

Testimony of Roy Wilkins of New York City, executive secretary of the National Association for the Advancement of Colored People and chairman of the Leadership Conference on Civil Rights before Subcommittee on Constitutional Rights of the Senate Judiciary Committee considering a bill on literacy tests for voters, April 8, 1962.

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My name is Roy Wilkins and I am chairman of the Leadership Conference on Civil Rights and Executive Secretary of the National Association for the Advancement of Colored People. We wish to thank the Subcommittee for this opportunity to testify in support of the plan to prohibit arbitrary voting literacy tests. We do so with mixed feelings of satisfaction and regret.

My satisfaction is based on the Administration's recognition that its civil rights program needs a legislative base and on the apparent willingness of Congress to take up a civil rights bill of one kind or another. My regret is based upon the limited scope of this bill and upon the fact that it is but a token offering on the full civil rights program pledged by the Administration's party platform of 1960.

There is, I believe, unanimous agreement among those organizations supporting civil rights that the bills before the Subcommittee, regardless of their merits as voting bills, are inadequate to meet the pressing needs of Negro and other minority group citizens. While we recognize the long range effect of any effort to extend and protect the voting franchise, we remain keenly aware of other immediate and critical needs in the area of civil rights.

The present bills highlight those needs. In order that our endorsement of the specific legislation before this committee be understood in relation to the varied demands and to the complexities of the issue, I would like to touch later upon some of the items which the Democratic party (and, in some phases, the Republican party) recognized in 1960 as warranting attention and action.

Obviously, as we proceed into the half-way year of the present Administration, the needs are even more pressing than they were in 1960. Since the distinguished chairman of this subcommittee is known for permitting full discussion of phases of this issue, many of which he personally does not accept, I trust that the committee will indulge my later remarks.

The bills under consideration are S. 480, Senator Javits' bill, and S. 2750, Senator Mansfield's bill, which would standardize the determination of literacy in elections. The Javits bill, which we support, would alleviate one of the most flagrant practices of racial discrimination against Negro voters in both Federal and state elections. The Mansfield bill is limited to Federal elections. Obviously, it could not be as effective in combatting the problem of election discrimination. The approach used by Senator Javits conforms to the recommendations of the United States Commission on Civil Rights.

The need for legislation against ballot box discrimination involving widespread and continuing violations of the Fifteenth Amendment, prompted the Congress to enact remedial measures in 1957 and again in 1960. The fact that only two years later the Department of Justice is once more proposing remedial legislation against election discrimination shows how persistent are the violations of the Fifteenth Amendment in some of our states. It also demonstrates--in retrospect--the extremely modest approach which the Congress has taken each time in this area, an approach which has necessitated enactment, as in the instant proposals, of further legislation.

It would seem that the time has come for Congress to exercise all of its power to vindicate the Fifteenth Amendment and do so without hesitation or vacillation on a subject involving the very first principles of democratic government.

It is unnecessary for me to elaborate upon the evidence showing how generally in certain states discrimination is still practiced against Negro Americans desiring to exercise the fundamental right of the franchise. The United States Civil Rights Commission has ably and clearly compiled the data, which I will not presume to repeat here.

Rather than review the tragic statistical demonstration of systematic Fifteenth Amendment violations in certain states and counties, I would like to quote from a statement which shows the human tragedy posed by these vile racial practices. Father Theodore Hesburgh, President of the University of Notre Dame and a member of the Civil Rights Commission, eloquently described in a speech on

February 14, 1960, what the Commissioners had found in their investigation of voter discrimination. I would like to read here a short portion of his statement:

"There wasn't a man of us who did not recognize that there were literally millions of people qualified to vote who were not able to vote and probably would not be able to vote for the next President of the United States, much less for their Senators, Congressmen and State officials. We had seen some of these people. These weren't units to us. They were flesh and blood people. Some of them were veterans with long months of overseas duty and decorations for valor in service. Some of the people were ministers. Some of them were college teachers. Some of them were lawyers, doctors. All of them were taxpayers. Some were mothers of families who were hard-pressed to tell their children what it is to be a good American citizen when they could not vote themselves. All of them were decent, intelligent American people, and yet they could not cast their ballots for the President of the United States.

"Some had gone through incredible hardships in attempting to register and had been subjected to incredible indignities. I don't know if any of you in this room have had to go through this experience, but even vicariously we had to go through it in listening to their tales. They would go to a courthouse and instead of going in where the white people registered, they would have to go to a room in the back where they would stand in line from 6 in the morning until 2 in the afternoon, since only two were let in at a time. Then people with Ph. D.'s and master's degrees and high intelligence would sit down and copy like a school-child the first article or the second article of the Constitution. Then they would be asked the usual questions, make out the usual questionnaire, hand in a self-addressed envelope and hear nothing for 3 months. And then they would go back and do it over again, some of them five, six or seven times, some of them standing in line 2 or 3 days until their turn came."

No one can contemplate facts of our national life such as these, without experiencing personal shame that this fundamental negation of democracy continues to be practiced here.

Under the 1957 Civil Rights Act, the Department of Justice has to date filed no less than 24 separate actions in Alabama, Georgia, Louisiana, Mississippi and Tennessee, and more suits are in preparation. That these suits should be necessary furnishes a sorry spectacle of decency and constitutional rights cast aside a century after the Fifteenth Amendment forbade further voting discrimination against Negroes.

The continuing practice of voter discrimination violates the Fifteenth Amendment and the integrity of the republican form of government which the Federal Constitution promises in each of the states. Moreover, continuing discrimination against Negro voters sullies the integrity, not only of state elections, but also of Presidential elections and of the elections of members of this Congress.

When in the election of a Congressman or Senator vast numbers of eligible voters have been barred from the franchise by systematic discrimination and discouragement, the election has not been fair and representative; the member who is thus chosen comes here not by the democratic process, but by some other less admirable one. These are conditions which must give pause to every member of this Congress and of this Committee. They should impel Congress to exercise the very fullest measure of its authority in order to restore the integrity of Presidential and Congressional elections.

To the extent that Senator Javits' bill provides needed reform against racial discrimination in Federal elections, this legislation should be supported by all conscientious and liberty-loving citizens. But even more is needed in the effort to cleanse Federal elections of racial discrimination. As the Supreme Court made explicitly clear as early as 1879 in its decision in Ex Parte Siebold, 100 U.S. 371, Congress has the power to take over the enrollment of Federal voters and the management of Federal elections machinery, lock, stock and barrel. While Congress has traditionally provided that these functions are to be performed by state elections

officials, the Supreme Court in the Siebold case has explicitly affirmed that Federal officials can be vested with these functions, stating:

"Congress may, if it sees fit, assume the entire control and regulation of the election of Representatives. This would necessarily involve the appointment of the places for holding the polls, the times of voting, and the officers for holding the elections: it would require the regulation of the duties to be performed, the custody of the ballots, the mode of ascertaining the result, and every other matter relating to the subject."

And the same Congressional authority was reaffirmed by the Court in Ex Parte Yarborough, 110 U.S. 651, where the Court pointed to the power of the Congress in Federal elections "to provide, if necessary, the officers who shall conduct them and make return of the results."

In the light of these decisions it is surprising that so much outrage should have been expressed in Congress over the proposal to enact a bill containing a provision for Federal referees in elections as a means of curbing flagrant discrimination against Negro applicants for registration. From the clamor, one would have thought the proposal was completely foreign to American democracy and had never been broached before.

The sobering and compelling fact about the referee proposal is that it was endorsed by five of the six members of the U. S. Civil Rights Commission as then constituted. This means that two of the three Southern members were so appalled at the crude practices disclosed and so impressed with the built-in machinery for perpetuating the gross system that they felt impelled to recommend Federal election referees.

The members of this subcommittee and, indeed, the members of Congress were not privileged to hear, first hand, at the scene, the bland testimony of those who operate this iniquitous procedure at the precinct level. The men who did hear it were shaken, not merely by the crass deprivations visited upon Negro citizens, but by the violence done the democratic process which alone is the

bulwark of free men of every color and race in our nation.

After decades of discrimination against Negro citizens who seek to vote in the election of members of Congress and of the President, the time has clearly arrived for Congress to employ fair and impartial Federal elections officials instead of continuing to rely upon those state officials who have time and again discriminated against Negro voters.

Senator Philip Hart of Michigan introduced in the 86th Congress legislation which would accomplish this purpose, and has a pending bill to achieve this goal in Senate, S. 3008. While the organizations I represent support Senator Javits' bill, we urge the Congress to also look carefully at Senator Hart's proposal. The time has certainly come for Congress to exercise all of its authority to vindicate the integrity of Federal elections, by recalling their administration from those state officials who systematically flaunt the Fifteenth Amendment in the exercise of powers Congress has entrusted them in the management of Federal elections. I appeal to the conscience of every Senator and Congressman not to compromise with racial discrimination, but rather to enact the strongest possible legislation to restore fundamental fairness and integrity to all elections.

Since World War II we Americans have heard much and have spoken much in support of free elections for peoples in other countries across the seas and in our own Southern hemisphere. In fact, an important ingredient of our foreign policy in the cold war has been the demand that our opponents demonstrate their good faith as to freedom by permitting free elections among people now under tight totalitarian control.

In preaching against the sin of disfranchisement, why must our government's target be always the Babylons overseas in a far land? Why do we not bring our moral outrage, our love of democracy and the majesty and power of our undoubted constitutional authority to bear upon the sin spots within our own borders? Why not decree--through the enactment of this and other legislation--free elections for all the people in every section within the United States? Is Albania's soul more precious than that of Alabama? If not, if Louisiana is as important as Lithuania, then the Congress should

act favorably and speedily upon the pending bills.

As was indicated above, the pending bills serve, in effect, to highlight other civil rights areas of great urgency. The national interest as well as political pragmatism dictate accelerated Congressional action without further delay in three pressing areas, recognized as such by the political parties themselves in their 1960 assessments of civil rights.

As we approach the close of another school year, we note with shame the thwarting of the Supreme Court's mandate of "with all deliberate speed" in school desegregation. By deliberate evasion or gross inattention, the overwhelming majority of school boards affected by the historic decision of May 17, 1954, have managed to continue operations as though the decision had never been rendered. As of the beginning of the current school year only 824 of 2,805 bi-racial school districts in the seventeen Southern and border states had initiated a program of desegregation. More than two and a quarter million colored students remain in segregated schools in these states.

May 17 will mark the end of the eighth school year after the decision. In that period, less than 8 per cent of the colored school children covered by the decision have received its benefits. Many of the other 92 per cent have completed their formal education so that the hopes that the Court may have inspired in them and their parents have been dashed in the bitter delays dictated by racial discrimination and prejudice.

The approximate rate of 1 per cent per year in the desegregation of schools would indicate completion of the process in a century, but the picture is more bleak than that. A great number of the school districts--540--that have desegregated did so in the first two years. Since then, the pace has slowed considerably so that the true rate would effect completion at about the 22nd Century, if not into it.

Neither the patience of those denied their constitutional rights nor the needs of the nation can stand this unconscionable delay. Therefore, we call upon Congress to enact the plan embodied in the bill introduced by Senator Joseph Clark, S.1817.

We stress the urgency of Congressional action on S. 1817 because of that provision which calls for initiation of a plan of desegregation by all school boards in 1963. Congressional inaction will result in a repudiation of a solemn pledge to millions of children denied their basic constitutional rights.

The freedom rides and other action by students and others have pointed up another area in which we as a nation have failed to live up to the ideals we present to the rest of the world as

worthy of imitation. Denial of equal access to public accommodations, facilities in transportation, libraries, hospitals, recreation areas and other public services and property solely on the basis of race or color blur the image that we seek to present on the international level.

We recognize the steps taken by the Administration through the Attorney General to rectify some of these injustices, particularly in the matter of transportation. Yet, the fact remains that persons are still being jailed for using waiting rooms and other facilities in railroad and bus stations that the Supreme Court has ruled are available to them.

The Commission on Civil Rights has reported that some public libraries, supported by Federal funds, deny service or provide inferior service to Negroes.

The same is true with respect to hospitals, public and private, supported by Federal grants. Recently, there was brought to the attention of the Secretary of Health, Education and Welfare the case of a hospital in Augusta, Georgia, that had previously received Federal assistance and was applying for an additional \$400,000. This hospital denies pediatric or maternity care to colored persons. Its facilities for Negroes are limited to twelve beds--in the basement. The requested \$400,000 is earmarked for expansion of the "white" facilities.

Similar instances of denial of public services because of race are widespread. When combined they add up to a de facto second class citizenship status for some eighteen million Americans under a Constitution that provides only one class of citizenship.

Dedicated individuals and organizations through recourse to the courts have established the legal principle that governmentally supported segregation and other forms of discrimination are unconstitutional. In specific instances, this legal principle has been translated into actuality, but the gap between the legal principle and its application remains gigantic.

No individuals or organizations are capable of closing this gap under conditions that exist today. In some areas of the nation all branches of government, executive, legislative and

judicial, have been utilized to preserve the racial status quo or to reverse it where some progress has been made. Literally hundreds of laws and ordinances have been passed since May 17, 1954, to thwart implementation of the school segregation decision of the Supreme Court and subsequent decisions relating to equal protection of the laws.

In addition to governmental action, those seeking vindication of their constitutional rights have been subjected, in many cases, to economic sanctions, social and political pressures and in some cases, physical violence.

We do not think it fair that this great burden of implementing the equal protection clause of the 14th Amendment should continue to be borne alone by those who have been unjustly denied its protections. The Government has an interest in the upholding of the Constitution. It should not remain neutral between those who support the Constitution and those who would trample it underfoot.

In addition, the international prestige of the United States and the requirements of national policy that dictate full utilization of all human resources should give a priority to the quickest possible solution to problems arising from denials of equal protection.

For these reasons we feel that the deletion by the Senate of Part III of the then Administration's civil rights bill in 1957 was most unfortunate. We believe that many of the problems now encountered, such as the hardening of resistance to the Supreme Court's mandate, the slow pace of desegregation, the willingness on the part of local officials to defy the regulations of the Interstate Commerce Commission are traceable, in part at least, to the failure of Congress in 1957 to add its support to the struggle to make the 14th Amendment a living reality.

We urge Congress to act, in this session, to enact legislation authorizing the Attorney General to prevent denials of 14th Amendment equal protection rights because of race, color or creed in the same manner he is authorized to protect 15th Amendment rights under the Civil Rights Act of 1957.

The concern of Congress with the problem of unemployment, particularly unemployment caused by changing economic factors,

such as automation, increased productivity and the mobility of labor, has been manifested during the 87th Congress by the passage of area redevelopment and manpower retraining programs. This is good and has our support.

We believe, however, that Congress has overlooked the most important element that contributes to large scale unemployment, the human element of racial prejudice that results in denial of employment opportunity to many qualified persons solely because of race, color, national origin or creed.

The Departments of Labor and Commerce reports on unemployment for 1961 revealed the rate for non-white males to be 12.9 per cent and that for non-white females to be 11.9 per cent. The comparable rates for whites were 5.7 per cent and 6.5 per cent. The most recently available figures on hard-core, long-term unemployment, those seeking work for six months or longer, show that 28.7 per cent of this group are non-white, though they make up only 10.8 per cent of the labor force.

These statistics show that the average non-white person now unemployed and seeking employment has less than a 50 per cent chance of a white person of securing it. If he is fortunate enough to get a job, his income will likely be only 60 per cent of that of his white counterpart.

Not only are job opportunities denied the Negro applicant, but the avenues through which he could qualify are often closed to him.

The state employment services, probably the principal source of employment recruitment, in some areas operate on a racially discriminatory basis, according to the Civil Rights Commission's documentation. This occurs in an operation that is financed 100 per cent by Federal funds.

As executive secretary of the NAACP, I submitted in 1960, to the Vice-President, as chairman of the Committee on Government Contracts, a study of discrimination in the apprenticeship training program, prepared by the Association's labor secretary, Mr. Herbert Hill. It was our conclusion, based on the facts contained therein, that full employment of Negroes in the skilled trades could not be expected before the year 2034 at the present rate of training.

I have previously indicated our support of the area redevelopment and manpower training programs.

At the same time, I would like to express our dismay that strong non-discrimination provisions were not included in these pieces of legislation. The results of this failure to provide protection for minority groups is already apparent.

The largest retraining program planned under the Area Redevelopment Act has already fallen victim to the doctrine of white supremacy. The retraining of some 1,200 displaced farm workers to be tractor and equipment operators has been cancelled. Because many of those to be trained would be Negroes, the program ran afoul of Mississippi politics and was abandoned.

We believe that the best approach to these problems of discrimination in the field of employment is an FEPC bill with strong enforcement powers along the lines of S. 1819, introduced by Senators Clark, Hart, Douglas, Williams of N. J., Long of Mo., Humphrey, Gruening, Neuberger and Pell, at the request of the President.

In this connection, we wish to note our disagreement with those who would delete from proposed FEPC legislation the provisions for administrative enforcement. While we respect the motives of those who support these changes, we regret the growing tendency to use civil rights legislation as a vehicle for other broad judicial and administrative experiments that result in dilution of the effectiveness of this legislation. We believe that these reforms should stand or fall on their own merits in separate legislation.

What we ask is nothing new. It is not a program conceived by visionaries or utopian planners. There is nothing we here suggest that was not contained in the 1960 platform of the political party that now controls the Executive and Legislative Branches of the Federal Government. Several of these items were contained, also, in the 1960 platform of the Republican party. There is nothing we here suggest that is not already before the Senate in bills, some of which were introduced on behalf of, and at the request of, the President of the United States.

The redemption of these pledges requires of the Congress, at

the very least, the passage in this session of legislation to implement the May 17, 1954, decision of the Supreme Court, to authorize the Attorney General to protect 14th Amendment rights and to establish a national fair employment commission with enforcement powers.

In conclusion, Mr. Chairman, we reiterate our remark at the outset of this testimony: the fact that additional legislation is now proposed to protect voting rights guaranteed by the Constitution indicates clearly that the Congress proceeded in timorous and piecemeal fashion in its enactments in this field in 1957 and 1960.

We submit that that error should not be here repeated. The basic, human individual freedoms of United States citizens ought not be the subject of haggling and hair-splitting. What is needed and asked is not a New Frontier or even a New Deal (or pieces thereof); it is simply the Old Deal, the one promulgated in our 18th century Declaration of Independence, our Bill of Rights and our Constitution.