civil rights organizations told the DoJ that they were short on funds to run voter registration programs. Kennedy persuaded the Stern Family Fund and the Field and Taconic foundations to fund the Voter Education Project (VEP) under the aegis of the Southern Regional Council (SRC). The AFL-CIO's Committee on Political Education (COPE) also sent money. The SRC hired Arkansas civil rights attorney Wiley A. Branton to run the VEP. Between March 1962 and October of 1964 the VEP spent $855,836.59 on 129 voter registration projects, largely through grants to the major civil rights organizations to run local registration campaigns. Initially the donors and the SRC were concerned that money used to register Southern blacks to vote would be interpreted as political activity by the IRS. That would threaten their tax exempt status. With work from a skilled tax attorney and a nudge from Bobby Kennedy, IRS was persuaded that the voter work was educational activity and research. This delayed grant distribution for several months and led to VEP's insistence on detailed records and reports, something that civil rights organizations weren't used to doing. In 1963 funds to SCLC were temporarily suspended because its reports were so skimpy. By the end of 1964, the number of Negroes registered to vote in the 11 former Confederate states had increased by around 700,000. Success was largely in the six border states; the five deep South states remained resistant and Mississippi almost impenetrable. (Schlesinger, 1965, 935; Draper, 1990, 88-89; Watters and Cleghorn, 1971, 45-50; Lawson, 1976, 283; http://mappingthevep.evanfaulkenbury.com)

In fact VEP money did lead to more political activity, but not directly. As more Negroes registered to vote, more ran for office. Their success rate was very low, but just campaigning allowed for speeches and press coverage outside the immediate black community. Just talking about politics made blacks more aware of government and what it could do *for* them, not just *to* them. It also put white office holders on notice that they needed to pay some attention to the needs of the black community. For decades black folk thought of politics as "white folks business." The push for voter registration slowly changed that attitude. The VEP money allowed SCLC and other civil rights organizations to increase their staff. Those staff worked on desegregation as well as voter registration. There were more petitions and demonstrations, more court orders to desegregate schools, and after the 1964 Civil Rights Act was passed, more court orders to enforce it.

As with Truman, it was the Cold War which made President Kennedy pay more attention to race. Every time there was a highly publicized race incident, the Soviet Union used it as propaganda and emerging nations questioned whether America practiced its own ideals. Since JFK wanted to prove the moral superiority of the American Way of Life over that of the Soviet Union, adverse international comments pushed him both to speak out and finally to introduce new legislation. (Bryant, 2006, 471-2; Dudziak, 2000, 170-182) The many racial crises during JFK's administration gave him ample opportunity to do that. His public response to these crises

played well with emerging nations, especially in Africa. Their leaders were impressed that he would send troops to Mississippi in 1962 "for one small Negro to go to school." (Schlesinger, 1965, 583, quote on 948)

Despite JFK's belief that legislation was not possible, in 1962 the Kennedy Administration did back a constitutional amendment to abolish the poll tax in federal elections and a bill to deem anyone with a sixth-grade education sufficiently literate to meet any state literacy qualification for voting. The former received the two-thirds votes necessary to be sent to the states, which ratified it in 1964. The latter did not get out of committee. An attempt by the Senate leadership to pass it as an amendment to another bill was filibustered to death. (Schlesinger, 1965, 940)

In January of 1963 President Kennedy met with Dr. King and other civil rights leaders. They urged him to pass comprehensive civil rights legislation. He responded on February 28 with a request to Congress for legislation to make it easier for Negroes to register to vote and for the DoJ to pursue voting suits. The civil rights organizations wanted more. Working through the Leadership Conference on Civil Rights (LCCR), founded in 1950, they tried to shape the bill. On June 19, after the Birmingham demonstrations generated major international publicity on the plight of the American Negro, JFK submitted a vastly expanded bill. One provision prohibited race discrimination in public accommodations – a problem the Birmingham demonstrations had highlighted for which there was no legal remedy. The bill was still tied up in the House Rules Committee when Kennedy was assassinated on Nov. 22. President Johnson made the omnibus civil rights bill a priority. With co-operation from Senate Minority Leader Everett Dirksen, the Senate voted to end a Southern filibuster on civil rights on June 10, 1964. This was the 12th attempt to talk down a civil rights bill since an anti-lynching bill was lost in 1938. The 1964 Civil Rights Act was signed into law by President Johnson on July 2. (*CN* I, 1965, 1635-38; Johnson, 1971, 159-60)

The 1964 Civil Rights Act gave the Justice Department new tools with which to attack school segregation. Previously it had been limited to writing amicus briefs and enforcing court orders. Title IV authorized the DoJ to initiate a desegregation suit after receiving a complaint. Previously only private parties could initiate such suits and they had to retain their own lawyers. Most school desegregation cases were handled by the NAACP Inc. Fund. Title VI forbade discrimination in federally assisted programs. The guidelines issued by the Department of Health, Education and Welfare (HEW) in January 1965 required a school district to submit a valid desegregation plan in order to receive funds. While some schools got federal funds in 1964, many more qualified after the Elementary and Secondary Education Act (ESEA) became law in 1965. It authorized funds to school districts with a high percentage of students from low-income families. That was the carrot which persuaded many local school districts to reduce their resistance to desegregation. Before ESEA, fewer than 1,500 school districts were desegregating. By September 1965, that number had tripled. The stick was Title IX which authorized the DoJ to intervene in discrimination suits. While intervention was most common in school desegregation suits, Title IX had a wide application. (1965 Atty. Gen. *Report* 176-80)

Despite provisions in the new law making it harder to deny Negroes the right to vote, most Southern registrars continued business as usual. It seemed that only a federal court order could make them give up applying a racial double standard to people who wanted to vote. Getting court orders required the DoJ to litigate in each county – often before unsympathetic judges – and could take years to obtain. The CRD's documentation of its efforts to surmount

these hurdles was what finally persuaded Congress to pass the Voting Rights Act in 1965. President Johnson did not think another civil rights act could be passed so quickly, but he was persuaded otherwise by the national response to the Selma demonstrations and the 35 additional Democrats elected to the House in 1964.

Robert Kennedy continued as Attorney General until he resigned in September of 1964 to run for Senate from New York. Deputy A.G. Nicholas deBelleville Katzenbach became the Acting A.G. On January 28, 1965 President Johnson appointed him to be the 65th Attorney General of the United States; he was confirmed by the Senate on February 11, 1965. He kept that position until October 2, 1966, when he moved to the State Department so that Ramsey Clark could follow his father and become A.G. During his tenure at Justice, Katzenbach followed Teddy Roosevelt's admonition to "speak softly and carry a big stick." He was often criticized by the civil rights movement for speaking softly, and by Southern officials for threatening them with his big stick.

The Department of Justice

> Dr. King is "the most notorious liar in the country."
> FBI Director J. Edgar Hoover, press conference, November 1964

While working on civil rights the South, the Department of Justice had a split personality. Its harsh side was represented by the FBI, and its better half by the Civil Rights Division (CRD). Although both were units of the DoJ and under the authority of the Attorney General, their level of co-operation was not close and sometimes they were at odds. The CRD was small but narrowly focused on civil rights; the FBI was large, spread out geographically and functionally, and unsympathetic to civil rights. To the ordinary civil rights worker the Justice Department was one big bureaucracy whose public face was the FBI. We didn't distinguish between the FBI and the CRD, or understand that they could have conflicting goals and conflicting values as well as conflicting commitments. Only after the histories of the era were written did that become evident.

By the 1960s, over forty percent of the DoJ's personnel worked for the FBI. (Navasky, 1971, 7) The number of special agents increased from 5,888 in 1960 to 6,555 by the end of 1965, with even more support personnel. By then it had 57 field offices and around five hundred Resident Agents who lived in local communities but reported to one of the field offices. (FBI *Annual Report* 1960, 329; 1966, 403) The CRD started the decade with 24 attorneys. By the middle of 1966 it had 95 attorneys and 101 clerical staff. Although the division sometimes borrowed attorneys from other divisions, the CRD was always overworked and understaffed. (Lichtman, 1969, 351, 361; 1966 Atty. Gen. Ann. Rept. 182)

What officially became the Federal Bureau of Investigation in 1935 got its start in 1908 as the Bureau of Investigation. In 1919, Attorney General A. Mitchell Palmer created a special division to find and deport or incarcerate radicals, especially anarchists and communists. He put a young DoJ lawyer in charge. By the time J. Edgar Hoover became Director of the Bureau in 1924, his Radical Division had been dissolved but his interest in radicals enhanced. It shaped his view of the world. Throughout his long tenure with the Bureau he was predisposed to see Communist influence behind every protest. (Ackerman, 2007, 45, 399; Ellis, 1994)

Hoover remained Director of the FBI until he died in 1972. During the Hoover era, the FBI's public reputation was based on fighting crime, but Hoover's personal interest was in ferreting out "subversives" of all sorts. Over the years, Hoover's agents added information on many powerful people, especially politicians, to the vast files on radicals he had begun in 1919. The information was cataloged, indexed and cross-indexed so that it could be readily accessed when needed. Some of this was potentially embarrassing. (Ackerman, 2007, 297-98, 406-7) Hoover used this material, with its implicit threat of blackmail, to augment his power and maintain his autonomy. He even spied on the Supreme Court and wiretapped the phones of Members of Congress. (Newman, 1994, 424) Under him the FBI attained a level of virtual autonomy both unusual and unhealthy for federal agencies. One DoJ attorney characterized it as Hoover's "private fiefdom." (Landsberg, 2010, 195)

The FBI cultivated good relationships with local law enforcement, whom it relied on to be its eyes and ears when federal crimes were involved. Local police were brought from all over the country to study law enforcement techniques at the FBI's National Academy. This not only

trained more professional police but created working relationships between locals and the FBI. (Schlesinger, 1978, 292) When criminal complaints were sent by citizens directly to the Justice Department, they would be given to the FBI which would forward them to the closest field office which would decide which ones to give to local law enforcement and which ones should be investigated by resident agents. This might work for ordinary crimes, but not for crimes involving civil rights. For example, if a Negro wrote the DoJ that his house was shot at after he attempted to register to vote, the result might be an intimidating visit from the county sheriff. (Other examples are in Navasky, 1971, 130-132; Watters and Cleghorn, 1967, 159)

Before the Freedom Riders traveled South in May of 1961, CORE's Executive Director, James Farmer "wrote to the Justice Department, to the FBI, and to the President...." (Interview in Raines, 1977, 109-110; see also interviews in Hampton, 1990, 76, 80) Although Farmer received no replies, information on routes and timing was passed from the FBI to local law enforcement. In Alabama the cops told the Klan when and where to find the Riders in Anniston, Birmingham and Montgomery, and gave them time to inflict violence before appearing to "restore order." (Chalmers, 2003, 30; O'Reilly, 1989, 86; testimony of Gary Rowe at Church Committee *Hearings*, Vol. 6, 1975, 117-8) While the Klan was beating the Freedom Riders in Montgomery, the DoJ asked federal judge Frank Johnson for a TRO (temporary restraining order), which he provided, though it was too late to prevent the violence. On June 2, after a hearing, he issued a preliminary injunction ordering the several Klan leaders and groups to cease interfering with interstate commerce. He also enjoined a city commissioner and the police chief from failing to provide protection for "all persons traveling in interstate commerce." To these he added a TRO requested by the two city officials that CORE and SCLC, along with people associated with those organizations, be enjoined from assisting anyone testing or demonstrating. (*U.S. v. Klans*, 1961)

The FBI tried to avoid investigating complaints involving local law enforcement, especially charges of police brutality by Negroes. Through bureaucratic memos Hoover argued that no federal laws were involved, that it was unwise to impair relationships with local police, that FBI agents were overworked with criminal matters and that neither indictments nor convictions were likely to result from any investigations. (Eliff, 1971, 609-11, 616, 627) When asked to investigate by an attorney in the CRD, Hoover might persuade the AAG to withdraw the request. When ordered to investigate, the FBI rarely found sufficient evidence for prosecution. For example, after an extensive investigation into a highly publicized 1946 lynching in Monroe, GA the FBI failed to identify anyone in the mob while a limited NAACP investigation produced numerous names. (Barrett, 2009, 28; Eliff, 1971, 622-27) Asked to investigate a 1955 attack on a Negro leader in Mississippi, the FBI turned the limited information obtained from one interview over to local authorities who did nothing. (Burk, 1984, 208) In its 1961 *Report* the USCCR found that Negroes in the South were often afraid to talk to the FBI. (USCCR, 1961,V-62) Experience taught those in the DoJ concerned with the welfare of Negroes to be cautious in their use of FBI agents to gather information.

In 1956 the FBI initiated a Counter Intelligence Program (aka COINTELPRO) which targeted left-wing groups and individuals that Hoover thought were dangerous or subversive. COINTELPRO did not just collect information but actively sought to disrupt such groups, at least until the program was exposed in 1971. (Director's Memo of 8-28-56 reprinted in Church Committee *Hearings*, Vol. 6, 1975, 372) Starting in the fall of 1963 counterintelligence tactics were used against the civil rights movement. The FBI didn't pay much attention to the KKK

until Kluxers murdered three civil rights workers near Philadelphia, Mississippi at the beginning of the 1964 Freedom Summer. The public outcry at that crime moved President Johnson to pressure Hoover into flooding the state with FBI agents. On July 10, Hoover opened an FBI office in Jackson.[1] (Kotz, 2005, 166-75; Belknap, 1987, 153) Agents interviewed everyone who would talk to them and even more who wouldn't, until the bodies of the missing civil rights workers were found on August 4 and 19 perpetrators were arrested on December 4. In the process, they persuaded some key Klan members into becoming informants, especially those whose day jobs were in law enforcement. (Whitehead, 1970, 125-42, 160-3, 186-7, 200)

On Sept. 2, Hoover expanded COINTELPRO to include the Klan and related groups which he ordered the FBI to "expose, disrupt, discredit, or otherwise neutralize."[2] (Quote in Director's Memo of 9-2-64 reprinted in Church Committee *Hearings*, Vol. 6, 1975, 308; also in O'Reilly, 1989, 137; Belknap, 1987, 155) While Hoover disliked the civil rights movement intensely, he was no fan of the Klan, believing it to be "a group of sadistic, vicious, white trash." (Drabble, 2004, quote on 297) Soon close to 20 percent of KKK members were informing to the FBI. A year later Hoover wrote the A.G. that the FBI had informants at a "high-level" in 14 Klan organizations. In addition to giving the FBI crucial information about bombings and shootings, they had helped "forestall violence in certain racially explosive areas." The FBI's contribution to racial justice in the South was to defang the Klan, but it took several years. After 1970, acts of Klan violence were "practically nil." If the FBI had gone after the Klan much earlier, when its violent tendencies were expanding, far fewer people would have died. (Percentage in Church Committee *Hearings*, Vol. 6, 1975, 145; first quotes in Director's Memo of 9-2-65 reprinted in Ibid., 513-4; last quote in O'Reilly, 1989, 223; see also https://vault.fbi.gov/cointel-pro/White%20Hate%20Groups)

Once motivated, Hoover also assigned agents to investigate the July 11, 1964 murder of Army Reserve Lt. Col. Lemuel Penn outside Athens, GA. He was driving home to Washington, D.C. with two other Negro officers after a two-week tour of duty in Georgia when he was shot in much the same way that the Klan would shoot Viola Liuzzo after the Selma march nine months later. Two Klansmen were acquitted on state murder charges in September, but convicted two years later on federal conspiracy charges; four others were acquitted in that trial. While many more Negroes and civil rights workers would be killed in the next few years, the FBI was selective in what it would investigate. It was only interested in killings where intelligence showed that the Klan was involved and which promised major media coverage. That left a lot of racially motivated murders to local law enforcement, which had no interest in solving them. (Whitehead, 1970, 310-12; *NYT* 7-3-66, 28; 7-9-66, 1; Belknap, 1987, 147-48, 152-53, 161-63, 194-95; O'Reilly, 1989, 205-06)

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[1] The FBI had a field office in Jackson from May 1941 until October 1946, when it was closed. Between 1946 and 1964 investigations in southern Mississippi were handled out of the New Orleans office and those in northern Mississippi from the FBI's Memphis office by resident agents living and working in the state.

[2] There was no single Ku Klux Klan. Hoover's directive included "seventeen Klan groups and nine far-right groups, ranging from the American Nazi Party to the National States Rights Party" and a few unaffiliated racists known to have violent tendencies. (O'Reilly, 1989, 200)

The FBI's persecution of Dr. King and Director J. Edgar Hoover's obsession with sabotaging the civil rights movement have been well documented, but those of us working in the field knew none of this at the time. (Garrow, 1981; O'Reilly, 1989) We did know that the FBI wasn't there to protect us. All it did was observe, and, as best we could tell, provide information about us to local law enforcement. While we were instructed to report race discrimination and violations of the Civil Rights Acts to the FBI, and often to notify them in advance if we intended to do something provocative like parade without a permit, we thought of it as a rote exercise. We didn't trust the FBI. While stories abound of agents standing by while civil rights workers and local demonstrators were beaten (Zellner, 2008), I personally did not see this, largely because I didn't see many beatings. But I did see FBI agents observing at demonstrations and other events. All were white males with very short hair wearing suits and ties which made them easy to spot. In the hot summer heat they might shed their coats, but not their well-pressed white shirts and ties. There were no women or minorities in their ranks. (Schlesinger, 1978, 292)

I don't remember seeing, or even hearing about, anyone from the CRD working in the South. CRD attorneys did most of their field work in rural Southern counties long before anyone from a civil rights organization arrived. They would go into counties where few were registered, and look for those who had tried and failed, or were willing to try. They particularly looked for Negroes with good educations, encouraged them to try to register and keep records of their attempts. When cases were filed, CRD attorneys prepared them to testify. (Martin, 2010, 41, 106-8) By1965 they were mostly in court, so we didn't see any in the field.

Attorney General William P. Rogers named W. Wilson White as the first AAG for the new CRD on December 5, 1957. He moved cautiously. While waiting for test cases on the 1957 Act to be decided by the Supreme Court he sent few complaints to the FBI for investigation. In two years only 22 complaints were investigated and three cases tried. (*NYT* 9-21-59, 31; Martin, 2010, 26) Things speeded up in 1960 after Harold Tyler Jr. became the CRD's AAG in January and the Supreme Court decided the 1957 Act was constitutional in February. The A. G. realized that "for some time to come, every action initiated in racial voting and registration cases will be challenged in every possible way to prevent or delay the implementation of the purpose of the Congress." (*U. S. v. Raines* 1960; 1960 A.G. Annual Report 177) Tyler brought in John Doar, a Republican lawyer from Wisconsin, to be his chief assistant in charge of voting litigation. They had been classmates at Princeton. (Landsberg, 2007, 27; Lichtman, 1969, 352; Martin, 2010, 27-9) Armed with new provisions in the 1960 Civil Rights Act, the CRD took a proactive approach, sending lawyers into the field rather than waiting for complaints to come in. It requested registration records in 23 counties and filed six law suits before the Kennedy Administration took over on January 20, 1961. (CRD 1964, 1191-1195, 1291-93, 1363-1441)

The new Attorney General, Robert F. Kennedy, was committed to civil rights as an ideal, but did not understand the South or know much about race. He applied the model of action that he had learned in his Ivy League education. For example, when he found that out that only ten out of 955 lawyers in the DoJ's DC office were Negro, he ordered a recruiting drive, but only of the leading law schools, where Negro students were rare. (Navasky, 1971, 164) He brought in Burke Marshall, a shy, corporate lawyer, to head the CRD and told him to emphasize voting because the law was clearer on voting rights than other civil rights. Marshall shared his boss' philosophy that "the federal system in the voting field [should] work by itself through local action, without federal court compulsion." (Marshall, 1964, 23-4) While both understood that bringing Negroes into the electorate would mean a shift in the balance of power, neither

understood how dramatically this would challenge Southern culture and institutions. It took a while for the DoJ to fully appreciate the enormity of its task and face the fact that the South was not going to voluntarily give up the buttresses of white supremacy.

Initially, the CRD sought compliance through negotiation with state and local officials in lieu of going to court. Marshall soon learned that this only worked in some places. In those counties of the deep South where whites were a minority of the population "voluntary compliance [was] fruitless." (Marshall, 1964, 23-4; Navasky, 1971, 163, 167, 169; Schlesinger, 1978, 290-1) Getting "court compulsion" wasn't quick either. Except in those few counties where the federal district judge was committed to enforcing Supreme Court decisions that were contrary to local mores, litigation was marked by almost endless delay and numerous appeals. By the time RFK left the DoJ on September 3, 1964, it had only filed 60 voter discrimination suits in five states.

Kennedy recognized Doar's value in the CRD and kept him. So did Nicholas Katzenbach, after he became A.G. When Burke Marshall left the DoJ at the end of 1964, Doar was promoted to head the CRD and stayed until 1967. In his seven years with the DoJ, Doar became a legend for his dogged pursuit of civil rights enforcement in the South. When Doar started work on July 16, 1960 he found the memos prepared by the FBI after investigating complaints by Negroes in the South to be too superficial to be useful for legal cases. (Doar and Landsberg, 1975, 912-928) After doing his own field work in Haywood County, Tennessee, he concluded that CRD attorneys had to do their own investigations. (Schlesinger, 1978, 293; Branch, 1988, 334) Since the FBI was the official investigating agency, this was done under the rubric of interviewing potential witnesses for trial. (Landsberg, 2007, 50) Subsequently, CRD attorneys went to the counties where they wanted to file suits to track down and interview Negro witnesses to get the evidence they needed to prove their case.

FBI agents continued to photograph voter applications and other records in the county courthouses for the CRD to analyze. They also interviewed potential white witnesses, whose contrasting experience in their efforts to register was important to establish a racial bias by the registration boards. (Henderson, 1963, 42; O'Reilly, 1989, 60) CRD attorneys prepared detailed questions to preclude the interviews from being purely perfunctory. (Landsberg, 2007, 50, 79-80, 90; Navasky, 1971, 102-3; Doar and Landsberg, 1975, 902-5; Martin, 2010, 50) The CRD did not rely even on staff from the office of the local U.S. attorneys. The latter not only had plenty of other work to do, but since they all had to be approved by their state's Senators before confirmation, their dedication to civil rights enforcement was suspect. Katzenbach felt the U.S. attorneys were vulnerable to local pressure and harassment since they and their families lived where they worked. (Katzenbach interview by Wolk, 1971, 93-94) CRD attorneys flew in from Washington D.C., spent a couple weeks talking to people, or in court, and flew out again.

CRD attorneys sometimes went far beyond interviewing those who had tried to register to encourage them to attempt to do so. In the Division, this was called "SNCCing." It was officially disapproved, but unofficially practiced when necessary. Without Negro applicants they could not prove discrimination, especially when the county records showed no Negroes had applied in years (a common pattern), or in those counties where the earlier records of applications had been destroyed by county officials. Often the mere presence of federal attorneys spurred a voter registration drive but sometimes a bigger push was necessary, especially in counties where the civil rights movement had not yet made an appearance. (Henderson, 1963, 43; Landsberg, 2007, 54-57)

Once a lawsuit was filed, CRD attorneys gave local Negroes feedback on the progress of the suits and prepared them to testify if the case went to trial. Since the 1960 Civil Rights Act authorized a federal judge to order that applicants be registered if there was a "pattern and practice" of discrimination, CRD attorneys also advised Negroes who had been rejected on how to apply to the federal court. Knowing that the Dept. of Justice was on their side surely gave many hope that freedom was finally on its way. (Landsberg, 2007, 122-25; Stern, 1965, 165)

Federal Judges

> In the Twentieth Century, the rights of black Americans under the Constitution were vindicated, and the federal judiciary emerged as the primary forum for recognizing these rights.
> Constance Baker Motley, NAACP Inc. Fund attorney 1946-66, and federal court judge, S.D. NY 1966-86, in her 1998 autobiography, pp. 201-2.

Those of us working in the South were pretty oblivious to the role of the federal courts in making our work possible. Our only experience with judges was in our trials; those local judges saw us as enemies of the state and traitors to our race. Only a few of us ever had cases before a federal judge and those were handled by our lawyers. But how those judges treated those cases and the others brought by Negroes and/or the DoJ shaped what the movement could do and how long it took to do it. Knowing this, civil rights lawyers tried to get crucial cases before those judges deemed most responsive. They attuned the SCLC Executive staff to the importance of federal judges. SCLC officials were loath to violate federal court orders. They knew that the federal district judges and those sitting in the U.S. Court of Appeals for the Fourth and Fifth Circuits made the decisions crucial to breaking the massive resistance of Southern states to the end of segregation and they didn't want to alienate them.

At that time the Fourth Circuit had nine districts divided among the states of North and South Carolina, Virginia and West Virginia, and Maryland. The Fifth Circuit had 18 districts in the states of Texas, Louisiana, Mississippi, Florida, Georgia and Alabama, plus the Canal Zone.[1] The Fourth Circuit was based in Richmond and the Fifth in New Orleans, though individual judges lived and did most of their work in their "home" state. Each court's decisions were law within those states, unless overruled by its circuit court of appeal or the U.S. Supreme Court. A district court could have one judge or several, as determined by Congress. Seats were vacated if a judge took "senior status," after reaching age 65 and serving at least 15 years, or age 70 with ten years of service. Such judges retained their salary but handled a reduced case load. Before 1961 these two circuits had 48 district judges and ten appellate judges, plus some in "senior status." When Congress created 73 new judgeships in 1961 the number of judges sitting on the Fourth Circuit court went from three to five and the number on the Fifth Circuit went from seven to nine. Another 5 were added in 1966. JFK and LBJ had to appoint a lot of new judges very quickly.

The selection of federal judges has always been political, but not always in the same way. Suggestions of potential nominees can come from many sources, but the most important ones come from elected officials of the same party as the President in the state where the appointment is to be made. Senatorial recommendations for district judges get particular attention because the Senate has to consent to a Presidential appointment and Senators will often defer to the wishes of their colleagues. Actual selection was governed more by convention than by law. Convention

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[1] On October 7, 1965 the two districts in South Carolina were merged into one. In October of 1981 the Fifth Circuit split, and a new Eleventh Circuit created that was based in Atlanta. It got the states of Georgia, Alabama and Florida.

held that at least one appeals court judge should be appointed from each state in a Circuit. Convention also held that district court judges should be appointed from among lawyers who practiced in that state and were attuned to its concerns. U.S. attorneys and state judges were often on the short list of potential nominees. So were lawyers who had actively worked for the President's election – or that of the Senator or Governor who sent his name to the President. Convention also gave Senators from the President's party a veto over those appointed to judgeships in the Senator's state. The President has more discretion in choosing the judges of the D.C. Circuit since there are no Senators; in the 1960s, there were no elected officials.

Recommendations were sent to the Attorney General, where a deputy A.G. vetted potential nominees. Opinions were sought from colleagues and the American Bar Association's Committee on the Federal Judiciary. The FBI did a background investigation. While the President officially made the final choice, Eisenhower and Kennedy relied heavily on their A.G.s to make the decision, while LBJ listened more to personal advisors. Getting the Senate's consent often required as much bargaining as persuasion, especially with Senators of the President's party in the state of the appointment. Often the President accepted a Senator's recommendation for district court judges unless he had reason to do otherwise. Mississippi Senator James O. Eastland became chair of the Judiciary Committee with the support of Senate Majority Leader Lyndon B. Johnson when his predecessor died in February of 1956 and held that position until his retirement in 1978. It was within his power to delay nominations from going to the Senate for a vote, or to subject nominees to heavy-handed hearings. He used this power to make sure that his choices got the judgeships in Mississippi, as well as Mississippi's seat on the 5th Circuit, even from Republican Presidents. (Chase, 1972, 17-19, 23-26, 36-37, 128-146)

The judges who served on southern districts courts during the civil rights era were appointed by both Republicans and Democrats. Some of these judges advanced the cause of civil rights and some did their best to retard it. (See Friedman, 1965, 188-92 for examples of both) Looking at their decisions through the lens of time it is difficult to find a partisan pattern. For example, in December of 1941 FDR appointed J. Waties Waring and George Bell Timmerman Sr. to the district court of South Carolina. Both men were well respected members of the legal and social establishment at the time of their appointment. Waring would prove to be one of the most progressive judges on issues of race, and Timmerman one of the most reactionary. Truman appointed Daniel H. Thomas to be the sole judge of the Southern District of Alabama in 1951. Presiding over a district with a higher percentage of Negroes (51%) in its population than any other federal judicial district, he rivaled Timmerman in his conservative attitudes toward race relations.

Truman had already appointed J. Skelly Wright to the Eastern District of Louisiana (which included New Orleans) in 1949. Wright's application of the Supreme Court's desegregation decisions was so vigorous that he and his family became social pariahs in the city of his birth. In 1943 FDR appointed Dozier DeVane to a judgeship in the Southern District of Florida; he was reassigned to the Northern District in 1947. He would prove to be a staunch segregationist until his death in 1964. Bryan Simpson's views evolved. Appointed by Truman in 1950 to the Southern District of Florida, he was reassigned to the Middle District when it was created in 1962. Although initially opposed to civil rights, Simpson followed the Supreme Court's mandate on desegregation. During the 1964 civil rights demonstrations in St. Augustine

FL, he ordered law enforcement to protect the demonstrators. He also ordered protection of the white businesses that were desegregating pursuant to the 1964 Civil Rights Act when they were threatened. Like other Southern judges who took this path, his rulings made him a pariah in his own community. Johnson elevated him to the Fifth Circuit in 1966. (Friedman, 1965, 193-211; Temple 2003, 11, 21)

Overall the judicial selection system favored men who were pillars of their community and respected by fellow members of the state bar. It essentially left out women and minority men, as well as men who were outside the established political and legal networks. Most Southern lawyers were embedded in the culture and mores of their state, so much so that they wouldn't represent civil rights workers or even local Negroes contesting segregation laws or the denial of their application to vote. When federal law clashed with state law and customs as it did in the South, finding the right person to appoint required balancing conflicting interests. The challenge to Presidents in the civil rights era was to find men who would follow the mandates of the higher courts rather than the feelings of their friends and neighbors, once they were fortified with a lifetime appointment to the federal bench. The records of Eisenhower, Kennedy and Johnson in appointing Southern judges sympathetic to civil rights were decidedly mixed.

Eisenhower appointed three men to the Fourth Circuit and five to the Fifth Circuit, giving his appointees a majority on both until new seats were created in 1966. Since all of the Senators from those states were Democrats, the Republican President didn't have to defer to them, though he had difficulty getting confirmation when a Senator actively opposed his nominee. Two of his appointments to the Fourth Circuit were active Republicans and one was a South Carolina Democrat – probably a concession to get the Republican nominees approved. Four of the Fifth Circuit Court judgeships went to men active in building their state's Republican Party who had supported Eisenhower in the contentious convention of 1952. Such men were outside their state's Democratic power structure. (Bass, 1993, 132)

While civil rights was not on Eisenhower's personal political agenda, it was on that of Attorney General Herbert Brownell, a liberal Republican from New York. Acutely aware of the need for sympathetic federal judges to enforce the Supreme Court's 1954 *Brown* decision, he actively looked for men who, as best he could tell, would follow the mandate of the Court rather than interpret it consistent with Southern views. (Goldman, 1997, 118, 131; Bass, 1981, 26-29, 100-102, 151) His policies were followed by his deputy, William P. Rogers, who succeeded him as A.G. in 1957. The impact of their choices was measured by a study of judges in the Southern federal district courts who decided "race relations cases" between 1954 and 1962. Republican appointees were more likely than Democrats to decide these cases in favor of integration. (Vines, 1964, 350; Chase, 1972, 118)

All three of Eisenhower's Fourth Circuit appointees followed the Supreme Court in their decisions on civil rights cases, some more willingly than others. Solicitor General Simon E. Sobeloff had presented the government's position in *Brown*, making him anathema to the Southern Senators. His appointment was delayed in the Senate for a year while they tried to persuade their colleagues to vote no. Within two years of his 1956 appointment, Sobeloff replaced Parker as chief judge, an office he kept until 1964 when he was succeeded by Clement

Haynesworth,[2] another of Ike's appointments. (Kluger, 1975, 734-5; Peltason, 1961, 23-25; Bass, 1981, 154-55)

Three of Ike's appointees to the Fifth Circuit – Elbert Tuttle (GA), John Minor Wisdom (LA), and John Robert Brown (TX) – became part of the "Fifth Circuit Four," well known for their strong decisions in support of civil rights. (Fingerhood, 1965) The fourth member of this group was Democrat Richard Rives of Alabama, a Truman appointee. Rives had been recommended to Truman by the retiring Alabama judge on the Fifth Circuit and had the support of both Alabama Senators. Supreme Court Justice Hugo Black was a friend. When he was confirmed in 1951, Rives was part of Alabama's legal and political power structure. Race was not the hot button issue it became after the 1954 *Brown* decision. While he supported segregation at that time, he was not a committed racist. His attitudes on race evolved as he applied the law to the cases before him, eventually making him a confirmed integrationist. (Peltason, 1961, 26; Bass, 1981, 23-38, 68-74; *SC*, 7-2/3-66, 4)

All of "The Four" became racial liberals, at least by Southern standards, for different reasons. Tuttle and Brown were born and raised outside the South. All served in the Army – Rives during World War I and the others during World War II. Beyond that, each took a personal path which put him at odds with Southern society. Since seniority determined who was chief judge, that job went to Rives, Tuttle or Brown between 1959 and 1979. The chief judge decided who sat on the three-judge panels which reviewed District Court decisions, or acted as three-judge district courts when a constitutional question was raised. They were often joined in their support of civil rights by Homer Thornberry of Texas after he was appointed to the Fifth Circuit by President Johnson in 1965, and occasionally by Griffin Bell, appointed by Kennedy in 1961. (Bass, 1981, 23-38, Watters and Cleghorn, 1967, 223; Fingerhood, 1965, 216; Martin, 2010, 199-203)

Brownell's one disaster was the nomination of Benjamin Franklin Cameron of Mississippi to the Fifth Circuit early in 1955. Cameron was an active Republican who had supported Hoover in 1928 and never rejoined the Democratic party. He was rated "exceptionally well qualified" by the American Bar Association. Cameron's appointment was a concession to Mississippi Senator James O. Eastland, at that time a powerful member of the Senate Judiciary Committee. When interviewed, Cameron misled Brownell about his true feelings toward the *Brown* decision. Once on the bench he became a major defender of the Southern Way of Life until he died on April 3, 1964. (Peltason, 1961, 26-27; Bass, 1981, 84-96; Goldman, 1997, 129; Fingerhood, 1965, 220-23)

President Kennedy and his brother, Attorney General Robert Kennedy, favored civil rights, but it wasn't a priority and they faced a different political environment. As a Democrat, President Kennedy was not as free as Eisenhower (or his A.G.) to overlook the wishes of

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[2] A Democrat and member of the South Carolina legal establishment, Haynesworth was expected to be more of a racial reactionary than he turned out to be. Nonetheless, when President Nixon nominated him to the Supreme Court in 1969, he was actively opposed by the NAACP, women's and labor groups. His appointment was defeated, 55-45.

Democratic Southern Senators. The two Alabama Senators – Lister Hill and John Sparkman – were national Democrats who were progressive on economic issues but not on civil rights. The President relied on their votes to pass his legislation. The two Mississippi Senators – James Eastland and John Stennis – weren't progressive on anything. Of the Georgia Senators, Richard Russell, Jr. had gone from New Deal Democrat to conservative while Herman Talmadge stayed solid as a reactionary and ardent segregationist. More than Eisenhower, JFK was obligated to Sen. Eastland, who was not only in his party but had held up passage of a 1960 bill to increase the number of federal judges until 1961 so that Eisenhower would not be able to appoint them. Eastland expected greater than normal deference in return. He blocked the elevation of Louisiana district judge J.Skelly Wright to a new seat on the Fifth Circuit; JFK appointed him to the DC Circuit Court of Appeals instead. When JFK submitted NAACP Attorney Thurgood Marshall for an appointment to the Second Circuit Court of Appeals (New York, Connecticut and Vermont), Eastland delayed confirmation for almost a year. Eastland let Kennedy appoint nine more Negro judges, but not in the South. (Bass, 1981, 155-56; Navasky, 1971, 243; Schlesinger, 1978, 308) Because of the 1961 judicial expansion JFK had a lot of judges to appoint, many to new seats in the South. The pressure to fill these positions quickly made it easier for the Kennedy brothers to be snookered by the Southern Senators.

Kennedy appointed two judges to the Fourth Circuit and two to the Fifth, all in seats created in 1961. J. Spencer Bell was the candidate of North Carolina Governor Terry Sanford and proved to be a liberal on the court. Truman had appointed Albert V. Bryan Jr. to the district court in 1947 at the behest of Virginia Sen. Harry F. Byrd. Kennedy elevated him to the appeals court despite a lengthy record which should have set off warning signs. For the Fifth Circuit Kennedy chose Walter Gewin, the law partner of his Alabama campaign manager (who had died early in 1961) and Griffin Bell, who had co-chaired his campaign in Georgia. Gewin, who was supported by both Alabama Senators, proved to be second only to Cameron in his opposition to civil rights. Bell lobbied for his own appointment, but was not opposed by the Georgia Senators. In his subsequent decisions he was generally, but not always, good on civil rights. (Yale L.J. 1963, 121; Goldman, 1997, 159, 169, 177; Navasky, 1971, 244; Fingerhood, 1965, 223-4) Influenced by "The Four," their decisions evolved over time. Gewin was initially committed to maintaining white supremacy but shifted sufficiently toward racial liberalism to be taunted by his neighbors in Tuscaloosa. (Bass, 1981, 158-164; Read and McGough, 1978, 172-6; Watters and Cleghorn, 1967, 223)

President Johnson made two appointments to the Fourth Circuit after the court was expanded in 1966.[3] He made two to the Fifth Circuit in 1965 and five in 1966.[4] None were as liberal on racial issues as The Four, but none were as racist as Cameron. After Cameron died in 1964, President Johnson replaced him with former Mississippi Governor James P. Coleman

[3] John Decker Butzner, Jr. (VA 1967-82) and James Braxton Craven, Jr. (NC 1966-77).

[4] These were Robert A. Ainsworth (LA 1966-81), James P. Coleman, (MS 1965-81), John C. Godbold (Al 1966-87), Irving L. Goldberg (TX 1966-80), Homer Thornberry (TX 1965-78), Byron Simpson (FL 1966-75), and David W. Dyer (FL 1966-76). I'm only looking at the appointments made through 1966, when I left the South. LBJ made more in 1967-68, including elevating Mississippi District Judge Claude Feemster Clayton to the Fifth Circuit in 1967.

(1956-1960), the architect of much of Mississippi's resistance to the *Brown* decision. Coleman and Johnson had been friends for thirty years. While still a conservative, Coleman was less of a segregationist on the court than he was as governor. Overall, LBJ's appointments shifted the Fifth Circuit in a conservative direction on race. Rives took senior status in 1966; Tuttle did the same in 1967, after serving as Chief Judge since 1960. Despite LBJ's professed commitment to civil rights, their replacements were not cut from the same cloth. Although Supreme Court rulings were clearer than in the 1950s that all segregation was unconstitutional, the Southern judges who decided the cases and heard the appeals were more lenient in their application of those decisions. After Richard Nixon began making judicial appointments, Southern Senators who became Republicans influenced his choices while the heavy hand of Sen. Eastland continued to be felt on the Judiciary Committee. The Fifth Circuit became still more conservative on racial matters. (Bass, 1981, 303-5, 312; Watters and Cleghorn, 1967, 223)

The federal district courts are the trial courts for federal cases. Trials and hearings are heard by a single judge, except for certain cases for which the law requires a three-judge panel. In those, the assigned district court judge is joined by one circuit court judge and a third judge who can be either. Of the 22 district court judges appointed by Eisenhower in the 4th and 5th Circuits, three reliably supported civil rights and five could be counted on to delay the inevitable whenever they could.[5] The record of the other Eisenhower judges was mixed. JFK named 25 men and one woman to be district judges in the Fourth and Fifth Circuits. Of these, four were committed white supremacists, though only one was known to be a segregationist at the time of his appointment.[6] The districts the conservative judges presided over contained some of the "blackest" counties in the South, ones where whites were the most dedicated to maintaining white supremacy. These judges seldom found "intimidation or coercion" to be a factor in a county's lack of Negro voters, and were very lenient in allowing county registrars to delay turning over their records to the Attorney General as required by the 1957 Civil Rights Act. (Bryant, 2006, 287; Strong, 1968, 68-89; Lawson, 1976, 272-73; Navasky, 1971, 245-50; Friedman, 1965, 188-92) When faced with such recalcitrance, the Fifth Circuit sometimes had to find creative ways to reverse their decisions in order to achieve the goals of the Supreme Court and the civil rights acts. (See Tuttle, 1966 for some examples and Fingerhood, 1965, for more).

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[5] The good guys were Frank M. Johnson Jr., M.D. AL (1955-79), Willliam A. Bootle, M.D. GA (1954-72) and Walter E. Hoffman, E.D. VA (1954-74). The recalcitrants were Harlan H. Grooms N.D. AL (1953-69), Emmett C. Choate, S.D. FL (1954-65), Benjamin C. Dawkins, W.D. LA (1953-73), Joe E. Estes, N.D. TX (1955-72) and Claude F. Clayton N.D. MS (1958-67). There were two other good guy appointments in the Sixth Circuit: William E. Miller of Tennessee and Henry L. Brooks of Kentucky. (Peltason, 1961, 11-12, 77, 84, 87, 113-15, 127-8, 133, 140-44; Friedman, 165, 189-93)

[6] These were William Harold Cox, S.D. MS (1961-1982), Elmer Gordon West, E. D. LA (1961-1979), J. Robert Elliott, M.D. GA (1962-2000) and Clarence Allgood, N.D. AL (1961-1991). Elliott was the one with a segregationist track record that was rationalized away. (Navasky, 1971, 244) Frank Ellis was almost as bad when he was appointed to replace J. Skelly Wright in 1962 (E.D. LA). The personal choice of JFK, his lesser qualities were known at the time. (Friedman, 1965, 188-192; Navasky, 1971, 273-76) Kennedy appointed Sarah T. Hughes to the Northern District of Texas (1961-1985) largely at LBJ's urging. She doesn't show up on any list of judges known for their decisions on civil rights cases, pro or con.

LBJ appointed 42 judges to districts in the 4th and 5th Circuits. Although he was far more sophisticated than Kennedy in getting the advice and consent of the Senate, he wasn't immune from the constraints imposed by all those Southern Democratic Senators. To appoint Thurgood Marshall to the Supreme Court he had to use all his knowledge of the Senate, plus his well known skills at arm-twisting. (Williams, 1998, 334-38) His other appointments that were right on race were outside the South, including that of NAACP attorney Constance Baker Motley to the Southern District of New York (1966-1986). She was the first black woman to become a federal judge. LBJ intended to appoint her to the Second Circuit to replace Marshall, but there was so much opposition that he lowered his sights to the trial bench. (Ford, Jr., 2017, 100-01)

The DoJ was quite aware that federal judges were "a principal factor in efforts to make federal rights for Negroes a reality in the South." (Marshall, 1964, 31) Overall, federal district and appeals court judges had an enormous impact on shaping what was possible for the civil rights movement to achieve, as well as the amount of money and time it took to do anything at all. This can be seen by looking at efforts to challenge segregation after *Brown* other than in the schools. There were three challenges to legal segregation on municipal buses. The decisions of the district court judges illustrate how individual judges could bend the Supreme Court's rulings one way or the other.

The first of these was in South Carolina. One month after *Brown,* Sarah Mae Flemming was ejected from a bus in Columbia, South Carolina after she took an empty seat in the last row reserved for whites, believing that it was the first row for Negroes. When the driver humiliated her for her mistake, she tried to exit the bus from the front door at the next stop. The driver punched her in the stomach and told her to exit at the rear. Two months later she sued the bus company in federal district court. (*BAA* 8-21-54, 25) Her case did not challenge the constitutionality of the segregation statute per se; she asked for damages from the bus company because the actions of the driver violated her civil rights under 42 U.S.C. §1981 and §1983 and caused her injury. She drew as her judge George Bell Timmerman, Sr. the FDR appointee who stretched law, logic and facts to support the racial status quo. He ruled on February 26, 1955 that *Brown* "is not applicable in the field of public transportation," citing two other cases. He said "To hold that the *Brown* decision extends to the field of public transportation would be an unwarranted enlargement of the doctrine announced in that decision and an unreasonable restriction on the police power of the State." (*BAA* 2-26-55 3) Flemming's original case was handled by a private attorney, but the NAACP Inc. Fund picked up the appeal. The Fourth Circuit unanimously reversed on July 14, stating that "the principle applied in the school cases should be applied in cases involving transportation." (Quotes in *Flemming v. South Carolina*, 1955) The Supreme Court declined to review the case.

Montgomery city officials were aware of this case when Rosa Parks refused to give up her seat on a city bus on December 1 of that year, but since it was in the Fourth Circuit, it was not controlling. They adamantly refused to change anything. On February 1, 1956, while Negroes were walking rather than riding, attorney Fred Gray filed a class action lawsuit in Alabama's Middle District challenging the Alabama law which required segregated seating on buses. The plaintiffs were four other Negro women who had been arrested for refusing to give up their seats earlier that year. Inc. Fund was involved from the beginning and chose to make a

constitutional challenge requiring a three-judge District Court. Two of the judges were obvious – Circuit Judge Rives, who lived in Montgomery, and Frank M. Johnson. Jr. who had just been confirmed on January 31 to be the sole judge in the Middle District of Alabama. Based in Montgomery, the district encompassed the southeast counties of Alabama, some of which were heavily black, and some of which weren't.

Johnson had been carefully chosen by A.G. Herbert Brownell as the most likely of the politically possible appointees for district judge to enforce the *Brown* decision in Alabama. Like Rives, Johnson was a native of Alabama, but his roots were not in the blackbelt. Frank M. Johnson, Jr. was from Winston County, in northwest Alabama, where the non-white population was less than 1 percent in the 1960 census. Both he and his father had been active in the Republican Party, where they met Herbert Brownell during Dewey's 1948 campaign. Although not a lawyer, Frank Johnson Sr. was Probate Judge of Winston County during the years my grandfather was practicing law next door in Marion County. He probably knew my great-grandfather as both were active in the small world of Alabama Republicans. Impressed with Jr.'s work for Eisenhower in 1952, Brownell chose him to be the U.S. Attorney for the Northern District in 1953. Among other cases, Johnson successfully prosecuted one of peonage, brutality and murder of a Negro farm hand by a Sumter County plantation owner. Eisenhower had already appointed a new judge in the Northern District – Harlan H. Grooms – in 1953, so when the sole judge in the Middle District died, Brownell put Frank Johnson Jr. where he could do the most good.

Johnson and Rives barely knew each other before the bus case, yet they thought alike. They agreed that *Plessy v. Ferguson,* the 1896 train segregation case which enshrined "separate but equal" into the law, had been implicitly overruled by *Brown*. On June 5, 1956 they found that "there is now no rational basis upon which the separate but equal doctrine can be validly applied to public carrier transportation."[7] The decision was not unanimous. The third judge, Seybourn Lynne of Birmingham, a Truman appointee, wrote the first dissent of his career. Appeals from three-judge district courts get a quick trip directly to the Supreme Court. On November 13, it affirmed without an opinion the ruling that the reasoning in *Brown* applied to public transportation. (Bass, 1981, 66, 74-6; *Browder v. Gayle*, 1956)

Once Johnson's judicial attitude became clear, civil rights lawyers tried to file their cases in the Middle District of Alabama whenever they could. When cases required a three-judge

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[7] *Browder v. Gayle* 142 F. Supp. 707 (1956) challenged Title 48, § 301(31a, b, c) of the Code of Alabama of 1940. Quote at 717. Plaintiff Aurelia Browder was middle-aged when she was arrested in April 1955. Susie McDonald was in her seventies and walked with a cane. Mary Louise Smith and Claudette Colvin were both teenagers. Colvin was the first to be arrested and was almost selected for the test case that local Negro leaders had been planning for some time but she became pregnant. Rosa Parks had the proper image and demeanor to withstand the inevitable character assassination which came with being the public face of the bus boycott. She was secretary of the Montgomery NAACP and had been a "race woman" for some time so knew what she was getting into. She was not one of the plaintiffs in this case because her criminal case was being heard in state courts. Her conviction was appealed and affirmed at *Parks v. City of Montgomery*, 92 So. 2d 683 (Ala. Ct. App. 1957).

district court, Rives and Johnson would often make up two-thirds of the panel. They both had offices in the old post office building in Montgomery and came to know each other very well. For two decades Johnson and Rivas endured an "avalanche of hate mail, abusive telephone calls, and threats." The Justice Department provided Johnson with an armed guard for 18 years. He had to pay for an unlisted phone number so he could sleep at night. His mother continued to be listed in the phone book as Frank M. Johnson, Sr.; her house was bombed. The grave of Rivas' deceased son was desecrated. Needless to say, their social life with any outside their own very small circle, ceased. But Rivas did become a good friend of Montgomery's other legal pariah, Clifford Durr; both were close to Supreme Court Justice Hugo Black. (Bass, 1981, quote at 79-81, 259; Yarbrough, 1981, 57-61; Breslin, *New York Herald Tribune* 3-28-65, 18:1) When Black was ready to retire, he recommended that Johnson replace him on the Court. President Nixon agreed to submit his nomination to the Senate, until he was dissuaded from doing so by the three Republican Members of Congress from Alabama. They said that a Johnson appointment "would ruin us politically" in Alabama.[8] (Newman, 1994, 622)

The third bus case arose in Birmingham, which continued to enforce a local ordinance requiring separate seating after the state law was found unconstitutional. In October of 1958, fearing that this law might be struck down, the city commission replaced it with one authorizing transit companies to write their own rules. It also criminalized "willful refusal" to obey a bus driver as a breach of the peace. The City made its commitment to segregation clear and the bus company immediately put signs in each bus saying "White Passengers seat from front. Colored Passengers from rear." A few days later, 13 Negroes sat in the front seats reserved for whites and were arrested. Over a year later, judge H. H. Grooms, an Eisenhower appointee, held that no constitutional right had been violated because the act of a private company did not constitute state action and the city ordinance was now racially neutral. However, he did say that "willful refusal to obey a request to move from the front to the rear of the bus ... does not constitute a breach of the peace" and voided the convictions. On appeal to the Fifth Circuit, Judges Tuttle and Wisdom said that as long as the rules could be enforced by arrest and criminal prosecution, the bus company was acting as an agent of the state. The third judge on the panel, Cameron, wrote "I dissent." (Manis, 1999, 178-180, 228; *Boman v. Birmingham Transit Co*., 1960).[9]

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[8] Johnson was nominated to the Fifth Circuit by President Jimmy Carter and confirmed by the Senate in 1979. After the Circuit was split in 1981, he served on the Eleventh Circuit until his death on July 23, 1999.

[9] *Boman v. Morgan*, 4 Race Rel. L. Rep. 1027 (1959), rev'd sub nom., *Boman v. Birmingham Transit Co.*, 280 F.2d 531 (5th Cir. 1960). Cameron issued a lengthy dissenting opinion nine months later on April 14, 1961. Ironically, the Birmingham practice of seating whites from the front and Negroes from the rear was what the Montgomery Improvement Association originally asked for at the beginning of its boycott. Negro passengers didn't object to segregated seating so much as being asked to give up their seats as whites boarded and the bus filled up. The City of Montgomery rejected this demand, leading to the legal challenge to the segregation statute.