

Chapter 1

Introduction The Background and Setting of the Civil Rights Act of 1964

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The first permanent English colony in North America was founded at Jamestown, Virginia, in May 1607. Twelve years later, in 1619, a Dutch ship sailed into the harbor at Jamestown and sold twenty African slaves to the Virginia colonists. Thus did "slavery" and "involuntary servitude," as they are referred to in the United States Constitution, come to the American South.

Negro slaves, brought in chains from their original homelands in central and southern Africa, proved useful and profitable in what was to become the southern United States. The flat farmlands, served by meandering tidewater rivers, were ideal for creating large plantations for growing cotton and other agricultural products. The African slaves provided a cheap and reliable source of agricultural and household labor for the emerging southern economy.

North of Virginia, where there were more hills and a harsher climate, the use of human slaves was not as successful. This part of the American colonies, the North, harnessed the labor of yeoman farmers and men and women working for wages. This created one of the great sectional differences of United States history—a group of southern states that relied heavily on slave labor and a group of northern states emphasizing the work and industry of free citizens.

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By the time of the Declaration of Independence in 1776 there were almost half a million black persons in the colonies. A thriving slave trade had developed in which men, women, and children were sold, often at public auction, from one owner to another. Thomas Jefferson, a slave holder from Virginia, had included a condemnation of the human slave trade in the original draft of the Declaration of Independence, but his impassioned words were deleted to keep the support of the southern colonies during the Revolutionary War against Great Britain.

The United States next confronted the slavery problem at the time of the drawing up of the federal Constitution at Philadelphia, Pennsylvania, in the summer of 1787. The delegates provided for the abolition of the importation of slaves twenty years after the Constitution was adopted, but the institution of slavery was allowed to remain. In addition, in a famous compromise, each slave was to be counted as "three-fifths" of a person for establishing how many representatives each state could have in the lower house, the House of Representatives, of the national Congress.

Throughout the early 1800s the South and the North drifted progressively further apart over the issue of allowing the institution of human slavery to continue in the United States. As the nation expanded westward across the North American continent, particularly hard political battles were fought over the issue of "slavery in the territories." Finally, after Abraham Lincoln was elected president in 1860, the southern states seceded from the federal union rather than run the risk of having the U.S. Congress in Washington abolish slavery outright.

THE CIVIL WAR

President Lincoln refused to let the southern states "go in peace," and the result was the American Civil War. The

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North achieved by force of arms that which it had not been able to achieve through legislative politics. On January 1, 1863, President Lincoln issued his Emancipation Proclamation, thereby freeing the slaves in those states that had seceded from the Union.

After the Civil War was over, large Republican Party majorities in the national Congress passed and sent to the states for adoption the three great "Civil War Amendments." The 13th Amendment abolished "slavery" and "involuntary servitude." The 14th Amendment guaranteed the newly freed Negroes equal protection of the laws and the right to "life," "liberty," and "property." The 15th Amendment guaranteed all American citizens the right to vote no matter what their "race, color, or previous condition of servitude." It is important to note that all three Civil War Amendments—the 13th, 14th, and 15th—expressly gave *Congress* the power to enforce the provisions of the amendment by appropriate legislation.¹

THE BLACK CODES

The Civil War Amendments "worked" but only for a short while. During a twelve-year period of "Reconstruction" in the South following the Civil War, blacks were allowed to vote and a number were elected to important state and national political offices. But, after the Civil War ended, white southern politicians and government officials went to work subverting and reducing the position of blacks in the American South. As early as 1865, the year the Civil War ended, a number of southern state legislatures began passing Black Codes, laws designed to put black citizens in a state of near slavery by limiting their rights and privileges.

The Republican majority in the United States Congress responded to the Black Codes with the Civil Rights Act of 1866, which made it illegal to deprive a person of his civil

rights regardless of race, color, or previous servitude. Additional civil rights laws were passed by Congress in 1870, 1871, and 1875, all of them designed to have the national government in Washington, D.C., protect black Americans from white-dominated southern state governments. Throughout this period, the Republicans in Congress sought to “nationalize” the issue of black civil rights so that southern white-state legislatures could not undo the work of the Civil War.²

THE END OF RECONSTRUCTION

This effort to have the United States Government protect black rights in the South received a major setback in 1876. In the presidential election that year (the famous Tilden-Hayes contested election), the Republicans garnered the necessary electoral votes to elect Rutherford B. Hayes by agreeing to remove all Union troops from the southern United States. As Republican fortunes continued to wane in the late 1870s and the 1880s, the Republican Party became less and less interested in protecting black civil rights in the South and more and more interested in winning white votes anywhere they could be found. This problem was further complicated by the fact that the more “civil rights oriented” Republicans of the Civil War period, those most committed to the cause of the recently freed slaves, were growing old and retiring from active politics. The younger members of the Grand Old Party simply did not share their deep devotion to protecting black civil rights in the South.

The nationalization of black civil rights came to a complete end in 1892 when the Democrats gained control of the presidency and both houses of Congress for the first time since the Civil War. By 1894 this Democratic Congress had succeeded in repealing most of the civil rights laws that had

been enacted during the post-Civil War period, most importantly the provisions that had to do with voting rights.³

This wholesale removal of protections left the black citizen in the South almost completely at the mercy of southern state governments, and the result was a rash of state laws protecting the right of white citizens to segregate themselves from black citizens in many aspects of social and political life. Southern whites particularly used state law to deny black citizens access to places of "public accommodation," such as restaurants, hotels, and swimming pools, which could be designated by their private owners as "for whites only."

THE POLITICAL PARTY PROBLEM

The change in the Republican Party attitude toward black Americans that occurred in the late 1870s was an important event in the history of civil rights in the United States. It marked the beginning of a long period of time in which the interests of black Americans were made secondary to the needs of the two major political parties to win national elections. Time and again over the following ninety years, both the Republican and Democratic parties would sacrifice civil rights programs and civil rights bills on the altar of "not losing white votes" in the next election. This situation was exacerbated, of course, by the fact that, after the 1890s, southern whites were eligible to vote but most southern blacks were barred from voting by poll taxes, literacy tests, and "white-only" primary elections.

Thus black Americans were faced with what could be called the "political party problem." The political power to pass civil rights laws rested with the two major political parties—the Republicans and the Democrats—but both parties had more to gain by appealing to the votes of enfranchised

segregationist southern whites rather than the non-votes of disenfranchised southern blacks.

THE CIVIL RIGHTS CASES OF 1883

Although the United States Supreme Court played a significant role in the mid-twentieth century where protecting black civil rights was concerned, such was not the case in the late nineteenth century. In fact, the protections guaranteed by the constitutional amendments and congressional statutes enacted following the Civil War were largely taken away by the court.

In the *Civil Rights Cases of 1883*, the Supreme Court ruled that the protection of rights guaranteed by the 14th Amendment applied only to the states and not to individuals. Thus an 1875 act of Congress prohibiting discrimination against blacks in inns, public conveyances, theaters, and other public accommodations or amusements was declared unconstitutional because it was limiting *private* behavior rather than *state* behavior.

In retrospect, it is interesting to ponder how different United States history might have been if the Supreme Court had not ruled as it did in the *Civil Rights Cases of 1883*. Congress, after all, passed a public accommodations law, much the same law that members of the civil rights movement worked for so diligently in the 1950s and early 1960s. If the Supreme Court in the early 1880s had upheld the power of Congress to pass such a law and prohibit racial discrimination in public places throughout the entire nation, the course of civil rights history in the United States could have been completely different.

A careful reading of the relevant portions of the 14th Amendment, however, reveals why the Supreme Court ruled as it did. "No *state* shall make or enforce any law which shall abridge the privileges or immunities of citizens

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of the United States; nor shall any *state* deprive any person of life, liberty, or property, without the due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Clearly the 14th Amendment prohibitions were on the state governments and not upon the private individuals who lived within those states.

The impact of this decision on the position of blacks in the South was extensive. It meant the 14th Amendment could not be used to protect black Americans from mistreatment by southern individuals—it could only be used to protect black Americans from official actions by the states. The result was a system of oppression in which private individuals could not only discriminate against blacks but could actually terrorize them, confident in the knowledge that the power of the United States Government in Washington, D.C., would not be used to punish them. The state governments, which were limited by the 14th Amendment, thus needed only to stand aside and let private individuals do the discriminating and/or terrorizing, simply being careful not to pass any state laws or initiate any state actions that took away any of the rights protected by the 14th Amendment.

This was the legal situation that made the beating, the lynching, and the assassination such effective weapons for subjugating blacks to white majority rule in the South. Beatings, lynchings, and assassinations were carried out by individuals rather than by state governments, thus preventing the national government in Washington, D.C., from using the 14th Amendment as an excuse to intervene. Throughout the late nineteenth and early twentieth centuries, national law enforcement officials were unable to act to stop lynchings and racial murders in the South because, according to the Supreme Court, the 14th Amendment only limited the states. If white individuals who beat, lynched, or murdered blacks were to be caught and punished for their crimes, it would be up to the state governments, and not the national government, to do it.

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“THE FREE WHITE JURY THAT WILL NEVER CONVICT”

Another part of the southern system of black oppression was “the free white jury that will never convict.” In most southern states, white citizens who beat, lynched, and murdered blacks could do so with almost complete confidence that state and local police, being committed themselves to the doctrine of white supremacy, would be less than zealous about investigating the crimes and catching the perpetrators. In the few cases where arrests were made and trials were held, lynch mobs and race murderers could be certain that a jury of their white neighbors and friends would find them “Not Guilty” and let them go free. The end result of the *Civil Rights Cases*, therefore, was to give white individuals in the South almost complete license, including lynching and murder, to personally enforce racial segregation, all of it done without any sense that there would ever be any official punishment.

Beatings, lynchings, and racial murders were not isolated instances in the American South during the late nineteenth and early twentieth centuries. By the early 1890s a black was lynched in the South an average of every three days.⁴ By the turn of the century it was well known that even “respectable” white leaders “tolerated” lynching as a way of enforcing racial segregation in the South.

Although the number of lynchings had decreased by the middle of the twentieth century, murders and assassinations remained an ever-present personal technique for frightening southern blacks into submission to white supremacy. On Christmas night in 1951, Harry T. Moore, the Florida secretary of the National Association for the Advancement of Colored People (NAACP), was killed along with his wife when a bomb was thrown into their home. Moore had been organizing Florida blacks to register and vote. No one was arrested or tried for the crime. Clarence Mitchell, Jr., the Washington, D.C., representative of the

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NAACP, put the role of state government in perspective when he charged: "The state of Florida for political reasons does not try to stop that kind of thing."⁵

SEPARATE BUT EQUAL

In 1896 racial segregation in the American South was upheld by a decision of the United States Supreme Court. This landmark decision, *Plessy v. Ferguson*, arose when a railroad company refused to provide a sleeping car berth to a black train passenger. The Supreme Court ruled the railroad could segregate white sleeping car passengers from black sleeping car passengers, but the railroad had to provide sleeping accommodations for blacks that were equal to similar accommodations for whites. This decision promulgated for the first time the famous "separate but equal" doctrine. That doctrine was used extensively by southern states to justify racially segregated public schools, from kindergarten to graduate school, throughout all of Dixie.

Plessy v. Ferguson did produce a stirring dissenting opinion. In a lone voice strongly opposed to the majority opinion, Justice John Marshall Harlan wrote: "Our Constitution is colorblind and neither knows nor tolerates classes among citizens."

RENATIONALIZING THE CIVIL RIGHTS ISSUE

Despite Justice Harlan's inspiring words, the major characteristic of southern blacks at the beginning of the twentieth century was that they were "governmentally isolated." They lived in a world in which, by both congressional action and Supreme Court decision, the protections of the national government had been removed from them. They were subjected simultaneously to the will of segregation-oriented

state governments and, more threateningly, white individuals who could beat, lynch, or murder them with no fear of substantial punishment by either the national or state governments. After 1892, when the Congress repealed national voting rights laws, black southern males were even denied the vote, guaranteed by the 15th Amendment to the Constitution, as a way of improving their position in society.

It thus was clear to many by the start of the twentieth century that, if southern blacks were ever to be freed from southern white oppression, both official and unofficial, the national government in Washington, D.C., would have to do the job. There thus arose a constant call by those interested in black civil rights for action by the national government. Simultaneously, southern segregationists, realizing that the only potential threat to their "peculiar institution" came from Washington, D.C., became strong advocates of states' rights and dedicated opponents of national power. If southern blacks were to ever be free, the national Congress in Washington, D.C., would have to "renationalize" the civil rights issue.

But any new national laws protecting black civil rights would have to pass both houses of Congress—the Senate as well as the House of Representatives. In the Senate was a rule guaranteeing unlimited debate, the famous filibuster rule. Any civil rights bill to come before the U.S. Senate would face a filibuster by a determined group of southern senators, and the filibuster could only be stopped by a "cloture vote," which required a two-thirds vote in the Senate. Thus, from the very beginning of the black civil rights movement, the Senate filibuster was regarded as the great obstacle—and a successful cloture vote to stop a civil rights filibuster was the great goal.

THE EARLY CIVIL RIGHTS MOVEMENT

Following a particularly violent race riot in Springfield, Illinois, in 1908, a group of humanitarian whites formed a new

organization to help combat racial discrimination. Joining forces with a group of black intellectuals, they met in New York to organize the National Association for the Advancement of Colored People (NAACP).

It is important to note the NAACP was formed by both blacks and whites. Integration of the races was the goal and practice of the organization from the moment of its founding. Even more important was the principal technique adopted by the NAACP—the use of the Constitution and the court system of the United States to bring equality for African-Americans through law. This emphasis on having lawyers file lawsuits to guarantee blacks their legal rights as United States citizens identified the NAACP as a “conventional” and “mainstream” American interest group.⁶

Some early gains for blacks came from the Supreme Court. In 1938 in *Missouri ex rel. Gaines v. Canada*, the court took up the question of whether the “separate” black facilities were indeed “equal” to the white facilities. The facility in question was the University of Missouri’s whites-only law school, and Missouri had no equivalent black law school. The court ruled that Missouri must provide its black citizens with a black law school equal to the white law school.

This decision was a step forward in the cause of black civil rights. Anywhere it could be shown that segregated black facilities were not equal in quality to the equivalent white facilities, a suit could be filed seeking improved facilities for blacks.

Throughout the early twentieth century, there was a slow but steady movement of blacks out of the South and into the North, particularly into the central cities of large northern metropolitan areas. In 1900 only 10 percent of American blacks lived outside the South, but by 1930 more than 20 percent of blacks lived outside of Dixie.⁷

In the South most blacks were prevented from voting by literacy tests, a technique by which white election judges

refused to allow blacks to register to vote if the blacks could not read and analyze an obscure section of the state constitution. When blacks moved to the North, however, they came into a political arena where they could register and vote and have an impact on state and national politics.

As the percentage of blacks living outside the South swelled to 23 percent by 1940, significant numbers of U.S. senators and U.S. representatives from the North came to have sizable numbers of black constituents living and voting in their states and congressional districts. There thus came into existence a sizable group of U.S. senators and U.S. representatives from the North who were interested in actively pursuing the cause of black civil rights on Capitol Hill in Washington, D.C.

BLACK VOTERS AND THE DEMOCRATIC PARTY

Prior to the stock market crash of 1929 and the Great Depression of the 1930s, the vast majority of American blacks voted for the Republicans, the party of Abraham Lincoln, the Great Emancipator. In the 1932 presidential election, in the depths of the depression, when one-third of all black males were jobless, the incumbent Republican president, Herbert Hoover, drew more than three-fourths of the black vote over the Democratic candidate, Franklin D. Roosevelt.

Roosevelt won the election, however, and went on to institute a broad program of economic reforms known as the New Deal. The economic benefits of the New Deal were distributed more or less equally to blacks and whites, and by January of 1935 more than three million blacks, one-fifth of the black labor force, were employed on relief projects instituted by the United States Government. By the time of the 1936 presidential election, millions of black voters began switching from the Republicans to the Democrats because of their strong support for Franklin D. Roosevelt and his New Deal economic programs.⁸

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In the years following the New Deal, the Democratic Party found it best to win black votes with economic benefits rather than by advancing the cause of black civil rights. Franklin D. Roosevelt had been elected by an uneasy coalition of northern liberal voters, both black and white, on the one hand and white southern Democratic voters on the other hand. This so-called Roosevelt Coalition was strengthened by economic programs, which simultaneously aided southern whites and northern blacks, but it was split apart by civil rights programs, which appealed strongly to northern Democrats but stirred inflamed opposition from segregation-oriented southern Democrats.

PRESIDENTIAL ACTION FOR CIVIL RIGHTS

Because the southern Democrats were a key part of the large Democratic majorities that controlled both the Senate and the House of Representatives during the New Deal period, Franklin D. Roosevelt had neither the inclination nor any reason to believe he would be successful at getting a civil rights bill through Congress during the 1930s. Roosevelt therefore adopted a policy that served as a working model for subsequent presidents of both political parties. He would use the *executive powers* of the presidency to further the interests of black Americans, doing those things which a president could do unilaterally without having to get legislative authorization from Congress.

Roosevelt used his executive powers of appointment to name large numbers of blacks to United States Government jobs. Not only did the number of black appointments increase, but so did the quality of the jobs blacks were given.

Most important, Roosevelt bypassed Congress and, by executive order, established the Civil Rights Section of the Justice Department. Although it started slowly at first, the Civil Rights Section began building a skilled bureaucracy of

lawyers and other trained professionals to further the cause of black civil rights in the United States. For the first time since the Reconstruction period following the Civil War, there was a definite place in the United States Government where blacks could go for legal and governmental help in the fight to win their civil rights.

In its early days the Civil Rights Section devoted itself to fighting for the right of blacks to vote in national elections and to opposing police brutality to blacks. Later on the Civil Rights Section became an ally of the NAACP in filing suits to bring about school integration and in lobbying Congress to pass civil rights laws.

In 1941 Franklin D. Roosevelt's efforts on behalf of African-Americans encouraged black leaders to press for even more integration of the races. Six months before the Japanese attack on Pearl Harbor, as defense plants were gearing up for anticipated U.S. involvement in World War II, black leaders saw an opportunity to make substantial progress. A group of nationally prominent blacks, headed by A. Philip Randolph of the Brotherhood of Sleeping Car Porters, began to organize a mass march on Washington, D.C., to demand more and better jobs for blacks. As the number of anticipated marchers rose to over one hundred thousand, President Roosevelt agreed to create a Fair Employment Practices Committee (FEPC) and ban discrimination in defense plants if the so-called March on Washington was called off.

Roosevelt issued an executive order creating the Fair Employment Practices Committee, and the planned March on Washington never took place. Roosevelt's good judgment in using an executive order, rather than a law of Congress, to establish the FEPC was supported by subsequent events. In 1946 Congress abolished the Fair Employment Practices Committee, thereby wiping out some of the employment gains that had been made by blacks during the wartime period. The House of Representatives voted to create a permanent Fair Employment Practices *Commission* in

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1946, but the bill was rejected in the Senate. The House passed the Fair Employment Practices Commission bill a second time in 1950, but once again the proposal died in the Senate.

Following Franklin D. Roosevelt's death in the spring of 1945, Democratic president Harry S. Truman continued the use of executive action as the principal means of furthering black civil rights. When Congress refused to pass a Selective Service Act that would eliminate all racial discrimination in the United States armed forces, Truman in 1948 issued an executive order that integrated the Army, Air Force, Navy, and Marine Corps and specifically banned "separate but equal" recruiting, training, and service.

Truman also appointed a presidential Committee on Civil Rights. The committee issued a lengthy report, *To Secure These Rights*, which presented factual data and gripping personal testimony on the denial of black civil rights in the South. The reaction of Congress to *To Secure These Rights* was not a civil rights bill but a number of speeches by southern Democrats condemning the report as factually untrue and an attempt by the U.S. Government to interfere in matters that should be left exclusively to the states.

By furthering black civil rights through executive orders, Roosevelt and Truman created a situation in which black Americans came to regard the presidency as responsive to their needs. Simultaneously the Congress, and particularly the Senate, came to be seen by blacks as the enemy of civil rights. Among segregationist southern whites, on the other hand, the Senate came to be regarded as the great protector of states' rights, and the presidency was seen from Dixie as an interfering force trying to overthrow southern institutions from afar.

THE EISENHOWER ADMINISTRATION

In 1952 Dwight D. Eisenhower, the commanding general of Allied Forces in Europe during World War II, was elected

president of the United States. A Republican, Eisenhower followed Roosevelt's and Truman's example of using the powers of the presidency to further the cause of black civil rights.

One achievement of President Eisenhower in the civil rights field was the appointment of Earl Warren to be chief justice of the United States. Eisenhower had promised Warren the first vacancy on the Supreme Court but had not expected that vacancy to be the chief justiceship. Nonetheless, when Chief Justice Fred Vinson died of a heart attack, Eisenhower named Warren, the Republican governor of California, to lead the high court.

The appointment of Warren as chief justice of the United States is significant because of Warren's subsequent leadership in the Supreme Court's unanimous decision to declare racial segregation in public schools unconstitutional (*Brown v. Board of Education of Topeka, Kansas*). Although many scholars pointed out that Eisenhower later expressed regrets about appointing Warren and questioned the wisdom of integrating public education in the segregationist South, the fact remains that Eisenhower appointed the chief justice of the Supreme Court who produced the *Brown* decision.⁹

Almost as important as the appointment of Earl Warren to the Supreme Court was Eisenhower's decision to allow his attorney general, Herbert Brownell, to argue the case against racial segregation before the Supreme Court. Although Eisenhower separated himself publicly from Brownell's arguments supporting public school integration, in private he helped Brownell write his opinion.

Having the attorney general, or an assistant attorney general, be the strong administration spokesperson for civil rights was an Eisenhower trait that was continued by the Kennedy and Johnson administrations in the 1960s. As Eisenhower relied on Brownell (and his successor, William Rogers) in the civil rights area, President Kennedy relied on his attorney general—his brother Robert Kennedy—to be

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the “front person” on civil rights. Following President Kennedy’s assassination, President Lyndon Johnson placed equally heavy and public civil rights responsibilities on Deputy Attorney General (later Attorney General) Nicholas Katzenbach.

BROWN V. BOARD OF EDUCATION OF TOPEKA, KANSAS

When handed down in May 1954, the landmark decision, *Brown v. Board of Education of Topeka, Kansas*, called for the desegregation of all public school systems in the nation “with all deliberate speed.” The court unanimously ruled that separate facilities were, by definition, unequal and, therefore, unconstitutional. Most important, however, was the breadth of the decision. In outlawing segregation in *all* public education throughout the entire nation, the court thereby implied that all forms of segregation were illegal. It could now be assumed that the court would uphold new civil rights legislation banning all forms of public discrimination, provided, of course, Congress could be persuaded to pass such legislation.¹⁰

The *Brown* decision was a turning point for the executive branch of the United States Government as well as the judicial branch. Minority Americans had won much more than the right to seek a court order to integrate any public school at any educational level anywhere in the United States. The court order would have to be enforced, and the obvious group to do the enforcing would be the Civil Rights Section of the United States Department of Justice. Civil Rights Section lawyers, when needed, could begin moving into the American South to oversee the orderly desegregation of public schools. Desegregation orders from U.S. courts would be enforced, if enforcement became difficult, by U.S. marshals. The judicial branch of the United States democracy had given the executive branch the legal justification—if

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it cared to use it—to go into the South and become directly involved in the enforcement of public school integration.

The Eisenhower Administration responded—and with a great deal of foresight—to the fact that U.S. marshals were the logical instruments to enforce public school integration. As more and more efforts to integrate public schools in the South resulted in strident white opposition, the Eisenhower Justice Department began training a sizable group of U.S. marshals to be used in the South. Herbert Brownell's successor as attorney general, William Rogers, trained an elite crew of six hundred marshals whose significance reached well beyond the Eisenhower years. When President John Kennedy needed marshals to enforce school integration at the University of Mississippi and the University of Alabama in the early 1960s, he was able to draw on the elite crew of U.S. marshals trained under Eisenhower.¹¹

MASSIVE RESISTANCE

It was originally hoped that state and local governments in the South would comply voluntarily with the *Brown* decision. In many areas, however, the decision was met with "massive resistance." White political and governmental leaders worked to put off as long as possible the racial integration of their local schools. Segregationist-dominated southern state legislatures soon joined the act, enacting state laws that cut off state educational funding to any school system that had the temerity to racially integrate. In some cases, amendments to state constitutions were adopted that required shutting down public schools rather than allowing them to desegregate.

President Eisenhower often vacationed and played golf in the South. He thus was well aware of the strength of southern attitudes on the race issue, particularly as they applied to school integration. Eisenhower often expressed the

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fear that, if the U.S. Government pressed too hard on the issue of public school integration, many communities in the South might abandon public education altogether. Whites would then have their own private or church-related schools while blacks, particularly poor blacks, would have no schools at all. Eisenhower frequently used the word *dilemma* to describe this problem of total southern intransigence on the subject of public school integration.¹²

The *Brown* decision thus had two simultaneous but contradictory effects. On the one hand, it inspired northern liberals and black political activists to press ever more strongly for racial integration in the American South and the Border States. On the other hand, it unified much of the official white South in its all-out opposition to race mixing in any form. Conflict between these two forces became ever more inevitable during the later years of the Eisenhower administration.

By the early 1960s, the lack of progress on school integration in the South became one of the strongest arguments for the Civil Rights Act of 1964. As the tenth anniversary of the *Brown* decision approached in the spring of 1964, civil rights supporters pointed out that a decade had gone by since the Supreme Court's landmark decision but very few southern blacks were attending integrated schools. Such a conspicuous example of lack of state action on desegregating schools dramatized the need for congressional—and thus national government—intervention.

THE NONVIOLENT MOVEMENT

The Congress of Racial Equality (CORE) was founded in Chicago, Illinois, in 1942 and became a national organization in 1943. Based on the nonviolent principles of Mahatma Gandhi of India, CORE sought to integrate restaurants, snack bars, lunch counters, and public rest rooms through-

out the North, the border states, and the upper South. (Any attempt to integrate such facilities in the "Deep South" states of South Carolina, Georgia, Alabama, Mississippi, and Louisiana was regarded as too dangerous and very unlikely to be successful.) CORE was dedicated to pushing southward the "Jim Crow" line, an indeterminate east-west line across the United States above which black customers could be served along with whites in public places and below which they could not.

CORE's preferred techniques for pressing the cause of integrated public facilities were the "freedom ride" and the "sit-in" demonstration. The first freedom ride was staged in 1947. The Supreme Court had outlawed segregation in buses and bus stations operating in interstate commerce (across state lines), so CORE sent a group of its members through the upper South by bus to see if the court decision was being obeyed.

Socio-dramas were used to train CORE members. Acting out the roles of demonstrators and arresting officers, experienced CORE members would teach newcomers how to curl their bodies and put their arms around their heads so as to reduce the effects of physical violence. CORE members were taught to be nonviolent but determined. They were trained not to leave a demonstration site unless actually arrested. If restaurant or snack bar personnel would not serve the demonstrators, they were to remain in their seats until they were either served or arrested. No matter how hard a CORE demonstrator might be struck with a fist or a club, the CORE demonstrator was never to strike back.

Similar to the NAACP, CORE had both black and white members and would send "integrated" teams on freedom rides and to sit-ins. Only half the members of a CORE team would actually participate in the demonstration. The other half would behave legally in order to be able to render medical assistance if necessary or bail arrested demonstrators out of jail.

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When traveling through the upper South in the late 1940s, CORE freedom riders held their meetings and stayed overnight in local black churches. This was because the local black church was the only place where CORE members were reasonably safe from being harassed by southern opponents of racial integration.

The NAACP frowned on CORE's form of nonviolent direct action because of the NAACP's preference for using court suits as the best method of securing black civil rights. After CORE began drawing significant national press attention in its efforts to integrate public facilities throughout the South, however, the NAACP began to take over the role of defending CORE demonstrators in southern court rooms after they were arrested and came to trial.

In addition to freedom rides through the upper South, CORE in the late 1940s was busy integrating the swimming pool at Palisades Amusement Park in New Jersey. By 1949 CORE was working at integrating all downtown eating places in St. Louis, Missouri, and by 1953 they were working toward the same goal in Baltimore, Maryland.

By the mid-1950s CORE had refined the sit-in demonstration into a highly perfected and effective technique. Integrated groups of demonstrators would fill a certain number of tables and chairs in the restaurant or lunch counter in question, thus denying the owner the income that those tables and chairs would ordinarily be earning. One demonstrator would have a sign on his back stating the number of hours and minutes the demonstrators had sat there without being served. In some instances CORE would use a "trying on" technique, sitting in at the particular restaurant for only one or two hours, one day a week, in order to show the restaurant owner that having blacks in his or her eating place did not really harm business.

Throughout the 1940s and early 1950s, CORE did not generate much national or local publicity with its various freedom rides and sit-in demonstrations. In the South and