Civic and Political Status

CIVIL RIGHTS *

THE three major events of the period under review (October 1, 1958, through September 30, 1959) were the collapse of "massive resistance" and school closings in the South as the answer to desegregation; the significant additions to state legislation protecting and expanding civil rights, and the hearings and report of the Federal Commission on Civil Rights.

DESEGREGATION

In the fall of 1959, when public schools reopened, the 17 southern and border states and the District of Columbia, which had required racial segregation in their public schools before May 17, 1954, presented substantially the same varied picture as the year before—from West Virginia and Missouri, where desegregation was virtually completed, to Alabama, Georgia, Mississippi, and South Carolina, where desegregation had not yet begun. Florida and Virginia parted company with the intransigent states by admitting their first Negro students to formerly all-white schools. Louisiana continued its elementary and secondary schools on a completely segregated basis, despite the breach in its armor at the New Orleans branch of the State University where 417 Negroes were in attendance with some 1,800 whites. Although 1959 was more peaceful than any year since the school desegregation decisions, with very few demonstrations or acts of violence, it was also a year in which the smallest number of additional all-white schools were opened to Negro children.

STATUS OF DESEGREGATION IN THE 17 SOUTHERN AND BORDER STATES AND THE DISTRICT OF COLUMBIA IN SEPTEMBER 1959

Alabama	No desegregation.
Arkansas	Desegregation in effect in nine school districts. Little Rock's four high schools, closed for a year, reopened almost a month early with token desegregation. Ozark was dropped and Pulaski was added to the list of desegregated districts.

* Civil rights refer to those rights and privileges which are guaranteed by law to each person, regardless of race, religion, color, ancestry, national origin, or place of birth: the right to work, to education, to housing, to the use of public accommodations, health and welfare services and facilities; and the right to live in peace and dignity without discrimination or segregation. They are the rights which government has the duty to defend and expand.

Delaware	Twenty-six of 51 biracial school districts were desegregated under the grade-a-year state-wide plan approved by a Federal district court.
District of Columbia	The sixth year of desegregation opened without incident. Negroes increased slightly to 74.1 per cent of the total student body.
Florida	Two schools in Dade county with a total enrollment of 777, including 25 Negroes, became the first in Florida to desegregate. One school was in a rapidly changing neighborhood and the other served the Strategic Air Command base. The University of Florida, which admitted its first Negro student to the law school in 1958, admitted a Negro girl to the medical school.
Georgia	No desegregation.
Kentucky	Progress, with 123 school districts desegregated of a total of 172 biracial districts. No incidents.
Louisiana	No desegregation in elementary or high schools. The New Orleans branch of Louisiana State University began its second year of desegregation with 2,220 students, of whom 417 were Negroes. No incidents.
Maryland	While all 23 of Maryland's biracial school districts were deemed by school authorities to be desegregated "in principle," Negro pupils were actually attending formerly all-white schools in 15 school districts (Baltimore and 14 counties).
Mississippi	No desegregation.
Missouri	Little progress since 1958. Pemiscot and New Madrid counties in the southeastern corner continued to hold out against desegregation.
North Carolina	Token desegregation, continuing in Charlotte, Greensboro, and Winston-Salem, was extended to Durham, Goldsboro, High Point, and Havelock, making a total of 7 districts that had begun desegregation of a total of 174 biracial districts.
Oklahoma	Desegregation in effect in 188 of 250 biracial districts. Of the state's estimated 40,000 Negro students, 30,000 were considered to be in "integrated situations."
South Carolina	No desegregation.
Tennessee	Rutherford County joined Oak Ridge, Clinton, and Nashville in starting to desegregate its schools by admitting 16 children of Negro airmen at Stewart Air Force Base to a previously all-white elementary school near Smyrna. Forty-one Negroes were enrolled in the first three grades of nine schools in Nashville, 14 in Clinton high school, and 8 in Memphis State University, the first school to desegregate in that city.
Texas	No progress. In September 1959, 125 of 722 biracial school districts were listed as desegregated, one more than in

	September 1958. Negroes continued unsuccessfully to seek admission to formerly all-white schools in Dallas, Fort Worth, and Galveston.
Virginia	Five of a total of 128 biracial school districts made a start toward desegregation. Eighty-six Negro students attended 16 formerly all-white schools in Arlington and Warren counties and in the cities of Alexandria, Charlottesville, and Norfolk. Prince Edward county abandoned its public schools, refusing to appropriate funds. About 1,500 white children began attending privately-financed schools while 1,700 Negro children had no schools to attend. No incidents.
West Virginia	Desegregation completed. No incidents.

End of "Massive Resistance"

The reporting period opened with nine public schools closed in Front Royal, Charlottesville, and Norfolk, Virginia, to avoid compliance with final Federal court orders directing the admission of Negro children to formerly all-white schools. More than 12,000 elementary- and high-school pupils in Virginia were locked out of school. On January 19, 1959, two court decisions, one by the Supreme Court of Appeals of Virginia and the other by a three-judge Federal district court in Norfolk, swept away the legal foundations of the "massive resistance" movement.

The state-court litigation was begun by Attorney General Albertis S. Harrison, Jr., against Comptroller Sidney C. Day, Jr., to determine the validity of a number of related acts passed by the legislature to implement "massive resistance." The laws provided that any public school enrolling both white and colored children was to be closed automatically and removed from the public-school system. All state appropriations for such schools were to be withheld and used, with local school funds, for the payment of tuition grants for the education in nonsectarian private schools of the children locked out of such closed schools.

The Supreme Court of Appeals of Virginia held that the state legislature could not constitutionally order the closing of public schools attended by both white and Negro children, nor withhold from such schools the normal appropriations for support and maintenance. The state constitution was interpreted as requiring the commonwealth to *"maintain* an efficient system of public free schools *throughout the State"* (italics in original), with local school taxes to be expended by "local school authorities." The provision divesting local school authorities of control of public schools policed by Federal troops or personnel, and vesting such authority in the governor, was held to violate the section of the state constitution giving local school authorities jurisdiction over their schools.[1]

On the same day, January 19, 1959, a three-judge Federal district court in Norfolk held that Virginia, "having accepted and assumed the responsibility of maintaining and operating public schools," could not "close one or more

1 *Harrison* v. *Day,* 106 S.E. 2d 636.

public schools in the state solely by reason of the assignment to . . . that public school of children of different races or colors, and, at the same time, keep other public schools throughout the state open on a segregated basis." Such selective closing of schools under orders to desegregate was held to violate the "equal protection" clause of the 14th amendment to the Federal Constitution.[2]

The two decisions destroyed the legal basis for "massive resistance" in Virginia. Closed public schools in Norfolk and in Arlington county reopened on February 2, 1959, with children of both races in attendance. A week later Negroes were admitted to three formerly all-white schools in Alexandria. Warren county high school at Front Royal reopened on February 18, 1959, desegregated in principle only. Twenty-one Negro students attended, but not one of the more than a thousand white students who had been enrolled when the school was ordered closed in September 1958. The white parents' action in keeping their children from this school was hailed as a victory by segregationists. Out-of-state journalists who visited the area, however, found that many parents wished primarily not to interrupt their children's schooling in the middle of the year, since the private schools were thought to be doing a competent job. Whatever the reason for the boycott of the public high school by the white students, it ended in September 1959 when the private schools were closed.

Little Rock

Little Rock, Arkansas, was again in the news in May 1959 when three members of the local school board tried to fire 44 teachers for "integrationist tendencies." A recall election was held on May 25, 1959, and the board's three pro-segregation members, despite full support from Governor Orval E. Faubus, were defeated by narrow margins. The number of ballots was nearly double that normally cast at school elections.

On June 18, 1959, a three-judge Federal district court ruled unconstitutional two laws passed in 1958 at Governor Faubus's request. The statutes gave the governor power to close and withhold state aid from a public school ordered desegregated. The Federal court noted that the Arkansas Supreme Court had upheld the laws as constitutional,[3] but rejected its authority and cited the United States Supreme Court's opinion that violence or threats of violence do not justify a state's use of its police power to deprive citizens of their constitutional rights.[4] The statute was voided as an improper exercise of police power and the Little Rock school board was again ordered to proceed with its original plan of desegregation.[5]

On August 12, 1959, nearly a month before the normal date, Little Rock reopened its high schools, closed for almost a year by order of Governor Faubus. Three Negro students were assigned to Central high school and three to Hall high school. The police dispersed a small segregationist crowd

2 *James* v. *Almond*, 170 F. Supp. 331.
3 *Garrett* v. *Faubus*, 323 S.W. 2d 877.
4 *Cooper* v. *Aaron*, 358 U.S. 1.
5 *Aaron* v. *McKinley*, 173 F. Supp. 944.

that tried to congregate in front of Central, the scene of rioting two years earlier.[6]

Three dynamite blasts exploded in Little Rock during the night of September 7, 1959. One damaged the local school board office; a second went off beneath a city-owned automobile parked in the driveway of Fire Chief Gann L. Nalley, and the third smashed the front of a building in which Mayor Werner C. Knoop had a private office. Within 17 hours a suspect was arrested, and a few days later five men were charged with the series of crimes. One of the defendants pleaded guilty on September 18 and was sentenced to five years in prison; the other four were awaiting trial.

Alabama's Pupil Placement Upheld

On November 24, 1958, the United States Supreme Court affirmed a decision of a Federal district court that Alabama's School Placement Law was not unconstitutional "on its face." The decision was hailed throughout the South "as an indication that the Supreme Court is going to let us handle our own affairs," and the decision did open a door by which the intransigent states could defer compliance with the desegregation decisions.

A class action by the parents of four Negro children challenged the constitutionality of the Alabama School Placement Law, enacted in 1955 (and amended in 1957) to frustrate desegregation. That law listed certain educational, psychological, and social criteria to be used by local school authorities in deciding upon the most advantageous assignment of children to schools, neither race nor color being mentioned. Some criteria were conceded to be valid while others were challenged by the petitioners in the lawsuit. Since the lawsuit was started before the Birmingham school authorities had notified the petitioners of the action taken on the request to transfer the Negro children to formerly all-white schools, or of the reasons for such action, the three-judge Federal district court held that the law was not unconstitutional "on its face." The court said:

> The School Placement Law furnished the legal machinery for an orderly administration of the public schools in a constitutional manner by the admission of qualified pupils upon a basis of individual merit without regard to their race or color. We must presume that it will be so administered. If not, in some future proceeding it is possible that it may be declared unconstitutional in its application.[7]

An appeal was taken to the United States Supreme Court, which affirmed the district court with a one-sentence *per curiam* opinion:

> Motion to affirm is granted and the judgment is affirmed upon the limited grounds on which the District Court rested its decision.[8]

While the Supreme Court's action did not uphold the constitutionality of any statutory scheme which would enable Alabama or any other state to prevent the desegregation of its public-school system, the decision did emphasize that under pupil-placement statutes, petitioners would have to prove by

6 AJYB, 1958 (Vol. 59), pp. 45-48.
7 *Shuttlesworth* v. *Birmingham Board of Education,* 162 F. Supp. 372, 384.
8 *Shuttlesworth* v. *Birmingham Board of Education,* 358 U.S. 101.

credible evidence that specific Negro children (rather than Negroes as a class) were being excluded from white schools because of their race or color and not because of some ostensibly valid educational, psychological, or sociological reason. Pupil-placement statutes, already enacted in some ten southern states,[9] thus became the first dilatory tactic to win at least limited approval from the United States Supreme Court.

Additions to State Legislation

In 1959 four states—Colorado, Connecticut, Massachusetts, and Oregon—passed laws prohibiting discrimination in private housing, the first enacted at the state level. California passed a statute prohibiting discrimination in public, publicly-aided, and redevelopment housing. California and Ohio joined the 14 other states having effective fair employment-practice laws with commission-type enforcement procedures, and Missouri enacted a statute prohibiting discrimination in state employment, but without specific sanctions. Maine joined the 23 other states with civil-rights laws prohibiting discrimination in places of public accommodation, resort, or amusement, and California broadened its civil-rights statute.

Connecticut and New Mexico strengthened the powers of their commissions against discrimination. Missouri made its temporary Human Rights Commission a permanent state agency. Washington prohibited discriminatory inquiries in connection with applications for credit. Idaho, California, and Nevada repealed their prohibitions against interracial marriages.

Housing

Colorado

On April 10 Governor Stephen L. R. Nichols signed the Colorado Fair Housing Act of 1959, which prohibited discrimination in all types of housing, private as well as public and publicly-aided, the first state statute of this type to be enacted. Its forerunners were ordinances adopted in New York City in December 1957 and in Pittsburgh in December 1958.

The proposal was originally cosponsored by a bipartisan group of 41 representatives, a majority of the 65 members of the House. It passed the House by a vote of 57-3, and the Senate in a somewhat weakened form by a vote of 24-11. Subsequently, the House concurred in the Senate version.

The act covered all housing, except "premises maintained by the owner or lessee as the household of his family with or without domestic servants and not more than four boarders or lodgers." Thus, the owner of a one-family house who lived in it with his family was free to dispose of his property by sale or lease without being subject to the ban on discriminatory transfers.

The act forbade owners of housing accommodations to refuse to transfer, rent, or lease them to any person because of race, creed, color, sex, national origin, or ancestry. It forbade owners to discriminate on any of these grounds

[9] Alabama, Arkansas, Florida, Louisiana (held unconstitutional), Mississippi, North Carolina (upheld), South Carolina, Tennessee, Texas, Virginia (held unconstitutional).

in the terms, conditions, or privileges pertaining to housing or in the furnishing of facilities or services. Finally, it barred owners from making written or oral inquiry or record concerning the race, creed, color, sex, national origin, or ancestry of a person seeking to purchase, rent, or lease. Also banned was printing or publishing notices or advertisements relating to the transfer, rental, or lease of housing which indicated discriminatory preference or limitation. Banks and financial institutions were forbidden to make discriminatory inquiries about persons seeking financial assistance for housing, or to discriminate in the terms, conditions, or privileges of such financial assistance.

The act provided for a limited exception for religious or denominational institutions and organizations operating or controlling housing accommodations. Another exception permitted the leasing of premises only to members of one sex, e.g., YMCA and YWCA homes.

Enforcement of the act was entrusted to the Colorado Anti-Discrimination Commission, established in 1955 to administer the state laws against discrimination in employment and in places of public accommodation. The procedure was essentially the same as that governing complaints of discrimination under the earlier laws.

Massachusetts

On April 22, 1959, Governor Foster Furculo signed a bill prohibiting racial or religious discrimination in all types of housing, public as well as private. Massachusetts thus became the second state to enact legislation barring discrimination in private housing.

The Massachusetts law applied to "multiple dwellings" and to "contiguously located housing." Multiple dwellings were defined as dwellings occupied as the residences of three or more families living independently of each other. Contiguously located housing was defined as housing offered for sale, lease, or rental by a person who owned or controlled ten or more housing accommodations located on land that was contiguous (exclusive of public streets). The measure therefore applied to apartment houses with three or more apartments, and to one- or two-family houses if they were part of a development consisting of at least ten housing units.

The new housing law was to be enforced by the Massachusetts State Commission Against Discrimination, together with the other laws prohibiting discrimination in employment, places of public accommodation, resort, or amusement, educational institutions, and public, publicly-aided, and redevelopment housing. The enforcement procedures were the same as those previously available in other types of discriminatory conduct.

Connecticut

On May 12, 1959, Governor Abraham A. Ribicoff signed a bill to prohibit racial or religious discrimination in all types of housing, thus making Connecticut the third state to enact such legislation.

The new law covered

> any housing accommodation offered for sale or rent that is one of five or more housing accommodations all of which are located on a single parcel

of land or parcels of land that are contiguous without regard to roads or streets, and all of which any person owns or otherwise controls the sale or rental thereof.

The Connecticut law was narrower than the Massachusetts statute, for it covered multiple dwellings only when such dwellings consisted of at least five apartments. It was broader as regards one- and two-family housing developments, since it applied to groups of as few as five such units.

As in Colorado and Massachusetts, enforcement of the new housing statute was vested in the state agency—the Connecticut Civil Rights Commission—responsible for enforcing the state's other laws against discrimination.

Oregon

When Governor Mark O. Hatfield signed two bills on May 25, 1959, Oregon became the fourth state to prohibit discrimination on grounds of race, color, religion, or national origin in the sale or occupancy of private housing.

The first of the two new laws amended the Oregon Law Against Discrimination by adding a definition of a "person engaged in the business of selling real property" and defined the term as including anyone selling, leasing, or renting real property as a "business enterprise" or "as an incident to his business enterprise." The new law prohibited all persons "engaged in the business of selling real property" from refusing to sell or rent real property solely because of the race, color, religion, or national origin of the would-be purchaser or lessee.

Persons engaged in the business of selling real property were also prohibited from making any other distinctions or restrictions "in the price, terms, conditions or privileges" in connection with the sale, lease, or occupancy of real property. The publication or display of any advertisement indicating a preference, limitation, or discrimination based on race, color, religion, or national origin was prohibited. Real-estate brokers and salesmen were expressly barred from accepting or retaining "a listing of real property . . . with an understanding that a purchaser [or lessee] may be discriminated against . . . solely because of race, color, religion or national origin." Finally, there was the conventional prohibition against aiding, inciting, or coercing others to violate the law. However, the sale or rental of a house by an owner not in the business of selling or renting houses was not covered by the new law, unless the owner retained a real-estate broker, agent, or salesman to find the buyer or lessee or to negotiate the sale or lease.

Since the new statute was an amendment to the existing law against discrimination, it was enforced by the existing administrative remedies and procedures.

The second new law added a ground for the revocation or suspension of the license of real-estate brokers or salesmen—violation of the Oregon Law Against Discrimination, as amended.

California

On July 8, 1959, Governor Edmund G. Brown signed into law a bill prohibiting discrimination in public, publicly-assisted, or redevelopment housing.

California thus joined Colorado, Connecticut, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, and Washington in banning discrimination in housing that received various forms of governmental aid.

Other Campaigns

Unsuccessful campaigns to pass or strengthen laws against discrimination in housing were waged in Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, and Washington. In fact, 1959 saw more activity in the state legislatures on the subject of discrimination in housing than any previous year.

Employment

California

On April 16, 1959, Governor Brown signed Assembly Bill 91, which passed the lower house on February 19, 1959, by a 65-14 vote. A Senate amendment excluded farm laborers who lived on the farm where they worked. As amended, the bill passed the Senate on April 8, 1959, by a vote of 30 to 5. Later, the Assembly concurred in the Senate amendments by a 50-9 vote.

The statute established a five-member division of fair employment practices in the labor department. The opportunity to seek, obtain, and hold employment without discrimination based on race, religious creed, color, national origin, or ancestry was declared to be "a civil right." Employers of five or more persons, labor organizations, employment agencies, and political subdivisions of the state were prohibited from discriminating in employment. The division was empowered to receive, investigate, and pass upon complaints charging discrimination in employment, to hold hearings, subpoena witnesses, administer oaths, and require the production of books and records relating to any matter under investigation. The division was also empowered to conduct investigations whenever it appeared that an unlawful employment practice might have been committed.

Any person claiming to be aggrieved by an unlawful employment practice could file a complaint within a year after the discriminatory act or occurrence. If, after preliminary investigation, there was probable cause to credit the charge of unfair employment practice, an attempt would have to be made to eliminate the practice "by conference, conciliation and persuasion." In case of failure, the division could hold a hearing under the state's Administrative Procedures Act to determine whether an unlawful discriminatory practice had taken place. After the hearing, the division could issue an order requiring the respondent to end his unlawful employment practice "and to take such affirmative action, including (but not limited to) hiring, reinstatement, or upgrading of employees, with or without pay, or restoration to membership in any respondent labor organization, as, in the judgment of the Division, will effectuate" the purposes of the act.

The attorney general of the state was also authorized to file complaints charging unlawful discriminatory employment practices.

Cease-and-desist orders were reviewable by the courts under the state's Administrative Procedures Act, and the division of fair employment practices

could apply to the state court for an order enjoining any respondent from violating the division's mandates.

OHIO

On April 19, 1959, Governor Michael V. DiSalle signed Senate Bill No. 10, which had passed the Senate on February 18, 1959, by a vote of 25 to 6 and was adopted, with some amendments, by the House on April 15, 1959, by a vote of 98 to 31. In signing the bill, Governor DiSalle commented that it seemed

> incongruous that in a nation that has prided itself on the achievement of democratic principles of equality, . . . in the latter part of the Twentieth Century it is still necessary to adopt legislation guaranteeing to individuals equal opportunities for employment. . . . Judicially administered, this law will not be a tool for persecution but will, in effect, protect and further the mutual objectives of those who believe in the oldest of our traditions—equality before the law and equality in opportunity.

The law created a five-member Ohio Civil Rights Commission. Employers of four or more persons, labor organizations, employment agencies, and political subdivisions of the state were prohibited from discriminating in employment on the grounds of race, color, religion, national origin, or ancestry.

The commission was authorized to receive, investigate, and pass upon complaints charging discrimination in employment, to make periodic surveys, and to prepare comprehensive educational programs "to eliminate prejudice among the various racial, religious and ethnic groups." It was also authorized to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take testimony, and require the production of books and records relating to any matter under investigation.

Following a written charge of discrimination, which could be made by anyone (not necessarily the aggrieved party) or by the commission itself, the commission would initiate a preliminary investigation. If it determined that there was probable cause to credit the charge, the commission would endeavor to eliminate the unfair practice by the informal methods of "conference, conciliation and persuasion." Complaints had to be filed within a year of the discrimination charged. If the commission failed in its efforts, "or if the circumstances warrant, in advance of any such preliminary investigation or endeavors," the commission could issue a notice of hearing to determine whether discrimination had been practiced. If the commission found the respondent guilty of any unlawful discriminatory practice, it could issue a cease-and-desist order directing the respondent to take whatever action might be necessary, including, "but not limited to hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to union membership, including a requirement for reports of the manner of compliance."

Any complainant, intervener, or respondent aggrieved by a final order of the commission, "including a refusal to issue a complaint," could seek redress in the state court. Likewise, the commission could obtain an enforcement order requiring a respondent to obey its cease-and-desist order.

Every person subject to the provisions of the law was required to post conspicuously a notice setting forth its major provisions and its administration. The Ohio law, like the Michigan and Rhode Island FEP laws, contained a prohibition against job seekers' specifying their race, religion, color, or national origin in advertisements.

MISSOURI

Although Missouri failed to enact an FEP law, Governor James T. Blair did sign into law, on June 8, 1959, a bill prohibiting discrimination in state employment, without criminal sanctions.

OTHER LAWS AND CAMPAIGNS

The Connecticut legislature vested authority in the State Civil Rights Commission to issue affirmative relief orders in all cases under its jurisdiction, including employment-discrimination cases. Governor Ribicoff signed the bill, which included a reduction of the statute of limitations from six months to ninety days, on June 2, 1959.

New Mexico strengthened its Fair Employment Practice Law by adding criminal sanctions against discrimination if committed by persons expending public funds. Connecticut, Oregon, and Wisconsin joined Massachusetts, New York, Pennsylvania, and Rhode Island in prohibiting discrimination because of age.

Unsuccessful campaigns to pass or strengthen laws against discrimination in employment were waged in Arizona, Illinois, Indiana, Kansas, Maine, Nebraska, Nevada, South Dakota, Washington, and Wisconsin.

Public Accommodations

MAINE

On May 8, 1959, Governor Clinton A. Clauson signed a bill to prohibit discrimination because of race, color, religious creed, ancestry, or national origin in places of public accommodation, resort, or amusement. The bill passed the House of Representatives on April 17, 1959, by a vote of 112 to 12 and the Senate unanimously on May 6. While Maine had previously prohibited discriminatory advertising by places of public accommodation, it had not prohibited actual discrimination.

The new law defined a place of public accommodation, resort or amusement as

> any establishment which caters or offers its services, facilities or goods to, or solicits patronage from the members of the general public, including but not limited to any inn, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barber shop, theater, music hall and any retail store.

Violations were criminal offenses punishable by the courts, in the case of first offenders by fines up to $100 or imprisonment up to 30 days, and for subsequent offenses by fines up to $500 or imprisonment up to 30 days.

CALIFORNIA

California broadened its conventional civil-rights statute by making it applicable to all businesses. The new law, signed by Governor Brown on July 14, 1959, also added "religion, ancestry and national origin" to "color and race" as prohibited grounds for discrimination. Two other bills, to authorize suspension or revocation of trade and professional licenses in cases of a persistent course of discriminatory conduct by the licensee and to permit revocation or suspension of alcoholic-beverage licenses for willful or repeated violations of the civil rights law, were killed in the Senate.

OTHER LAWS AND CAMPAIGNS

The powers of the Connecticut Civil Rights Commission were broadened to permit it to initiate complaints in cases involving discrimination in places of public accommodation. Kansas amended its civil rights law by eliminating some archaic language ("stage coach") and adding "religion, national origin and ancestry" to "race and color" as prohibited grounds for discrimination.

Efforts to pass or strengthen public-accommodation laws were unsuccessful in Arizona, Illinois, Indiana, Michigan, Missouri, New Mexico, Oregon, Pennsylvania, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

Miscellaneous

Measures repealing statutory bans on interracial marriages were passed in Idaho, Nevada, and California and signed by Governors Robert E. Smylie, Grant Sawyer, and Brown on March 2, March 16, and April 20, 1959, respectively.

On June 2, 1959, Governor LeRoy Collins of Florida signed a bill permitting absentee voting by any person who "on account of the tenets of his religion" could not cast his ballot on Election Day.

The Missouri Commission on Civil Rights was made a permanent agency of the state government in June 1959.

Questions about race, religion, color, or national origin were outlawed from the credit-application forms of banks, loan and insurance companies, and other financial institutions in Washington state when Governor Albert Rosellini signed H.B. 171 on March 3, 1959.

Failing of passage were bills in Illinois to authorize city boards of education to "change or revise existing sub-districts or create new sub-districts in a manner to promote integration and to eliminate the separation of children in public schools because of color, race or nationality"; in Oregon to prohibit discrimination by college fraternities, sororities, student housing cooperatives, or student living organizations, and in Arizona and Iowa to establish commissions on human relations.

FEDERAL CIVIL RIGHTS COMMISSION

The Civil Rights Act of 1957, enacted on September 9, 1957, established a six-member Commission on Civil Rights to serve for a period of two years. The commission was authorized to investigate complaints that citizens had

been denied the right to vote because of race, religion, or national origin; to collect information concerning denials of the "equal protection of the laws," and to evaluate the policies of the Federal government with respect to certain civil rights. Because of delays in appointments and Senate confirmations, it was not until May 14, 1958, that Gordon M. Tiffany, former attorney general of New Hampshire, assumed his duties as staff director.

The first sworn complaint, charging deprivation of voting rights in Gadsden county, Florida, was received on August 14, 1958. The commission immediately ordered a field investigation, and investigations were also conducted in Alabama, Louisiana, Mississippi, Tennessee, and other parts of Florida. On December 8 and 9, 1958, the commission held its first public hearings in Montgomery, Alabama, as a result of numerous complaints received from several Alabama counties charging unconstitutional interference with the right to vote. Some two dozen Negro witnesses testified that various stratagems and dilatory tactics of county registrars had deprived them of the right to register and vote. When the public officials were subpoenaed, they refused, on advice of Alabama's Attorney General John Patterson, to produce their voting records or testify.

The Civil Rights Commission requested the aid of the Justice Department, which brought a civil action in the Federal district court against a group of county registrars to force them to appear with their records and testify before the commission. An agreement, embodied in the Federal district-court order, was concluded between the Justice Department and the contumacious witnesses, which acknowledged the right of the commission to inspect the registration and voting records in the counties where they were normally kept.[10] As a last gesture of defiance, state circuit Judge George C. Wallace, who had impounded the records for an investigation into alleged fraudulent attempts to register, turned them over on January 13, 1959, to grand juries in Barbour and Bullock counties in the hope that such action would prevent the commission from examining the records. The grand juries, however, immediately invited the commission to inspect the records.

An attempt by the commission to hold hearings in Shreveport, Louisiana, on July 13, 1959, was frustrated when state Attorney General Jack Gremillion secured a temporary restraining order from Federal district-court Judge Benjamin Dawkins on the ground that the commission, as a Federal executive agency, was subject to the Administrative Procedures Act.[11]

That act was interpreted by the court as requiring the commission, "as a Federal executive agency," to advise prospective witnesses of any charges that might be brought against them and of the names of the other witnesses who might claim that state or Federal laws had been violated, and to protect the right of cross-examination and confrontation. Since the Civil Rights Commission had not "timely informed" the prospective witnesses of "the matters of fact and law" that would be involved in the hearings, a restraining order was issued. Thus ended the attempts of the Federal Civil Rights Commission to hold public hearings in the South on violations of voting rights.

On March 5 and 6, 1959, the commission held a conference in Nashville,

10 *In re Wallace, et al.*, 170 F. Supp. 63.
11 *Larche* v. *Hannah*, 176 F. Supp. 791.

Tennessee, of officials of school systems that had undergone partial or complete desegregation since the Supreme Court's 1954 decision. Its purpose was to compare experiences and exchange information about plans and techniques in states that had taken steps to desegregate their public school systems. Some conclusions reached by the commission as a result of its independent studies and the Nashville conference were these:

1. The ease of adjustment of a school system to desegregation is influenced by many factors, including the relative size and location of the white and Negro population, the extent to which the Negro children are culturally handicapped, segregation practices in other areas of community life, the presence or absence of democratic participation in the planning of the program used or preparation of the community for its acceptance, and the character of the leadership in the community and State.

2. Many factors must be considered and weighed in determining what constitutes a prompt and reasonable start toward full compliance and the means by which and the rate at which desegregation should be accomplished.

3. Desegregation by court order has been notably more difficult than desegregation by voluntary action wherein the method and timing have been locally determined.

4. Many school districts in attempting to evolve a desegregation plan have had no established and qualified source to turn to for information and advice. Furthermore, many of these districts have been confused and frustrated by apparent inconsistencies in decisions of lower Federal courts.

The Civil Rights Commission held public hearings on discrimination in housing in New York City on February 2 and 3, 1959; in Atlanta, Georgia, on April 10, 1959, and in Chicago, Illinois, on May 5 and 6, 1959.

There was general recognition at the New York hearings that discrimination in housing affected non-whites primarily, but there was also testimony by Jewish spokesmen that in many large cities, and in their suburbs as well, there was discrimination against Jews too. The report of the commission commented that while no one attempted to "equate this housing discrimination against Jews with the far more widespread and pressing problem facing Negro Americans," nevertheless "its persistence, despite the educational, cultural, and economic attainments of the Jews involved, is sombre warning that the fears and prejudices at the bottom of discrimination in housing are indeed difficult to fathom and to uproot."

The commission also met in executive session in Washington on June 10, 1959, with Norman P. Mason, administrator of the Housing and Home Finance Agency, and with spokesmen for the other Federal agencies and departments with housing responsibilities and programs.

Report of the Commission

On September 9, 1959, the Federal Civil Rights Commission submitted its report. The following were adopted by either unanimous or majority vote of the commission as "recommendations":

VOTING

1. The Bureau of the Census should be authorized and directed to undertake "a nationwide and territorial compilation of registration and voting statistics which shall include a count of individuals by race, color, and national origin who are registered, and a determination of the extent to which such individuals have voted since the prior decennial census."

2. The Congress should require that all state registration and voting records be deemed "public records," be preserved for a period of five years, and be subject to public inspection, "providing only that all care be taken to preserve the secrecy of the ballot."

3. The Congress should amend the Civil Rights Act of 1957 to prohibit any person, under color of state law, from depriving any individual or group of individuals, without legal justification, of the opportunity to register, vote, and have that vote counted at general, special, or primary elections for Federal officials.

4. The Federal Civil Rights Commission should be empowered to apply directly to Federal district courts for orders enforcing subpoenas issued by the commission for attendance and testimony of witnesses or for the production of records.

5. Upon receipt of nine or more sworn complaints that people are not being permitted to register by the duly constituted state registration officials, the president should refer the matter to a commission (the Civil Rights Commission, if still in existence) for investigation and report. If the facts were as alleged, the president should designate a Federal officer or employee in the area to act as "temporary registrar," administer the state qualification laws, and issue registration certificates to those found qualified to vote for Federal officials. Such temporary Federal registration officials should continue to serve until the president determined that they were no longer needed.

EDUCATION

1. The Civil Rights Commission (if its life were extended) should be authorized to serve as a clearing house "to collect and make available to States and to local communities information concerning programs and procedures used by school districts to comply with the Supreme Court mandate, either voluntarily or by court order, including data as to the known effects of the programs on the quality of education and the cost thereof." The commission should also be authorized to establish an advisory and conciliation service to assist local school officials in developing plans designed to meet "constitutional requirements and local conditions."

2. The office of education of the Department of Health, Education and Welfare, in cooperation with the Bureau of the Census, should conduct an annual school census in the states, the school districts, and individual institutions of higher education to determine the number and race of all students enrolled in public educational institutions in the United States.

HOUSING

1. Appropriate biracial committees or commissions on housing should be established in all cities and states with substantial non-white populations to

study racial problems in housing, receive and investigate complaints of discrimination, attempt to resolve issues through mediation and conciliation, and make recommendations for further local legislation to safeguard equal opportunity.

2. The president should order all Federal agencies to aim by their policies and practices at achieving the constitutionally required objective of equality of opportunity in all Federally-aided housing.

3. The administrator of the Housing and Home Finance Agency should give high priority to directing the policies and operations of his constituent agencies toward providing equality of opportunity.

4. The Federal Housing Administration and the Veterans Administration should require home builders subject to state or city laws prohibiting discrimination in government-aided housing to affirm in writing their intention to abide by such laws. FHA and VA should establish their own fact-finding machinery to uncover violations of such laws and should withdraw all Federal aid from homebuilders not in compliance with the local statutes.

5. The Public Housing Administration should "take affirmative action to encourage the selection of sites on open land in good areas outside the present centers of racial concentrations. PHA should put the local housing authorities on notice that their proposals will be evaluated in this light."

6. The Urban Renewal Administration should take "positive steps to assure that in the preparation of overall community 'workable programs' for urban renewal, spokesmen for minority groups are in fact included among the citizens whose participation is required."

Besides the "recommendations," the report contained "proposals" by Chairman John A. Hannah and by Theodore M. Hesburgh and George M. Johnson going beyond the suggestions incorporated in the recommendations. It also included "statements" by Robert G. Storey, John S. Battle, and Doyle E. Carlton which expressed strong reservations about some of the suggestions advanced by the other members.

Although the report and the members of the Civil Rights Commission were attacked vigorously by southern members of Congress as soon as the report was made public, the life of the commission was extended to November 9, 1961, by an amendment to the Mutual Security Appropriation Act which passed both houses of the Congress on September 14, 1959.

Pending Litigation Involving the Civil Rights Act

Two important Federal cases remained for appellate decision as a result of the activities of the attorney general under the Civil Rights Act of 1957. One, an action brought against the state of Alabama, the Macon County Board of Registrars, and the members of the board as individuals for illegally depriving Negroes of their right to vote, was dismissed on March 6, 1959, by Federal district-court Judge Frank M. Johnson, Jr., on the ground that the Civil Rights Act did not expressly authorize the United States to bring an action against a state. Since the individual members of the board of registrars had resigned, there was no defendant left to sue.[12]

12 *United States* v. *State of Alabama, et al.*, 171 F. Supp. 720.

The second case arose out of a suit by the United States against the registrars of Terrell county, Georgia, for the same offense against Negroes in that area. Federal district-court Judge T. Hoyt Davis on April 16, 1959, dismissed the action and held that the Civil Rights Act of 1957 was unconstitutional. On the theory that the 14th amendment prohibited "state action" while the Civil Rights Act did not expressly limit the persons against whom the attorney general may seek an injunction to state officials, the court held the act unconstitutional notwithstanding the fact that the defendants in this case were state officers.[13]

Both cases were being appealed by the Department of Justice at the time of writing.

THEODORE LESKES

CHURCH-STATE ISSUES

IN the period under review (July 1, 1958, to June 30, 1959) the public school remained a focus of church-state controversy, with such perennial problems as released time, prayer, tax support for church-related institutions, garbed nuns as public-school teachers, and the use of school premises by religious groups. Christmas observance was somewhat less troublesome than in recent years.

Other church-state problems included the Sunday-closing laws, which received their first test in the Federal courts; "humane slaughter" legislation, which was adopted in five states, and religious symbols on public property.

An attempt to introduce mixed seating in an Orthodox synagogue evoked a significant court ruling. And rumblings of possible religious controversy in the next presidential election were seen in a church-state pronouncement by a prominent Catholic aspirant.

Public Schools

CHRISTMAS OBSERVANCE

On December 16, 1958, New York Supreme Court Justice Elbert T. Gallagher dismissed a suit brought by 28 residents of the Ossining school district who had alleged that the erection of a Nativity scene on the lawn of the public high school violated Federal and state constitutional provisions (AJYB, 1959 [Vol. 60], p. 35). The court granted that the crèche was "undoubtedly a religious symbol," but found that since the display would not appear on school property while school was in session, it could not constitute "teaching" a sectarian religion. (Neither the application of the crèche committee nor the resolution of the school board had limited the period during which the crèche could appear on the school lawn. It was only with the institution of the suit that the committee agreed to limit the display to the time

13 *United States* v. *Raines, et al.*, 172 F. Supp. 552.

school was in recess.) Immediately following the court's decision the board of education again granted permission to place the Nativity scene on the school grounds. The display was erected after school had recessed for the winter holiday.

The school trustees of Levittown, Long Island, touched off an acrimonious dispute when they refused to permit the display of a Nativity scene in a public school. One byproduct of the controversy was the distribution of anonymous hate literature which attempted to link school officials with Communism (Long Island *Newsday,* December 17, 1958). A leaflet was also distributed calling on taxpayers to defend the "birthright of every Christian child to be free to celebrate Christmas to the fullest, in his church, in his home, in his school and in his community. Where the child goes, goes his religion."

In New Hyde Park, Long Island, controversy over Christmas in the schools took an unusual turn when the school board adopted a policy forbidding the discussion of Hanukkah in the schools if it interfered with Christmas. When Rabbi Andrew Robins of Temple Emanuel protested against a "brazen and disgraceful insult to our religion" (*Newsday,* November 26, 1958), school-board president Frank E. Picciano hastened to assure the Jewish community that the board had never intended to adopt a policy forbidding classroom discussion of the Jewish festival during the Christmas season and that the misunderstanding was due to "an unfortunate choice of words" (*New York Times,* November 29, 1958).

In Northport, Long Island, a controversy began when a Christmas play was canceled in an elementary school because it contained the Nativity scene. Pressure was at once brought on the school board to reverse the decision. Rather than succumb to demand for immediate action, the board asked clergymen, presidents of parent-teacher associations, and other community leaders to serve as an advisory committee, and asked for the advice of the state education department. After nearly two months of deliberation, the more than 35 members of the advisory committee presented recommendations which the board adopted with only slight modifications. Among these were included the suggestions that "Nativity plays chosen for presentation in school programs shall be selected with care so as to avoid sectarian or doctrinal content . . ." and that "living tableaux, in association with music, depicting scenes such as the stable in Bethlehem, three kings, and the adoration of the Magi, shall not be prohibited . . ." (Northport *Observer,* April 30, 1959). In the ensuing school-board election, the religion of the candidates became an important issue.

In Norwalk, Connecticut, Superintendent of Schools Harry A. Becker averted what might have become a source of serious community conflict by rescinding a ban on religious plays during the Christmas season in one of his schools. The principal had ordered the ban when several parents had raised questions about their propriety. Becker advised his staff "to go on as in the past in the observance of holidays." He added that "the public schools have always operated on the basis that it is the function of our schools to educate all pupils and to promote understanding and appreciation of others. Programs and courses of study which promote these objectives are not only permitted but encouraged" (*Religious News Service,* November 12, 1958).

The controversy over Christmas observances in Valley Stream, Long Island (AJYB, 1959 [Vol. 60], p. 35), was resolved on September 30, 1958, by the school board's adoption of a comprehensive statement of policy for the guidance of teachers and administrators. It provided that, in order to facilitate observance of the Christmas season in a manner that "gives satisfaction to those who wish to observe it without intruding on the religious freedom of others," the observance should recognize the "religious significance of the occasion" but should not "be used to introduce in the public schools the teaching of religious tenets. . . ." The teacher had "to respect the religious rights of every child . . ." and school activities must not "lead to segregating children of different beliefs." The teacher must exercise great discretion, because "choice with regard to participation in any school group is not a free one." Freedom of choice, the statement added, is circumscribed by the child's desire to be part of the group, not to offend the teacher, and to avoid being conspicuous. Wider latitude was allowed to assembly than to classroom programs.

Released Time

In the spring of 1958 Elizabeth D. Hughes, wife of a Unitarian minister, charged in a law suit in Miami county, Ohio, that religious classes were being held weekly during regular school hours in the third and fourth grades of the public school attended by her daughter. She asked the court to issue a permanent injunction restraining the school board from continuing such classes. County Prosecutor James H. DeWeese, as counsel for the board, advised the school authorities to continue the religious classes pending the outcome of the litigation. It was his opinion that no Ohio or United States Supreme Court decision clearly established the illegality of religious classes on public-school premises during regular school hours (Dayton *Journal Herald,* April 1, 1959). (Supreme Court Justice William O. Douglas has said: ". . . *McCollum* v. *Board of Education* . . . involved a 'released time' program from Illinois. In that case the classrooms were turned over to the religious instructors. We accordingly held that the program violated the First Amendment which [by reason of the Fourteenth Amendment] prohibits the states from establishing religion or prohibiting its free exercise" [*Zorach* v. *Clauson,* 343 U. S. 306, 1951].)

On July 1, 1958, a bill to permit released-time religious instruction was defeated in the Wisconsin legislature. A separate bill to allow dismissed time was given first approval, but later in the month it was defeated in the senate. The released-time bill would have allowed pupils to be released at any hour during the school day, while still under the control of school officials; the dismissed-time bill would allow the release of children an hour before the end of the school day, with no further control of the pupils. State Attorney General John E. Reynolds, responding to the legislature's request for a formal opinion on the constitutionality of the measure, expressed "grave doubt as to the validity [under the Wisconsin constitution] of any released-time plan that makes use of a pupil's school time, whether off or on the school property, and which makes use of school regulations to facilitate attendance for religious instruction."

In March 1959, for the fourth time in recent years, the New Hampshire legislature defeated a released-time bill. State Education Commissioner Charles F. Ritch, Jr., opposed it on the ground that the public schools could not spare the hours for released-time religious instruction. State Representative John Pillsburg of Manchester, one of the sponsors of the bill, noting that the law allowed pupils time off for music instruction, said: "We're just trying to tell you professional educators that religion is just as important as trumpet playing" (Lawrence, Mass., *Tribune,* February 19, 1959).

Moral and Spiritual Values

The Chicago Parent-Teacher Association went on record in opposition to the policy statement issued in February 1958 by the Church Federation of Greater Chicago (AJYB, 1959 [Vol. 60], p. 36). The federation had contended that "reproducing moral and spiritual values from generation to generation will not likely be successful without the motivation of a deep and abiding faith in God." The association took issue, stating that the "validity of this assumption is questionable and could be disproved by segments of our citizenry who lead entirely secular lives, completely moral and ethical." It went on to say that "no public school system should be used to aid any or all religious faiths or sects in the dissemination of their doctrine . . ." and that "moral and ethical values can be taught by explanation, experience and example, as is now the case, without a religious approach." The Rev. John W. Harms, executive vice-president of the federation, said that the association's action "was probably taken on the basis of a misunderstanding of what the federation really advocates." He said that his group "contends that a policy of so-called neutralism or silence about God in education is actually partisanship and has the effect of denying religion's importance in life" (*Religious News Service,* January 29, 1959).

Prayer

A controversy over the use of the Lord's Prayer in a Long Island public-school system was settled by agreement between a rabbi and a priest—Rabbi Abraham Vossen Goodman of Temple Sinai, Woodmere, and the Rev. William Galloway, pastor of Our Lady of Good Counsel Roman Catholic Church, Inwood. In a joint statement they expressed their opposition to sectarian prayers in the public schools, but said that they would not oppose the fourth stanza of "America" or the prayer recommended by the New York State Board of Regents in 1951.[1] In April 1959 the school board discontinued the recitation of the Lord's Prayer in favor of the clergymen's recommendation.

In another Long Island community, the prayer recommended by the Regents precipitated a law suit. In Herrick, early in 1959, a suit was instituted by five residents of the school district to test the constitutionality of the practice. The school board asked for dismissal of the suit, saying that the children were not compelled to say the prayer. The New York Civil Liberties Union,

[1] The fourth stanza of "America" reads: "Our fathers' God to Thee,/Author of Liberty,/To Thee we sing;/Long may our land be bright/With freedom's holy light:/Protect us by Thy might;/Great God our King." The Regents' prayer is as follows: "Almighty God, we acknowledge our dependence on Thee and we beg Thy blessings upon us, our parents, our teachers and our country."

which supported the action, contended that prayer was "the essence of religion and man's only way to communicate with God." On August 24 New York Supreme Court Justice Bernard S. Meyer held that the Regents' prayer did not violate state or Federal constitutional provisions. However, he required the school board to explain that students were free to participate in the exercise or withdraw, and that their parents were to be advised that such a choice was available. He also forbade the schools to comment on student participation or nonparticipation.

Use of School Premises by Religious Groups

Early in 1959 Catholic Bishop Christopher J. Weldon shut down as unsafe an 85-year-old parochial school in Holyoke, Massachusetts. When permission was granted by Mayor Samuel Resnic for the temporary use of available public-school facilities to those parochial-school children who could not be accommodated in other diocesan buildings, there was a sharp protest from the Massachusetts Civil Liberties Union. Its spokesman, the Rev. Gardiner M. Day, rector of Christ Episcopal Church of Cambridge, Massachusetts, said: "It is clear to us that providing housing for a church private school without charge is a violation of the Federal and Massachusetts constitutions" (*New York Times,* February 14, 1959). Mayor Resnic admitted that there might be a technical violation of law, but said: "I'd do it again. We're just observing Brotherhood Week—and how better?" (Boston *Morning Globe,* February 14, 1959).

Tax Funds for Parochial Schools

There were national, state, and local developments stemming from this issue.

On May 4, 1959, in a letter to Senator James E. Murray, chairman of the Senate subcommittee on education, Archbishop Albert G. Meyer of Chicago, chairman of the National Catholic Welfare Conference department of education, urged that all "temporary Federal aid to education" should be fair to parents of children attending nonpublic schools. The archbishop distinguished between temporary and permanent Federal aid: "There is an essential difference between the idea of support and of aid; support is permanent, aid is temporary. Any bill considered by the Senate should carefully distinguish between these choices. Otherwise a bill authorizing a permanent Federal subsidy might well carry in its wake Federal control and permanence which all agree would be harmful to education." Accordingly, Archbishop Meyer supported long-term, low-interest loans for school construction, which he said should include private, nonprofit institutions, adding that "private and public education are partners on the American educational scene and their welfare should be advanced simultaneously. . . ." He opposed a subsidy of teachers' salaries as a "permanent Federal aid to education," which therefore, "as a practical matter, is inherently non-terminable" (*Religious News Service,* May 11, 1959).

On November 4, 1958, in California, a referendum that sought to reinstate a property tax on private, including parochial, schools failed of adoption by an overwhelming vote. The proposal, put on the ballot after some 350,000

qualifying signatures had been collected, would have made California the only state to tax church-related schools. Organizations backing reinstatement of the property tax included Protestants and Other Americans United for Separation of Church and State, the San Francisco Masonic Grand Lodge, the Northern California-Nevada Methodist Conference, and the San Francisco Presbytery of the Presbyterian church. Opponents included the Roman Catholic church, the California diocese of the Episcopal church, a number of Lutheran bodies, the Seventh-Day Adventist church, and the Citizens United Committee Against Taxing Schools. This latter committee included some of the leading rabbis and Jewish laymen in California. Both sides used extensive newspaper and radio advertising as well as billboards and mass meetings to present their views. (A bill providing for tax exemption for private and parochial schools had been passed by the California legislature, signed by the governor in 1951, and approved by referendum in 1952).

In March 1959 a group of ministers and other leaders of four Protestant denominations initiated a suit charging that tax funds were used to operate St. Mary's school in Bremond, Texas. St. Mary's had been owned and operated by the parish until 12 years earlier, after which it had been leased to the public-school district for $1 a year and became a public-school unit. It was alleged that St. Mary's was, in fact, a Catholic parochial school, and that the complainants were being "forced to pay taxes for the support of the Catholic church." Among the constitutional violations charged were that tax money was used to provide free textbooks and bus transportation for pupils at St. Mary's; that the school was under the control and supervision of a Catholic church; that a cross was exhibited above the school building; that religious training and indoctrination of a sectarian character were carried on in the school; that teaching nuns wore ecclesiastical garb, and that sectarian books and religious articles were present. School Superintendent J. W. Baker said that he and the school board had agreed to leave crucifixes and religious pictures on the walls because the symbols were not teaching devices and were the property of the building's owners. He also said that the teaching nuns were certified by state educational authorities as public-school teachers, and were permitted to wear their traditional garb because he "could not tell them what they must wear" any more than he could tell any other teacher (*Religious News Service,* March 9, 1959). The case was scheduled to come to trial in the fall of 1959.

Bus Transportation

In May 1959 Maine's supreme court, in a 4-to-2 decision, held that the city council of Augusta had exceeded its authority when, in June 1957, it voted funds for bus transportation to parochial schools. However, the court suggested that a "properly worded enabling act" by the legislature could make such community appropriations constitutional (*Religious News Service,* May 25, 1959). The Augusta ordinance was passed after threats by Roman Catholic parents to transfer 900 children from parochial to public schools unless bus service were provided. The council then appropriated a token sum of $250 as the basis for a legal test (AJYB, 1959 [Vol. 60], p. 38).

On March 12, 1959, a congressional hearing heard a controversy over the

inclusion of private-school pupils in a proposed District of Columbia school-fare subsidy. The spokesman for the Jewish Community Council of Greater Washington, Sanford H. Bolz, said that a Federal subsidy for nonpublic schools would "open a Pandora's box" of sectarian controversy. He was challenged by Rep. Abraham J. Multer (Dem., N. Y.), who saw no valid distinction between private and parochial pupils in tax-supported, cut-rate fares, or school transportation generally. Also appearing in opposition to the grant were C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs, Melvin Adams, associate secretary of the Religious Liberty Association (Seventh Day Adventists), and C. Stanley Lowell, associate director of Protestants and Other Americans United for Separation of Church and State. The House subcommittee later unanimously voted to table the legislation. When the vote was taken Multer was absent because of illness.

Garbed Nuns as Public-School Teachers

In November 1958 a ruling by Ohio's Attorney General William Saxbe, permitting garbed nuns to teach in the public schools provided they did not engage in religious instruction, touched off an acrimonious debate. The Greater Cleveland Ministerial Association asked the state board of education to remove nuns in religious garb from teaching positions in public schools, and there were sermons to the same effect in Protestant churches. Howard Dyer, president of the Watertown school board in rural Washington county, where the four garbed nuns directly affected by the controversy comprised the teaching staff, defended their employment: "There is nothing to indicate this is a parochial school except the nuns' attire," he said, and he insisted that no religious instruction was given during school hours. Herbert A. Rosenthal, chairman of the community-relations committee of the Jewish Community Federation of Cleveland, said in a letter to the *Plain Dealer* (December 8, 1958) that the Attorney General's ruling was

> an unfortunate step in the direction of weakening the noble American tradition of separation. We do not, however, believe that this situation reflects the only or the most important violation by religious groups of that tradition in our state. We believe that it would be more constructive for those who are disturbed by the ruling to ask for review of the entire situation in order that public schools can be freed from unfortunate—and in our view—unconstitutional intrusions by any religious faith.

Sunday Closing Laws

The Sunday law was again a controversial issue in the courts, several of the legislatures, and many communities across the country. On one side were merchants in suburban shopping centers who demanded freedom from the restraints of the closing laws, and on the other was a combination of forces made up of some Christian clergymen and religious bodies, city merchants, and labor unions which insisted upon strict enforcement and even more stringent statutes. It appeared quite likely that the "blue laws" were headed for a constitutional test in the United States Supreme Court.

The closing laws were acted on for the first time by a Federal court—by a

panel of three judges—in the case of *Crown Kosher Super Market* v. *Gallagher* (May 18, 1959; 176 f. supp. 466). Chief counsel for the plaintiffs was Herbert B. Ehrmann. In a 2-to-1 decision the court held that the Massachusetts Lord's Day Act violated the Federal constitution because it discriminated against Saturday observers. The majority stated: "What Massachusetts has done in this statute is to furnish special protection to the dominant Christian sects which celebrate Sunday as the Lord's day, without furnishing such protection, in their religious observances, to those Christian sects and to Orthodox and Conservative Jews who observe Saturday as the Sabbath, and to the prejudice of the latter group." Noting that the legislature had amended the law from time to time to exclude specific activities from its scope, thus "apparently yielding to various pressure groups," the court termed these exceptions an "almost unbelievable hodgepodge" of inconsistencies. The Catholic Boston *Pilot* (May 23, 1959) attacked the decision as a "mocking plea for religious liberty." It urged "religious Christians" to see to it "that the day of rest established by law is not so debased as to discourage Christian worship and to distract from Christian observance," the decision in question being characterized as "just such a debasement." Since lower-court decisions are subject to at least one review, and since decisions by three-judge Federal panels are reviewable only by the United States Supreme Court, it was a virtual certainty that a final test of the constitutionality of the closing laws was at hand.

In December 1958 the Supreme Court refused to review appeals from two Ohio Sunday-law convictions "for want of a substantial Federal question." The appeals were filed by Coleman Ullman of Hamilton and William Kidd of Cincinnati, convicted of unlawfully operating supermarkets on Sunday (AJYB, 1959 [Vol. 60], pp. 40-41).

In July 1958 Connecticut's Supreme Court of Errors refused to set aside a conviction for the sale of candles on Sunday. Van Cleve Shuster, owner of a china-and-glass store, argued that the statute was discriminatory because it prohibited the sale of candles but permitted the sale of antiques. The court was satisfied that the state was not guilty of an invalid exercise of the police power, since ". . . the recreational and cultural aspects of Sunday are being furthered by permitting such articles [antiques] to be displayed or sold on that day" and ruled that the operation of the statute "rests upon fair distinctions" (Brooklyn *Tablet,* July 26, 1958).

The appellate division of the New York State Supreme Court held by a 3-to-2 vote that the operation of a self-service laundry on Sunday was illegal (*Religious News Service,* June 16, 1959). Shortly thereafter, however, the same bench found no violation of law when a patron operated a machine in a self-service laundry on Sunday. The court said that "slovenliness is no part of any religion, nor is it conducive to rest. Scripture commends cleanliness" (New York *World Telegram & Sun,* June 22, 1959).

New Jersey's Sunday-closing law, enacted in May 1958 (AJYB, 1959 [Vol. 60], p. 41), was declared unconstitutional by Superior Court Judge Everett M. Scherer. The court found that the exclusion of Atlantic, Cape May, and Ocean counties from the provision of the law was arbitrary and discriminatory (Newark *Evening News,* May 8, 1959). In June 1959 Governor Robert B. Meyner signed a bill to remedy this defect in the law, permitting counties to

hold referendums to close highway discount houses and similar stores on Sunday. Twenty-five hundred signatures were required in each county in order to get the question on the ballot. The new law did not contain exemption provisions for Saturday observers.

In July 1959 the Ohio legislature revised its Sunday laws by eliminating a number of antiquated provisions and by codifying and clarifying the law to make explicit exemptions for public transportation, recreation, sports, state and county fairs, and public parks. The law retained the exemption for Saturday observers. The revision of the law followed considerable agitation in many Ohio communities. For example, in Cincinnati city officials were charged with "discriminatory enforcement . . . in favor of certain businesses . . . to the detriment of others" (Cincinnati *Inquirer,* April 2, 1959). Finally, in June Oris E. Hamilton, the city's safety director, called a halt to police enforcement of the blue laws, influenced by the criticism of municipal-court judges and their reluctance to punish violators effectively.

In February 1959 Governor George D. Clyde of Utah vetoed a Sunday-closing law because of "possible economic and moral issues involved," stating that Sunday closing would force some minority groups to work only five days a week while competitors worked six. He also questioned whether Sunday employment prevented church attendance.

In December 1958 a measure supported by the Greater Miami Ministerial Association and the Miami Council of Churches, imposing fines and jail sentences for the Sunday operation of businesses, was voted down by the Metropolitan Commission, the city's governing body. In support of the ordinance, church groups had presented the commission with petitions bearing more than 12,000 signatures.

In Pontiac, Michigan, the ministerial association circulated petitions in February 1959 to get a proposal on the ballot shutting taverns all day on Sunday, instead of permitting them to open, as theretofore, at 2 P.M., but it failed to obtain enough signatures. An association of bar owners circulated a counter-petition to open bars at noon, and their effort was successful.

Humane-slaughter Legislation

The revised version of the humane-slaughter law, signed by President Eisenhower in the summer of 1958, charged the secretary of agriculture with the task of conducting a two-year study of humane methods of slaughtering animals for food (AJYB, 1959 [Vol. 60], p. 43). Rabbi Joseph B. Soloveichik, of Roxbury, Massachusetts, was on the 12-member committee appointed by the secretary. The adoption of the Federal legislation was followed by the introduction of humane-slaughter measures in 16 states—California, Colorado, Connecticut, Florida, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Tennessee, Washington, and Wisconsin. Five of the states—California, Minnesota, New Hampshire, Washington, and Wisconsin—adopted such laws, which followed rather closely the general intent of the Federal legislation.

Some Jewish organizations were apprehensive about possible adverse public-relations consequences of legislation affecting the handling of animals before slaughter, fearing that the exemption of kosher slaughtering from the "hu-

mane" provisions of the law might be seen as creating a double standard, which could in time endanger *shehitah* itself. They also recognized that additional state legislation was inevitable. Accordingly, under the joint sponsorship of the Synagogue Council of America and the National Community Relations Advisory Council, a study was launched in November 1959 to seek out improved methods of handling animals before *shehitah*. The inquiry was to be conducted by the Armour Research Foundation of the Illinois Institute of Technology under the general direction of Rabbi Soloveichik. The coordinator of the research program was Rabbi Emanuel Holzer of the Rabbinical Council of America.

Religious Symbols on Public Property

In November 1958 the Eagles Lodge of Portland, Oregon, offered the city council a gift of a granite pillar of the Ten Commandments. Parks Commissioner Ormond R. Bean recommended that the council accept the gift and place it in the city's Plaza Block. Rabbi Julius J. Nodel of Temple Beth Israel objected that "the Ten Commandments, God's Law, need no endorsement by any governmental body and engraving them on granite monuments throughout the nation will achieve no good purpose. The Ten Commandments, to be effective, must be engraved in our hearts." After a meeting with religious leaders, Mayor Terry Schrunk recommended that the city council decline the stone monolith. Finally the Eagles withdrew their offer, and considered the possibility of placement with a private group.

Ground was broken for the International Synagogue and Jewish Center at New York's Idlewild Airport (p. 60). This project, sponsored by the New York Board of Rabbis, was to be completed by the end of 1960. Senator Jacob K. Javits, speaking at the ceremony, said that the synagogue would be a "symbol to the world" of religious freedom, particularly when seen near the Our Lady of the Skies Roman Catholic Chapel and a planned Protestant chapel. (Idlewild Airport was owned by New York City and operated under a long-term lease by the Port of New York Authority, a public corporation established by the states of New York and New Jersey.)

In March 1959, at the Easter season, a 25-foot illuminated cross, visible for miles by land and sea, was placed on a rise in the Fort Hamilton military installation overlooking New York harbor. Colonel John K. Daly, the post commander, unveiled the cross. Lieutenant Colonel Ernest E. Northern, Jr., the post chaplain, said that it "has a special significance as a guiding and spiritual light for members of the armed forces and their families who . . . are uprooted from their homes in the States . . ." (*New York Times,* March 12, 1959).

Mixed Seating in the Synagogue

On June 5, 1959, the Michigan Supreme Court held that a minority in an Orthodox Jewish congregation could not be overruled in a matter as basic as the separate seating of women. The controversy had begun several years earlier, with agitation for mixed seating among members of Congregation Beth Tefilas Moses, an Orthodox synagogue in Mt. Clemens, Michigan. When

the majority of the congregation moved to carry out the proposal, Meyer Davis, Sam Schwartz, and Baruch Litvin, three members of the minority faction, filed an action for an injunction to restrain the majority. At the trial it had been testified that an Orthodox Jew could not worship in a synagogue where there was mixed seating. The defendants had contended that the court was without jurisdiction to adjudicate the dispute because it dealt with doctrinal and ecclesiastical matters, not property rights, and the court sustained the defendants' position. The Michigan supreme court reversed the decision, affirming that the minority had been deprived of their property rights by the majority's action: "The weight of authority in Michigan is to the effect that the majority faction of a local congregation or society . . . may not, as against a faithful minority, divert the property . . . to the support of doctrines fundamentally opposed to the characteristic doctrines of the society. . . ." The court found that "plaintiffs would be deprived of their right to the use of their synagogue because as Orthodox Jews they would be prohibited from participation in services where there is mixed seating—in other words, deprived of their use of their property . . . by the majority group contrary to law" (356 Mich. 291, 97 NW 2nd, 1959).

An earlier case of mixed seating, *Katz* v. *Congregation Chevra Thilim* (July 29, 1957), resulted in a permanent injunction against the practice by the civil district court for the parish of New Orleans. An appeal to the Louisiana Supreme Court was pending.

Church Attendance as Condition of Parole

San Francisco Municipal Court Judge Andrew Jackson Eyman ordered that as a condition for two years' probation, 17-year-old William J. Korpa, who had pleaded guilty to a charge of battery, consult a priest, attend church every Sunday for two years, and be confirmed. Ernest Besig, Northern California director of the Civil Liberties Union, protested that "the state . . . has no right to require support or adherence to any faith as a condition of staying out of jail" (San Francisco *Chronicle,* July 17, 1959). In reply, Judge Eyman stated: "I have done this several times in the past and I intend to continue. . . ." The *Chronicle* (July 20, 1959) observed in an editorial that the judge's conditions for probation were "out of line." It added: "Advising a youngster in trouble to go to church is something else, and may be a very good thing for him. But if Judge Eyman can require this youngster to go to his own church, what is to prevent another judge from requiring another man to go to the judge's, not the defendant's church, or requiring atheists to go to church?"

Atheist Barred from Public Office

Roy R. Torcaso of Wheaton, Maryland, was appointed a notary public but denied his commission by county officials because he refused to express a belief in the Deity. "I would be making a false statement if I did say that I believed in God," said Torcaso. Appealing to Governor J. Millard Tawes, he contended that the denial of his commission violated constitutional guarantees of religious freedom and church-state separation. Governor Tawes referred

the matter to the attorney general for an opinion. In July 1959 Deputy Attorney General Stedinan Prescott, Jr., ruled that a declaration of belief in God was not an oath of office and was required of public officials in Maryland. His ruling cited a passage from the Maryland Declaration of Rights that "no religious test ought ever to be required as a qualification for any office of profit or trust . . . other than a declaration of belief in the existence of God."

Senator John F. Kennedy on Separation

A preview of the place that religion might have in the presidential election if one of the candidates were a Catholic was provided by the publication of Fletcher Knebel's "Democratic Forecast: A Catholic in 1960" in *Look* magazine (March 3, 1959). Catholics reacted vigorously to the views attributed to Senator Kennedy (Dem., Mass.), who was quoted as saying: "I believe as a Senator that the separation of church and state is fundamental to our American concept and heritage and should remain so. . . . The First Amendment to the Constitution is an infinitely wise one. There can be no question of Federal funds being used for support of parochial or private schools. . . ." These remarks were prefaced with the statement that "whatever one's religion in his private life may be, for the officeholder nothing takes precedence over his oath to uphold the Constitution and all its parts—including the First Amendment and the strict separation of church and state."

The Jesuit magazine *America* (March 7, 1959) took issue with the last remark: "Mr. Kennedy doesn't really believe that. No religious man, be he Catholic, Protestant or Jew, holds such an opinion. A man's conscience has a bearing on his public as well as his private life." The liberal *Commonweal* (March 6, 1959) joined a number of diocesan publications across the country in criticizing the Senator's statement on church-state relations: "Senator Kennedy should have made the elementary point that there is no 'Catholic position' on these matters, that they are not doctrinally religious questions at all, merely points of constitutional interpretation and practical judgment, on which Catholics are perfectly free to disagree and on which they often do disagree. The Senator's declaration that he believes in the separation of Church and State is similarly disquieting. Here again he gave the impression that this was a point at issue between Catholics and non-Catholics and that Catholics might be expected *not* to believe in it."

Christian Amendment

For more than a decade there had been offered in the House of Representatives the so-called Christian amendment to the constitution: "This nation devoutly recognizes the authority and law of Jesus Christ, Savior and Ruler of Nations, through whom are bestowed the blessings of Almighty God." Rep. Clifford McIntire (Rep., Me.) introduced a joint resolution proposing the amendment, and this time it was sponsored by seven members of the House of Representatives, the largest number ever to do so (*Religious News Service*, April 20, 1959).

PHILIP JACOBSON

ANTI-JEWISH AGITATION

CONCENTRATING especially on the publication and dissemination of leaflets, pamphlets, and periodicals, antisemitic propagandists and agitators maintained their operations at approximately the same level as that of the period previously reported (December 1, 1957, to November 30, 1958; AJYB, 1959 [Vol. 60], pp. 44-62). But in contrast, the year from December 1, 1958, to November 30, 1959, was notable for an abatement of violence involving destruction of property, jeopardy to life, and widespread fear, particularly in the South.

Though in the tradition of timeworn canards about "Jewish plots to rule the nation and the world," the themes exploited by agitators generally appeared in modern versions. Agitators variously portrayed Jews as conspiring with Communists to enslave the world, or to subvert and betray the United States; the United Nations was depicted as a sinister device for the attainment of such ends. Often these slanders were varied by depicting Soviet Russia and the Communists as mere tools and dupes of Jewish masters. Tensions over the desegregation of public schools in the South were exploited by charges that "the Jews and Communists" were striving to "mongrelize" the population as part of their plans to control the nation. Pro-Arab diatribes continued to be frequent, usually attacking Israel as the seat of "Jewish and Communist world power."

To attract the support of unwary ultraconservatives, hatemongers urged repeal of the income-tax amendment and abolition of welfare legislation. Assaults on projects to fluoridate drinking water and on proposals for legislation relating to mental health exploited the fears of those concerned with health problems.

During the period under review there was a tendency to revive and promote the *Protocols of the Elders of Zion,* "Talmud exposés," spurious reports of sinister conclaves of rabbis, forged letters of famous men of the past, and similar libels.

The South

The most effective propaganda tactics continued to be the exploitation of southern tensions over desegregation—an activity which kept pace with the region's mounting troubles with this problem ever since the Supreme Court's decisions of 1954 and 1955 against segregation in the public schools. The volume of hate literature continued to be large, especially in areas where desegregation moves were imminent. This literature was mainly produced in other parts of the country and exported to the South by mail and other means, where it was circulated by local distributors (who received bulk shipments), and by white-supremacy extremists, including the Ku Klux Klan and elements within the Citizens Council movement. General mailing lists were frequently used, though distribution by hand at meetings and demonstrations and surreptitious placement in public areas was also common. As in previous

years, the screeds of Frank L. Britton (Inglewood, Calif.), Conde McGinley (Union, N. J.) and Gerald L. K. Smith (Glendale, Calif.) were most prominent.

Aftermath of the Synagogue Bombings

The shock and community-wide fears generated by the five bombings and three attempted bombings of Jewish religious institutions between November 11, 1957, and October 12, 1958 (AJYB, 1959 [Vol. 60], pp. 44-47) died down by the early part of 1959. Though there were some reports of threats to Jewish persons and institutions during the period under review, no bombings ensued, nor was there the sort of nationwide flood of threats, warnings, and vicious hoaxes which had plagued communities during the preceding year, particularly after the bombing of The Temple in Atlanta on October 12, 1958. There was growing public recognition of the serious threat to law and order in general, as well as to the sanctity of houses of worship. On the day of the Atlanta bombing, President Eisenhower expressed his revulsion and informed the nation that he had requested the Federal Bureau of Investigation (FBI) to render all possible assistance to the Atlanta police.

Bright Trials

Law-enforcement authorities, a week after the Atlanta bombing, arrested George Michael Bright, Kenneth Chester Griffin, Wallace H. Allen, and Richard and Robert Bowling, all connected with the National States Rights party (NSRP) and associated fanatical racist groups. All were indicted on October 17, 1958. However, at the time of writing only one—Bright—had been brought to trial. The indictment against Robert Bowling was dismissed.

Bright's first trial ended in a hung jury on December 10, 1958, the reported vote having stood at 9 to 3 for conviction after three days of deliberation. Reindicted two weeks after the mistrial, Bright was again tried on the same charges, the prosecution foregoing insistence on the death penalty in the event of conviction. After brief deliberation, the jury returned a verdict of acquittal on January 23, 1959.

Principal witnesses for the prosecution at both trials were L. E. Rogers, an undercover worker for the FBI, and James DeVore, who had been in jail with Bright while he was awaiting his first trial. Rogers testified that he had attended small, intimate meetings of the NSRP in Atlanta, and described their discussions. DeVore testified that while in jail with Bright the latter had confided to him that he had acted as a lookout when the bomb was being placed. Bright denied this.

At the second trial the defense contended that Bright had spent the entire night of the bombing with a woman in her apartment. The woman corroborated this, stating that she and Bright had a mutual interest in watching for satellites.

At the trials the defense produced such character witnesses as Eldon L. Edwards, Imperial Wizard of the U.S. Klans, Knights of the Ku Klux Klan, and Arthur Cole, Matt Koehl, and Edward Fields, of Tennessee, Wisconsin, and Kentucky respectively, all leaders of the NSRP. Some witnesses used the

stand as a rostrum for speeches on "the Jewish conspiracy." In the first trial Bright, availing himself of the Georgia law which allows a defendant to make an unsworn statement, delivered a long racist tirade. At the second trial, however, he briefly stated that he did not hate the Jews or any other group.

At the time of writing it was doubtful that the defendants still under indictment would be brought to trial.

National States Rights Party

NSRP stepped up its propaganda activities and its attempts to become a clearinghouse of information for hatemongers. Edna Cowan, vice-chairman, of Jeffersonville, Ind., dubbed the defendants "The Atlanta Five," and in the March-April issue of NSRP's publication, *The Thunderbolt,* wrote that "the Atlanta case was a triumph of concerted effort by the NSRP, together with allied patriotic groups."

NSRP continued its efforts (begun during the summer of 1958) to promote "a grass-roots draft" of Rear Admiral John G. Crommelin (USN, ret.) for president on a third-party ticket in 1960. Its national committee met at Knoxville, Tenn., on April 11 to plan a "political offensive." NSRP boasted that it had already made headway with several small right-wing groups in support of the draft. Another feature of the NSRP line was an attack on the FBI and J. Edgar Hoover. By October, *The Thunderbolt,* bearing an emblem similar to that of the Hitler youth insigne, had improved its printing and format and had launched an "Equipment Fund Appeal" to convert the paper into a semimonthly and increase its circulation.

Ku Klux Klan

Though still divided into vying groups, the Klan gave signs of undiminished activity. There were public demonstrations, such as the rally on June 6, 1959, at Plant City, Fla., which included a free chicken dinner attended by 1,500; the rally at Stone Mountain, outside of Atlanta, Ga., on September 26, 1959, attended by approximately the same number, and the Klan parade of some 40 carloads of members outside of Birmingham on July 29, culminating in the burning of crosses in front of the church of a white congregation and two homes. In Alabama the Klan set up welcome signs alongside those of service and civic groups on Federal and state highways at the approaches to Montgomery, Birmingham, Tuscaloosa, Selma, Sylacauga, Gadsden, Bessemer, Prattville, Monroeville, and Heflin. When torn down, they were usually quickly replaced. In September 1959 crosses were burned in front of eleven of Birmingham's white schools, apparently to frighten Negroes away.

In June 1959 J. B. Stoner of Atlanta, long-time operator in the Christian Anti-Jewish party, and formerly a kleagle in Chattanooga, Tenn., came to Louisville and started the Christian Knights of the Ku Klux Klan. Stoner declared that membership in his Klan was open to Catholics. At the close of the period under review, he had made little progress and had all but abandoned his scheme.

The Arkansas Ku Klux Klan, started by A. C. Hightower, a Little Rock

barber, was also chartered in June. But its authority was quickly challenged by R. E. Davis of Dallas, Texas, who claimed jurisdiction over the region. Grand Dragon Hightower announced that his klan would "practice cross-burning," but when trouble began brewing in Little Rock over desegregation, he quickly resigned, on August 11, explaining that he did not want to be held legally responsible for the acts of klansmen over whom he had no control. J. R. English, an elderly accountant, became the group's legal resident agent, though denying that he himself was a member.

The largest group in the movement remained Eldon L. Edwards' U.S. Klans, Knights of the Ku Klux Klan, with headquarters at Atlanta, Ga. The smallest was the Aryan Knights of the Ku Klux Klan, the one-man operation of Horace Sherman Miller of Waco, Texas, who made up for lack of membership by the abundance and variety of photo-offset antisemitic and anti-Catholic leaflets published under his organizational imprint and circulated throughout the nation and abroad.

White Citizens Councils

Composed of autonomous local groups (generally calling themselves Citizens Councils), the WCCs continued to be active, though actual membership and participation appeared to rise and fall in response to the imminence of desegregation moves in any given area. Estimates of the total membership in the movement ranged between 300,000 and 500,000. As in previous years, individual units might be well within the bounds of respectability, or else they might be outright lunatic-fringe groups. The latter type capitalized on the distribution of antisemitic literature.

In October 1959 the antisemitic and pro-Klan *Georgia Tribune,* edited and published by "Parson Jack" Johnston at Columbus, Ga., announced that the Citizens Councils of Georgia was being formed, and that Johnston had been designated as its executive director. It was claimed that one unit had been formed at Atlanta, and that the organization's initial goal was a council in each of the state's ten congressional districts.

The fanatic Seaboard White Citizens Council continued to be active in the Washington, D.C., and northern Virginia area, despite the absence of its leader, Frederick John Kasper, who, on July 23, 1959, began serving a six-month sentence on a conviction arising out of the Clinton, Tenn., desegregation disturbances in 1956. This was the second sentence he served in this connection. After his scheduled release in December, another six-month sentence awaited him because of his part in the disorders during the 1957 school-desegregation crisis at Nashville, Tenn.

In September J. B. Stoner, failing to attract support in Louisville, Ky., for his new klan project, joined forces with Florida White Citizens Council leader Fred B. Hockett in an unsuccessful endeavor to mobilize opposition to the desegregation of the Orchard Villa school in Miami.

Little Rock

While the demonstration against the reintegration of Little Rock's Central high school on August 12, 1959, was quelled by effective police action, per-

sisting tensions were marked by three bombings within an hour on September 7 (see p. 17). Bombs blasted the school board's offices, the mayor's private business office, and the fire chief's car. Five men were arrested on September 10, charged with destroying public property with explosives. Among them was E. A. Lauderdale, Sr., a segregationist leader, who on November 28 was convicted after trial, the jury recommending a three-year jail term. Another defendant, J. D. Sims, pleaded guilty and was sentenced to five years; still another, Jesse Raymond Perry, was convicted on October 28, receiving a three-year sentence.

Antisemitic literature appeared during the tensions, and prominent among the items was "A Message to Little Rock" by Frank L. Britton, appealing to the people to "defeat this Jewish plot to mongrelize your schools."

John G. Crommelin

Running for mayor of Montgomery in the Alabama Democratic primaries against two other opponents on March 16, John G. Crommelin, an active antisemitic propagandist and distributor of the products of other hate-mongers, polled 1,760 votes out of a total of 17,330. His platform was found to have been mailed to localities in other states. Toward the beginning of this document was the following clause:

> Whereas, the key to segregation of the races and the ultimate survival of the Christian White Race is a thorough understanding by White Christian voters of the Communist-Jewish conspiracy. . . .

In the 1958 gubernatorial primaries Crommelin had run twelfth among 14 candidates, with 2,200 out of 618,000 votes, less than half of one per cent of the state-wide total. A year later, in the 1959 mayoralty primaries, he got ten per cent of the vote.

Crommelin's name was listed as a stockholder of the Christian Educational Association of Union, N. J., which publishes Conde McGinley's rabidly anti-semitic *Common Sense,* in that publication's sworn statement of ownership in its issue of October 1. A similar listing of Crommelin had appeared in the issue of November 1, 1957.

George Lincoln Rockwell

George Lincoln Rockwell conducted his Nazi-style propaganda operations at Arlington, Va., under the name of World Union of Free Enterprise National Socialists (WUFENS). For this activity he used the house and press purchased for him in 1958 by wealthy Nordic supremacist Harold Noel Arrowsmith, Jr., of Baltimore, Md. (AJYB, 1959 [Vol. 60], p. 47). As commander of WUFENS, Rockwell published a swastika-emblazoned program which declared that "Adolph Hitler was the gift of an inscrutable Providence to a world on the brink of a Jewish-Bolshevik catastrophe." Other points included proposals to establish "an International Jewish Control Authority" and the trial and execution of "all Jews proved to have taken part in Marxist or Zionist plots of treason. . . ." Meetings of small groups of uniformed

youth were frequently held at WUFENS headquarters, causing community friction. In April a display of Nazi symbols, visible from the outside of his house, attracted a demonstration of protest by the neighborhood's youths. Rockwell's aims in promoting his blatant variety of Nazism were described as follows during the summer in a fund-raising appeal bearing the name of Floyd Fleming:

> Commander Rockwell said. . . . "We'll aggravate them so bad . . . that they will lose their tempers as Jews always do in their arrogance and go too far in attacking us. We'll attack them! But we will do it legally and peacefully but so arrogantly that they will have to notice us and print something about us in their giant propaganda machinery. . . ."

Neo-Nazi Youth Activities

Indications of a trend on the part of some maladjusted teenagers to violent, Hitlerite expression appeared in widely separated parts of the country.

In April a group of high-school boys was found to be operating as a "Nazi Regime of America" in a suburb of Paterson, N. J. In May four Cleveland high-school students, members of a secret group, "Fourth Reich," were arrested. In June leaders of a "Nazism Club" in Visalia, Calif., were apprehended. Discovery of these groups—between whom no relationship was established—came in New Jersey as the result of investigation of a threatening letter; in Ohio because of crank calls and malicious mischief; and in California because of the theft of Nazi war mementoes from a private collection. In each of these situations the members used Nazi titles, slogans, insignia, and equipment. Some of them were reported to be highly intelligent. Virtually all of the leaders and activists were disciplined by the courts as juvenile delinquents. In all cases prompt action was taken by local school, county, and municipal law-enforcement authorities, who also received FBI cooperation.

In August, 18-year-old Richard V. Smith, Jr., living away from home and described by police as "an avid follower of the Nazi doctrines of Adolph Hitler," confessed to having set fire to a private art museum in Columbus, Ga., and to having painted swastikas on two synagogues in that city. He was sentenced to six to ten years for arson.

In October a "Nazi storm troop" of high-school youths at Alexandria, Va., was uncovered when police investigated the fire-bombing and antisemitic defacement of the home of that city's vice mayor and his wife, a juvenile-court judge, both non-Jews. Three boys, 14, 17, and 18 years old, were arrested. The youngest pleaded guilty to arson charges on October 14, while the other two, at the time of writing, were awaiting grand-jury action.

Pro-Arab Propaganda

Anti-Jewish activists maintained a volume of pro-Arab propaganda comparable to that of the preceding period, equating Communism with Zionism and in that context leveling conspiracy charges against American Jews and

Jewish groups. Fund-raising appeals for Israel were characterized as sinister; dual-loyalty charges were frequent, as were depictions of alleged Jewish cruelty toward the Arabs. A lead article in the January 15 issue of Conde McGinley's openly antisemitic *Common Sense* was ascribed to "Sami Hadawi, Assistant Director, The Palestine Refugee Office."

Economic and Social Issues

Mingling his bigotry with ultraconservative themes, Merwin K. Hart, president of the National Economic Council, in the March 15 issue of his *Economic Council Letter* "answered" columnist Joseph Alsop's denunciation of the Protocols as a forgery, stating:

> One would suppose that the important thing about the Protocols is not their possible lack of authenticity, but rather whether they are a prophecy as to something that is now being fulfilled. And most informed Americans would consider them a very accurate prophecy indeed.

Another of Hart's targets was the authenticity of *The Diary of Anne Frank* (issue of April 15).

The National Planning Conference, at its convention in Minneapolis on May 13, warned that organized hatemongers were playing on fears of Communism, integration and "one-world government" in efforts to defeat plans for consolidating obsolete governmental units into unified metropolitan systems. Cited by the NPC as furthering the campaign were, among others, Frederick John Kasper and Don Bell, an antisemitic publicist of Palm Beach, Fla. The latter's pamphlet, *Terrible 1313,* published in early 1959, contained reprints of issues of Upton Close's newsletter *Closer Up,* attacking the consolidation plans as a conspiracy of international bankers.

Periodicals

Hate literature was actively and widely published and distributed, to approximately the same extent as during the preceding period. That the quality of paper and printing in most instances was good and that such publications as *The Thunderbolt* and Elizabeth Dilling's *Bulletin* showed improvement indicated increased support. Leaders in volume and circulation continued to be Britton's slick-paper, multicolored *American Nationalist* and cheaply produced one-sheet leaflets, which were most in evidence in the South; Conde McGinley's *Common Sense* (Union, N.J.), which again (January 15) evoked the New Jersey Assembly's "abhorrence" of the publication and its editor, "who disseminate their scandalous and scurrilous literature throughout the country from this State, thereby bringing discredit to our great State"; and Gerald L. K. Smith's *Cross and the Flag,* as well as his advertising circulars, which were in themselves antisemitic sheets. Smith and McGinley advertised the largest stock of antisemitic items. The latter's list, headed "Patriotic Books and Literature" included the Protocols, Robert H. Williams' *Know Your Enemy,* John O. Beaty's *Iron Curtain Over America,* George W. Armstrong's *Third Zionist War,* Elizabeth Dilling's *Plot Against Christianity,* and

Key to Freedom, a large broadside published by McGinley. Also featured was Louis Marschalko's book, *The World Conquerors* (London, 1958), which, translated from Hungarian, is a compendium of antisemitic canards from ancient times to the present. Another book advertised by McGinley was *Beasts of the Apocalypse,* by Olivia Marie O'Grady (Benicia, Calif., 1959).

Representative items not previously mentioned in this review included Lyrl Van Hyning's *Women's Voice* (Chicago), a monthly written in a frantic tone, reiterating the more virulent antisemitic canards and quotations; *The Revere* (Hinsdale, Ill.), published by F. Allen Mann under the name of Christian Patriots Crusade, which often attacked the FBI; *The Point* (Still River, Mass.), well written by Leonard E. Feeney, excommunicated priest, whose followers held hate meetings on Boston Common for over five years until he and they removed to their new location in February 1958, and *The Kingdom Digest* (Rev. J. A. Lovell, Dallas), an "interpretation" of the Scriptures in antisemitic terms which also held that the Anglo-Saxons are the true Israelites. *The Truth Seeker* (New York), originally an old-line freethought monthly, in December headlined the feature article by its editor, Charles Smith, "Jew-led Levelers Plan to Suppress Racial Truth."

New York industrialist Russell Maguire continued to fill his monthly magazine, the *American Mercury,* with a heavy dosage of antisemitism, supplemented by thousands of reprints of such articles. The lead article of the September issue, "The World-wide Betrayal," was described as "A Chronology of the Zionist Master Plan for World Domination," and contained summaries of many vicious canards. A regular feature of the magazine, "Do You Know?" frequently contained lines such as these:

> Soviet Russia and South Africa, the world's two greatest gold-producing countries, are controlled by the Zionists [August].
>
> The well-organized and highly financed forces of world-wide Zionism could have destroyed Communism at any time during the last 20 years. They are militant against the Nazis, but soft against Communists [September].

GEORGE KELLMAN