Civil Rights*

During the period under review (October 1, 1962, to December 31, 1963), the drive to end racial segregation engaged citizens of every race and creed to a degree seldom paralleled in American history.

Integration

Legislation

The Southern Regional Council reported some progress toward integration in 1963 in an estimated 186 localities in the 11 southern states. In an estimated 102 of these cities, towns, and counties, biracial committees with varying degrees of official sanction were working toward the achievement of further integration.¹

Additional progress during the period was reflected in these events:

- Thirty-six states ratified a Constitutional amendment outlawing the poll tax as a voting requirement in Federal elections;
- One hundred and eighty-four new public-school districts in the South were desegregated, bringing the total to 1,140, and leaving only one state with total segregation of public elementary and high schools;
- The Federal government, as well as dozens of state and city administrations, pressed drives to bar discrimination in employment and to open apprenticeship training to young people of minority groups;
- Two new states, Indiana and Hawaii, adopted fully enforceable fair-employment laws, bringing the total to 22; and two more, Iowa and Vermont, joined Idaho and Utah in making employment discrimination subject to criminal penalties;

* 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, and 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 in a democratic society has the duty to defend and expand.

¹ Southern Regional Council, Civil Rights: Year End Summary, p. 1.
Scores of formerly segregated white and Negro union locals were merged, and the last color bar in the constitution of an AFL-CIO international union was wiped from the books;

California became the 11th state to bar discrimination in private housing; and Connecticut and Massachusetts, as well as several municipalities, strengthened existing statutes toward this end;

Maryland and South Dakota increased to 30 the states with laws against discrimination in public accommodations;

The United States Supreme Court ruled repeatedly that all public facilities must be desegregated and that sit-in demonstrations to bring about such desegregation did not constitute breaches of the peace.

Violence

At the same time, segregationists in the nation struck back, frequently with force and violence, to impede the progress of racial equality. This period was marked by the wanton murders of William Moore, a member of the Congress of Racial Equality (CORE) in Alabama on April 23, 1963, and Medgar W. Evers, Mississippi field secretary of the NAACP, on June 12, plus the killing of four children by a hate bomb in Birmingham, Ala., on September 15. A Catholic parochial school in Plaquemine parish, La., was bombed and closed after it opened its classrooms to both Negro and white children. Fire hoses, police dogs, and electric cattle-prods were used against many of those who demonstrated for the right to vote, to attend desegregated schools, to be served in public restaurants, to be considered for desirable jobs, and for all the other essential freedoms guaranteed, in the abstract, to every citizen. In 1963 the Southern Regional Council reported about 930 public protest demonstrations in at least 115 cities in the 11 southern states. More than 20,000 of the demonstrators, Negro and white, were arrested. Ten persons died under circumstances directly related to racial protests, and 35 bombings took place.  

National Conference on Religion and Race

Something new in the struggle for racial equality happened when 657 delegates—clergy, educators, and lay leaders—representing 67 Protestant, Catholic, and Jewish organizations, attended the National Conference on Religion and Race, held in Chicago in January 1963. Convened by the social-action departments of the National Council of Churches of Christ (NCCC), the National Catholic Welfare Conference (NCWC), and the Synagogue Council of America (SCA), it was the first joint meeting on this subject of all the major religious and racial groups in the United States. The conference received wide coverage in major news and informational media throughout the country, which thus became aware that America's religious organizations were determined to make a major attack on racial inequities.

2 Ibid.
The conference concluded that churches and synagogues should commit themselves to the fight for racial justice. There was a strong feeling that the church or synagogue should be ready to exercise discipline against members who defied basic religious principles as well as the precepts of their own local religious groups by flagrantly opposing racial justice. A follow-up committee promoted social-action programs in more than two-score cities.

The conference unanimously adopted "An Appeal to the Conscience of the American People," which read in part:

Our primary concern is for the laws of God. We Americans of all religious faiths have been slow to recognize that racial discrimination and segregation are an insult to God, the Giver of human dignity and human rights. Even worse, we all have participated in perpetuating racial discrimination and segregation in civil, political, industrial, social, and private life. And worse still, in our houses of worship, our religious schools, hospitals, welfare institutions, and fraternal organizations we have often failed our own religious commitments. With few exceptions we have evaded the mandates and rejected the promises of the faiths we represent.

We repent our failures and ask the forgiveness of God. We ask also the forgiveness of our brothers, whose rights we have ignored and whose dignity we have offended. We call for a renewed religious conscience on this basically moral evil.

We call upon all the American people to work, to pray, and to act courageously in the cause of human equality and dignity while there is still time, to eliminate racism permanently and decisively, to seize the historic opportunity the Lord has given us for healing an ancient rupture in the human family, to do this for the glory of God.

Scores of Jewish, Protestant, and Catholic groups adopted similar resolutions and promoted active movements to achieve greater justice for the Negro.

In an unprecedented and historic event, the social-action and racial-action departments of NCCC, NCWC, and SCA in July 1963 joined to present joint testimony on behalf of civil-rights legislation to the judiciary committee of the United States House of Representatives. The joint testimony, followed in local communities by religious delegations to congressmen, played a significant part in promoting prospects for the passage of a strong civil-rights bill.
March on Washington

One of the most stirring events of the century was the August 28, 1963, March on Washington for Jobs and Freedom, in which more than 210,000 Americans of all faiths and races demonstrated for equal rights and opportunities for all citizens. While the march was predominantly Negro, estimates of white participation ran from 15 to more than 25 per cent. A spokesman for the National Council of Churches estimated that there were more than 40,000 marching under banners of Protestant and Orthodox churches. Other estimates were that more than 10,000 Catholics and 2,000 Jews marched under their own religious auspices. Typical of the banners was one reading "We March Together—Catholics, Jews, Protestants—For Dignity and Brotherhood of All Men Under God." Negro and union groups made up the bulk of the delegations. The march, initiated by A. Philip Randolph, president of the Sleeping Car Porters Union and a vice president of the AFL-CIO, had as cochairmen leaders of all major Negro groups and Catholic, Protestant, Jewish, and labor leaders. Rabbi Joachim Prinz, president of AJCongress, who had lived in Nazi Germany, told the assemblage:

When I lived under the Hitler regime I learned many things. . . . The most urgent, the most disgraceful problem is silence. A great people had become a nation of silent onlookers. They remained silent in the face of hatred, brutality, and murder. America must not become a nation of onlookers. It must not be silent. Not merely Black America but all of America. It must speak up and act, from the president down to the humblest of us, and not for the sake of the Negro, but for the sake of America.

A highlight of the march was a stirring address by the Rev. Martin Luther King, Jr., in which he proclaimed:

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self evident; that all men are created equal." I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former slaveowners will be able to sit down together at the table of brotherhood. . . .

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character. . . .

President John F. Kennedy, meeting with the leaders of the march, pledged to work not only for the civil-rights bill but also for increased employment and the elimination of job discrimination, two of the prime goals of the march.

The impact of the march was at least partially responsible for the approval by the House judiciary committee of a stronger bill than the Administration had previously proposed. The bill, approved October 29, had the support of the Kennedy Administration and the House leaders of both parties. Its major provisions follow:
VOTING RIGHTS—Voting registrars are prohibited from applying different standards to Negro and white voting applicants in all federal elections. Applicants cannot be disqualified because of minor, immaterial errors in filling out registration forms. The law presumes a sixth grade education demonstrates literacy, subject to evidence to the contrary. Federal courts are directed to act quickly on any voting rights cases.

PUBLIC ACCOMMODATIONS—Refusal of service, segregation and other forms of discrimination are barred in hotels, motels or other places providing lodging to transients, except for owner-occupied rooming houses with five or less rooms for rent; in public eating places, theaters, concert halls and sports arenas and other establishments used for exhibitions or entertainment.

Places not specifically included are covered if they are located in, or include, establishments covered by the bill.

All forms of discrimination in a public establishment are prohibited if based on state or local law, or "custom" even if not spelled out by law.

Aggrieved persons may bring suit or ask the Attorney General to bring suit barring continued discrimination.

JOB DISCRIMINATION—Employers, employment agencies, unions are barred from job discrimination on the basis of race, color, religion, national origin or sex, effective one year after enactment. Prohibited are:

- Refusal to hire on grounds of race, color, national origin, religion.
- Discrimination on these grounds in pay, benefits or other conditions.
- Segregation or classification which deprives any group of job opportunities.
- Employment agency refusal to refer any person to jobs on the above grounds.

- Exclusion from membership, or any other form of discrimination, by unions, on basis of race, religion or origin. Specifically barred are segregation tending to deprive a person of job opportunities, or efforts to cause an employer to discriminate.
- Discrimination in apprenticeship and other training programs.
- Retaliation by employer, employment agency or union against persons bringing charges of violation of civil rights.

The bill establishes a five-member Equal Opportunity Commission with broad powers to investigate complaints and act upon them.

STATE FACILITIES—The Attorney General is empowered to bring suit to desegregate facilities owned or operated by a state or its subdivision and to seek federal court action to aid citizens denied protection of the law on the basis of race, religion or national origin.

SCHOOL DESegREGATION—Several provisions would help school personnel deal with problems of desegregation and would help communities develop desegregation plans. The Attorney General is empowered to initiate suits in behalf of children and their parents.

FEDERAL PROGRAMS—Where discrimination exists in any program receiving federal financial aid, federal agencies are authorized to shut off funds, but first must get presidential approval.

Poverty and Unemployment

While 1963 was a record year for civil-rights legislation at the state level and for the awakening of religious forces to the struggle for equality, it was also a year of great frustration for the civil-rights movement. It had been heralded as the centennial of the Emancipation Proclamation, as "freedom
year," and the NAACP slogan was "Free by '63!" Nevertheless, the civil-
rights movement failed to score a complete victory in any city. Partially, at
least, this was because the demands were greater. Whereas the previous
lunch-counter sit-ins and freedom rides had accomplished comparatively
easy victories, the 1963 demands for integration of public accommodations,
accompanied by calls for job integration, desegregation of schools, and cre-
ation of biracial commissions, were not so easy of achievement. Lunch
counters, hotels, parks, and theaters are relatively easy targets of direct ac-
tion and boycotts. Indeed, lunch counters could anticipate larger consumer
markets once all lunch counters in a city were integrated (and any given
establishment was thus secured against segregationist competition). But
competition for an inadequate supply of jobs, housing, and schools in the
North was far more complicated.

One of the most ominous factors in the situation was the beginning of
a decline in the Negro's relative income. From 1940 to 1954 the median
Negro income rose from 37 per cent to 56 per cent of the median white
income. By 1962 it was 53 per cent—$3,330 for Negro families and $6,237
for white families. The difference was even greater in per capita income of
male workers. In 1962 the median income of Negro males was 49 per cent
of white male income—$2,291 and $4,660, respectively.4

Negro employment prospects were gloomy. Most Negroes were unskilled
or semiskilled workers, and these were rapidly being displaced by automa-
tion. In 1962 one of nine nonwhites (90 per cent of whom were Negroes)
were unemployed, but only one of 20 whites. Among male adults the non-
white rate of unemployment was almost 2½ times the white rate. Among
teenagers nonwhite unemployment was catastrophically high; 21 per cent of
all nonwhite teenage boys and 28 per cent of all nonwhite teenage girls were
jobless in 1962.5 Without adequate job training and retraining, Negro hopes
of leaving the unemployed remained slim. Without adequate vocational edu-
cation in skills that were in demand, their chances of adding to the jobless
ranks were great.

Yet, as demonstrations at construction sites in northern cities revealed,
little more than token progress could occur while unemployment was wide-
spread generally. Starting in the summer of 1963, demonstrations, boycotts,
sit-ins, lie-ins, chain-ins, and other protests for jobs occurred in New York
City; Long Island, N.Y.; Newark, N.J.; Cincinnati and Cleveland, O.; Phil-
adelphia, Pa.; Washington, D.C.; Los Angeles, Calif.; Chicago, Ill., and
many other cities outside the South. While boycotts and threats of boycotts
were successful in winning hundreds of jobs in consumer industries (e.g.,
bakeries in Philadelphia and banks and shopping centers on Long Island),
they were largely ineffective in combating pervasive discrimination in skilled
building-trades employment and apprenticeship training.

5 United States Commission on Civil Rights, Civil Rights 1963, p. 73.
DESEGREGATION OF SCHOOLS

Similarly, school boycotts in the North to implement demands for an end to *de facto* school segregation, besides demands for transporting children to schools outside of their neighborhoods and other techniques to end segregation, led to increased hostility among many white parents. Many of these were willing to accept optional travel, open enrolment, and strategic location of new schools, but refused to send their own children to other schools. A trend toward the polarization of the Negro and white communities was noticeable.

Desegregation issues in connection with education arose in the North as well as in the South, and in the parochial as well as in the public schools.

South

In December 1963 the 17 southern and border states that had required racial segregation in their public schools before May 17, 1954,6 presented a slightly different picture from the year before. Desegregation was considered virtually complete in the border states of Delaware, Kentucky, Maryland, Missouri, and West Virginia and in the District of Columbia, while Alabama and South Carolina, in the Deep South, experienced their first desegregation in elementary and secondary schools in the fall of the year. Mississippi remained the only state with complete segregation in elementary and secondary schools.

Of the 3,028 public-school districts in the South having both white and Negro students, 1,140 districts were desegregated in practice or policy—an increase of 184 districts during 1962–63, the largest in any year since 1956. In 1961–62, 7.6 per cent of Negroes were in biracial schools,7 and by December 1963 the percentage had increased to 9.3, 318,039 of the region’s 3,412,799 enrolled Negroes.8 However, in the 11 former Confederate states, only 30,798 Negroes, 1.06 per cent of the Negro public-school enrolment, were in biracial schools. The increase in the number of Negroes in desegregated schools and in the number of desegregated districts was sharper in the fall of 1963 than at any time since 1960, when the Southern Education Reporting Service first began to keep records.

Of 292 tax-supported colleges and universities in the southern states, 195 were desegregated. All six of the border states and the District of Columbia had begun desegregation of public-school teaching staffs and college faculties. Three southern states, Florida, Tennessee, and Texas, also reported a small amount of staff desegregation at both levels, while North Carolina had some desegregation of college teachers and Virginia of grade-school teachers.

The Roman Catholic parochial schools again extended desegregation to a

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significant number of parochial schools in the region during the 1963–64 school year.

**STATUS OF DESEGREGATION IN THE 17 SOUTHERN AND BORDER STATES IN DECEMBER 1963**

<table>
<thead>
<tr>
<th>State</th>
<th>Status of Desegregation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ALABAMA</strong></td>
<td>President Kennedy federalized the National Guard in June 1963 to enforce court-ordered enrolment of two Negro students at the University of Alabama. Auburn University was ordered by a Federal court to admit a Negro student to the graduate school in January 1964. In September 1963 four Negro students enrolled in four previously all-white schools in Huntsville. That month Governor George C. Wallace temporarily blocked school-desegregation court orders in Birmingham, Mobile, and Tuskegee through the use of state troopers, but 20 Negro students began attending previously all-white classes after President Kennedy federalized the Alabama National Guard. The Gadsden school board was directed in December 1963 to draft plans for desegregation of its school system at the beginning of the 1964–65 school term. Three white men were convicted in October in Birmingham, sentenced to six months in jail, and fined $100 each for the illegal possession of dynamite after a church bombing which killed four Negro girls in September (p. 16).</td>
</tr>
<tr>
<td><strong>ARKANSAS</strong></td>
<td>One more school district, Pine Bluff, began a voluntary desegregation plan in September 1963, bringing the total of such districts to 13 and the number of integrated Negro children to 1,084, compared with 271 the previous year. (The new figure included 718 Negroes in a Pulaski county school desegregated by the entrance of one white child.) Little Rock had 123 Negro pupils, 45 more than in 1962, attending classes with whites in junior and senior high schools and in the first and fourth grades of elementary schools.</td>
</tr>
<tr>
<td><strong>DELAWARE</strong></td>
<td>All 86 school districts were considered desegregated by virtue of a Federal court order, but Negro students attended schools with whites in only 40 districts. Of Delaware's 18,422 Negro students, 10,209 were attending biracial schools.</td>
</tr>
<tr>
<td><strong>FLORIDA</strong></td>
<td>Schools completed the greatest amount of desegregation since the 1954 Supreme Court decision, as 3,650 Negro students attended schools with whites, compared with 1,300 in September 1962. Six new counties (Duval, St. Johns, Oskaloosa, Santa Rosa, Leon, and Charlotte) joined the ten that had desegregated schools earlier. In November 1963 the United States Justice Department filed suit in Federal court to force school desegregation in Bay county, whose school board received about $3 million annually in Federal funds to subsidize the education of children of service families at Tyndall Air Force Base.</td>
</tr>
<tr>
<td><strong>GEORGIA</strong></td>
<td>At the end of the first three months of the 1963–64 school term, Negroes attended schools with whites in four of Georgia's 181 biracial school districts. Three were desegregated without incident.</td>
</tr>
</tbody>
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in the fall of 1963. Of the 177 Negro students in former all-white schools, 145 were in Atlanta (compared with 44 the previous year.) In Chatham county (Savannah) 21 Negroes attended classes with whites. Glynn county (Brunswick) voluntarily opened its only white high school to Negroes; six were in the 12th grade. Clarke county (Athens) also desegregated voluntarily, and five Negroes attended schools with white students. Six units of the state university system were desegregated, with 35 Negro students, while Savannah State College, which had 1,150 Negro students, enrolled one white student.

KENTUCKY
With 20 new districts desegregated in the fall of 1963, all but two of 165 school districts with Negro and white students were desegregated in practice or policy. Another biracial district, Shelby county, announced that a free-choice policy of desegregation would take effect in the fall of 1964, leaving Graves county as the only biracial district apparently lacking a policy of desegregation. Of the desegregated districts, 153 had actual biracial classes at 620 schools, with 29,855 Negroes in attendance (54.4 per cent of Kentucky's Negro pupils).

LOUISIANA
New Orleans began its fourth year of desegregated education with 333 Negroes in integrated grades 1–4; one formerly white special high school for superior students had 14 Negro students, and one formerly Negro elementary school had one white among 1,439 Negroes. East Baton Rouge parish had four desegregated high schools with 28 Negro seniors among 5,380 white students. St. Helena parish was under Federal court order to desegregate "with all deliberate speed," and Terrebonne parish was under order to desegregate all white and Indian schools by August 1964. Six white colleges desegregated under court order and enrolled 848 Negroes (to 31,365 whites).

MARYLAND
All of Maryland's 23 biracial school districts were desegregated, but three were so in policy only. Nearly half of all Negro pupils attended biracial schools, a gain of 8,669 over the previous year. In Baltimore, 62 per cent of Negroes were in desegregated schools; in the counties, 22.5 per cent. A total of 609 schools enrolled both races, 120 more than in the previous year.

MISSISSIPPI
There was no desegregation of elementary or secondary schools. James Meredith, enrolled by court order at the University of Mississippi in October 1962 (AJYB, 1963 [Vol. 64], pp. 80–84), was graduated in June 1963, still under the protection of Federal marshals. In June 1963 Cleve McDowell became the second known Negro to enroll in the University of Mississippi, under a Federal court order, but was expelled in September after being found guilty by the Student Judicial Council of carrying a concealed weapon on the campus. (He said he was carrying it to protect himself.)

MISSOURI
Of the estimated 212 biracial school districts, 203, with about 90,000 Negro pupils, were believed to be desegregated. An estimated 40,000 Negroes attended school with whites, mostly in St. Louis and Kansas City. In 1962 St. Louis had 74 elementary and 10 high schools with both white and Negro pupils; in the fall of 1963 Kansas City had 46 elementary and 15 high schools of that character. While St. Louis elected a Negro, the Rev. John J. Hicks, to be president of the board of education, de facto school segregation
in both St. Louis and Kansas City continued to be a major problem. Federal court actions brought desegregation in Charleston (Mississippi county) and in two Pemiscot county districts in the “Boot-heel” area of southeast Missouri.

**North Carolina**

Desegregation was in effect in 40 of the state’s 171 biracial school districts—an increase of 24 over the previous year. More than 1,850 Negroes were attending schools with white students, compared with 650 the year before. All 17 colleges and universities were desegregated, with 254 Negroes attending formerly all-white institutions.

**Oklahoma**

More than 12,000 Negroes were attending 499 schools with whites, 2,000 more than the year before. They were in 197 desegregated school districts of the state’s 241 biracial school districts—an increase of two from the previous year. All 23 colleges and universities were desegregated, with 851 Negro students at 22 formerly all-white campuses.

**South Carolina**

One school district, Charleston, desegregated in September 1963, with ten Negro children attending four previously all-white schools by court order. In addition, four schools operated by the Federal government for children of military personnel were desegregated. Following Harvey B. Gantt’s court-ordered enrolment at Clemson College in January 1963, five other Negro students were accepted there and at the University of South Carolina. Twenty Negroes were enrolled with white students at three state technical-education centers.

**Tennessee**

Forty-four school districts were desegregated—21 more than a year earlier. A total of 4,466 Negroes attended classes with whites, compared with 1,200 the previous year. All seven state-supported colleges and universities were desegregated and at least 403 Negro students attended formerly white institutions. Five Negro teachers were on desegregated faculties in Putnam county district, believed to be the first rural school district in the South to desegregate its teaching staff.

**Texas**

Seventy districts abolished segregation in the period under review, mostly by voluntary school-board action. Of 899 districts with both white and Negro students, 244 had desegregated. About twice as many Texas Negroes attended public-school classes with whites as did a year earlier, 14,000. A survey by the Dallas Morning News revealed that more than 2,000 Negroes were enrolled with white students in 40 desegregated colleges and universities, compared with an estimated 1,205 the year before. It was estimated that about 60 per cent of the state’s 2,045,449 white public-school students and more than half of its 326,409 Negro pupils lived in districts which had at least started desegregation.

**Virginia**

Fifty-five of the state’s 128 biracial school districts had desegregated, 25 more than the year before. A total of 3,721 Negroes were in desegregated schools, more than three times the 1,230 Negroes in such schools during the previous year. Public schools remained closed for the fifth year in Prince Edward county, but free schools for 1,570 Negroes were opened by the Prince Edward Free School Association. The Virginia supreme court ruled, 6 to 1, that the state was under no obligation to operate public schools in Prince Edward county, and the case was to go to the Federal courts. More
than 50 Negroes were enrolled in six predominantly white public colleges and universities.

**West Virginia**

All 44 biracial districts were desegregated. Of the estimated 21,055 Negro pupils in desegregated districts, 18,500 were in classes with whites. All 11 state-supported colleges and universities were desegregated. Bluefield, formerly a Negro college, had 637 white and 325 Negro students.

**Catholic Schools**

By August 1963 there were only three southern dioceses out of a total of 25 which had neither announced a policy of desegregation nor had one in effect for some time.

In Pine Bluff, Ark., St. Peter's elementary school opened on an integrated basis in early 1963 while Annunciation Academy (grades 1-8) was desegregated in September, when a Negro second-grader enrolled. Negroes in the diocese of St. Augustine, Fla., were admitted in September 1962 to the only Catholic high school in Jacksonville, and to Blessed Sacrament (elementary) school in Tallahassee. Although the public schools of Lee county remained segregated, the Bishop Verot high school at Fort Myers (serving Lee, Charlotte, and Collier counties) admitted a Negro girl to the eighth grade. The diocese of Savannah, Ga., announced on June 24, 1963, that its schools would be integrated in September 1963. Mt. de Sales high school in Macon admitted Negroes for the first time in the fall of 1963.

No statistics on Negro enrolment in the archdiocese of New Orleans, La., were available in the fall of 1963, but general enrolment was up and the Southern Regional Council reported that Negro enrolment had increased in the 11 parishes of New Orleans. East Baton Rouge parish was to begin desegregation in the 11th and 12th grades of four high schools in 1964.

While there was no known desegregation in elementary parochial schools in the diocese of Natchez-Jackson, Miss., there was one instance in higher education—in the seminary at Bay St. Louis. When a court order forced Charleston, S.C., public schools to desegregate in September 1963, Bishop Francis H. Reh moved up his timetable one year to invite Negro students to attend the city's white Catholic parochial schools. Fifteen of the city's 202 Negro Catholic children enrolled. All other South Carolina parochial schools were to be integrated in the fall of 1964.

Catholic schools in Memphis, Tenn., admitted Negro students to biracial classes for the first time in the fall of 1963.

Parochial schools in Bryan and Beaumont, Tex., desegregated in the fall of 1963.

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North

By September 1963, 26 systems had integrated or taken steps to do so—sometimes spontaneously, sometimes in response to pressure or litigation.

### DESEGREGATION ACTIVITIES IN NORTHERN AND WESTERN STATES

<table>
<thead>
<tr>
<th>State</th>
<th>City or Locality</th>
<th>Type of Community Action</th>
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<tbody>
<tr>
<td>California</td>
<td>Berkeley</td>
<td>After protests by NAACP and CORE, the board of education appointed a citizens’ committee to study problems of <em>de facto</em> segregation.</td>
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<td>Los Angeles</td>
<td>NAACP, CORE, and the United Civil Rights Committee pressed the board of education to eliminate <em>de facto</em> segregation. The board responded by ordering a study of alleged racial gerrymandering of school districts and ordered schools to inform pupils and parents of transfer privileges. The board agreed to consider racial composition of neighborhoods as a factor in deciding school boundaries.</td>
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<td>Oakland</td>
<td>Although a Negro school-board member backed open enrolment, NAACP opposed it and urged rezoning of schools to end <em>de facto</em> segregation.</td>
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<td>Oxnard</td>
<td>NAACP won new zoning for high schools to prevent creation of a <em>de facto</em> segregated school.</td>
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<td>Pasadena</td>
<td>In June 1963 the supreme court of California ruled that a child assigned to a <em>de facto</em> segregated school was denied equal protection of the laws (<em>Jackson v. Pasadena City School Board</em>). The court also approved the California state board of education’s regulations requiring consideration of racial integration in school zoning and site selection. NAACP protested site location for a new school on the ground that a <em>de facto</em> segregated school would result.</td>
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<td>Sacramento</td>
<td>The board of education in April 1963 unanimously adopted a broad program to alleviate racial imbalance in the schools. NAACP, however, did not drop its court case against the board.</td>
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<td></td>
<td>San Francisco</td>
<td>After complaints of <em>de facto</em> segregation, the board of education appointed a citizens committee to formulate recommendations affecting policy and practices.</td>
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<td>Colorado</td>
<td>Denver</td>
<td>After a delay of more than two years, the two high schools were rezoned in September 1963 to eliminate <em>de facto</em> segregation.</td>
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<td>Stamford</td>
<td>Initial steps were taken to end <em>de facto</em> segregation at the Ely elementary school.</td>
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<td>Norwalk</td>
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11 Communication from June Shagaloff of NAACP, April 7, 1964.
<table>
<thead>
<tr>
<th>State</th>
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<th>Type of Community Action</th>
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<tbody>
<tr>
<td>ILLINOIS</td>
<td>Chicago</td>
<td>On October 23, 1963, about 225,000 pupils remained absent during a “Freedom Day” boycott by civil-rights groups to protest <em>de facto</em> segregation and demand the resignation of the superintendent of schools, Benjamin C. Willis, whose pupil-transfer policy—requiring pupils to attend schools near their homes rather than permitting them to transfer freely to schools of their own choice—was blamed for segregation. The segregated Washington elementary school was closed, with pupils reassigned to other schools.</td>
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<td>Mount Vernon</td>
<td>The neighborhood-schools policy of the school board was backed by Judge George N. Beamer of the Federal district court, who held that the 14th Amendment to the Constitution would be violated if some students were required &quot;to leave their neighborhood and friends and be transferred to another school, simply for the purposes of balancing the races in the various schools (<em>Bell v. Schools City of Gary</em>). The decision, upheld in November 1963 by the United States court of appeals, was appealed to the Supreme Court.</td>
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<tr>
<td>INDIANA</td>
<td>Gary</td>
<td>An NAACP lawsuit against <em>de facto</em> school segregation was pending in the Federal court. A program to eliminate discriminatory practices affecting Negro pupils and teachers was put into effect.</td>
</tr>
<tr>
<td>KANSAS</td>
<td>Kansas City</td>
<td>After repeated demands and protest demonstrations, the board of education agreed: 1. to assign pupils from overcrowded Negro schools to underutilized white schools, thereby ending double sessions in Negro schools for the first time since 1945; 2. eliminate discriminatory zoning, and 3. adopt a policy statement recognizing the educational harm of <em>de facto</em> segregated schools.</td>
</tr>
<tr>
<td>MARYLAND</td>
<td>Baltimore</td>
<td>About 3,000 Negro students participated in the first school boycott in the North on June 18, 1963, to protest <em>de facto</em> school segregation. The Boston school committee refused to acknowledge its existence. In the November election, all five incumbents were reelected, the chairman, Mrs. Louis Day Hicks, by a landslide.</td>
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<tr>
<td>MASSACHUSETTS</td>
<td>Boston</td>
<td>Suit was brought in a Federal court against <em>de facto</em> segregation in the schools.</td>
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<td></td>
<td>Springfield</td>
<td>Two Federal lawsuits were pending, charging perpetuation of <em>de facto</em> segregated schools.</td>
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<tr>
<td>MISSOURI</td>
<td>St. Louis</td>
<td>To protest segregated classes of Negro children assigned to all-white schools to relieve overcrowding, there were demonstrations and litigation.</td>
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<tr>
<td>State</td>
<td>City or Locality</td>
<td>Type of Community Action</td>
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<tr>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>NEW JERSEY</td>
<td>Bridgeton</td>
<td>After a school boycott, a case was filed with the state commissioner of education, challenging <em>de facto</em> segregation.</td>
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<td></td>
<td>Elizabeth</td>
<td>The school board was urged to end <em>de facto</em> segregation.</td>
</tr>
<tr>
<td></td>
<td>Englewood</td>
<td>The state commissioner of education held that <em>de facto</em> segregated schools were discriminatory and directed the board of education to eliminate existing segregation even though no intent to segregate was found (<em>Ancrum v. Board of Education</em>). The board reorganized the segregated Lincoln school in September 1963 into an integrated central sixth-grade school for the whole city.</td>
</tr>
<tr>
<td></td>
<td>Franklin Township</td>
<td>Demonstrations were held daily for three weeks and a case was filed before the state education commissioner charging <em>de facto</em> segregation.</td>
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<td></td>
<td>Jersey City</td>
<td>The board of education voted in September 1963 to let children transfer to any school that had room for them. This failed to satisfy leaders of a school boycott. They asked for the closing of two Negro schools and the transfer of their pupils to nearby, largely white schools. The board rejected this on the ground that it would force double sessions.</td>
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<td></td>
<td>Linden</td>
<td>NAACP urged the school board to end <em>de facto</em> segregation.</td>
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<td></td>
<td>Orange</td>
<td>The state education commissioner directed the board of education to eliminate <em>de facto</em> segregation even though no intent to segregate was found (<em>Fisher v. Board of Education</em>). As a result, in September 1963 one segregated elementary school was closed, and open enrolment was instituted in another.</td>
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<td></td>
<td>Plainfield</td>
<td>NAACP held picket demonstrations daily for three weeks in 1963 and filed a suit (<em>Booker v. Board of Education</em>). The state education commissioner ruled as in the Englewood and Orange cases. In September 1963 the segregated Washington elementary school was reorganized as a central sixth-grade school for all pupils in Plainfield.</td>
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<tr>
<td></td>
<td>Rahway</td>
<td>The school board was urged to end <em>de facto</em> segregation.</td>
</tr>
<tr>
<td>NEW YORK</td>
<td>Amityville</td>
<td>Suit was brought in Federal court against <em>de facto</em> segregation. In 1963 there was a school boycott, besides a month-long boycott of local business.</td>
</tr>
<tr>
<td></td>
<td>Buffalo</td>
<td>Demonstrations and marches protested racial imbalance in schools.</td>
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</tbody>
</table>
In September 1963 the segregated Cleveland Avenue elementary school was closed.

NAACP had a case challenging *de facto* segregation pending before the state commissioner of education.

Suit was brought in Federal court attacking *de facto* segregation and there were demonstrations against racial imbalance in the schools.

NAACP, CORE, and other groups held a one-week school boycott. The state education commissioner ruled that the *de facto* segregated Woodfield elementary school was educationally undesirable and discriminatory. He directed the school board to adopt the Princeton Plan (AJYB, 1963 [Vol. 64], pp. 88, 92), to eliminate existing segregation. The ruling was challenged by white Malverne parents in December 1963, and the New York supreme court (the lowest state court) ruled that the commissioner's order violated the state's anti-discrimination laws. This decision was being appealed to the state court of appeals.

A case pending in the Federal court charged *de facto* segregation.

The school board was repeatedly urged to end *de facto* segregation.

The school board ended open enrollment, closed the segregated Lincoln school, and reassigned pupils to existing schools.

Three civil-rights groups and two parent organizations called off a school boycott when the board of education, in negotiations initiated by the City commission on human rights, agreed to formulate a comprehensive plan of desegregation. When the board announced its tentative plans in December 1963, the civil-rights groups denounced them as inadequate and jointly called two sit-ins and protest demonstrations at the offices of the superintendent of schools and the board of education.

The school board was asked to end *de facto* segregation.

A case pending in the Federal court charged *de facto* segregation.

The school board was asked to end *de facto* segregation.

There was a school boycott and a case charging *de facto* segregation was pending in the Federal court.

The board of education was picketed and accused of *de facto* segregation for its decision to transport four classes from overcrowded, predominantly Negro Evanston school to largely white
Oakley school, but keeping transferred classes intact.

NAACP, the United Freedom Movement, and the school board agreed on the naming of a citizens’ committee to expedite meaningful integration in the 1963–64 school year. Other points agreed upon included employment of Negroes in administrative positions, reassignment of teachers, and new apprenticeship-training procedures.

Some school-zone boundaries were redrawn to promote integration.

Open enrolment was adopted until school-zone boundaries could be redrawn.

The segregated elementary school was closed and pupils were reassigned to existing schools.

An out-of-court agreement was reached in September 1963 in a suit filed against the board of education. The agreement included a stipulation by the school board that all qualified teachers entering the school system would be assigned to all-Negro or predominantly-Negro schools until the proportion of substitute teachers in those schools was reduced to the citywide level. The suit was reinstated in November, on the allegation that the board had failed to act in good faith. It was dismissed by the Federal district court but was being appealed.

The school board was urged to adopt a policy and plan to end de facto segregation.

More fair-housing laws have been enacted in a shorter time than laws governing other civil rights, such as employment and public accommodations. In the past six years, 28 governmental jurisdictions adopted measures affecting private housing—13 states, 14 cities, and the Virgin Islands. Four additional states and at least 50 cities prohibited discrimination in government-aided housing. Over 40 per cent of the population of the United States—at least a quarter of the nation’s nonwhite citizens and about three-quarters of all American Jews—lived in the 13 states which prohibited discrimination in private housing.

In November 1962 President Kennedy issued Executive Order #11063 barring racial and religious discrimination in housing built or purchased with Federal aid, and establishing the President’s Committee on Equal Opportunity in Housing. In the first year of its operation the order had little effect,

12 National Committee Against Discrimination in Housing, Trends in Housing, September-October and November-December 1963.
with only 27 complaints filed and fewer than a third satisfactorily settled during the year. The real-estate industry's fear that the order would play havoc with business proved unfounded. Builders, noted the Philadelphia Bulletin (October 5, 1963), "report that the customer with the cash in his pocket and the desire for new shelter has not been scared off by the housing order." House and Home (January 1964) reported that "home building apparently ended the year 10 per cent ahead of 1962 levels."

At the same time, a growing movement developed among opponents of open-occupancy legislation to seek referenda. In Berkeley, Calif., the city council's fair-housing ordinance, enacted in January 1963, was rejected in April by a referendum vote of 22,000 to 20,000. Similar attempts to defeat fair-housing ordinances and state laws were under way in California, Illinois, Michigan, and Washington. Those pushing the referenda denounced "forced housing laws" and urged giving the people "a chance to vote on an issue this large." Opponents of such referenda contended that moral and constitutional rights are not subject to the popular will, that since it is not possible for the electorate as a whole to make informed and objective judgments on complex issues, responsibility should be placed with elected representatives, and that issues which arouse racial or religious prejudice should not be involved in election campaigns. Even some who opposed the passage of anti-bias housing laws, including local real-estate boards, conservative newspapers, and others, were against placing such emotion-laden issues on the ballot. For instance, the Detroit Bar Association, which took no stand on open occupancy, in the fall of 1963 filed an amicus curiae brief to prevent a so-called "Homeowners' Rights Ordinance" from being put on the ballot. It also called that proposed ordinance unconstitutional.

Legislation

The California legislature passed a law, effective September 20, 1963, forbidding discrimination in the sale or rental of all multiple dwellings with three or more units and sale or rental of all government-aided housing, including housing with mortgages guaranteed by the Federal Housing Administration (FHA) or Veterans Administration (VA). The law applied to all transactions of real-estate brokers, home builders, and mortgage lenders, and provided injunctive relief to hold housing at issue available while a complaint was pending, or for damages up to $500.

Connecticut amended its law in 1963 to make it applicable to all housing except the rental of an apartment in a two-family dwelling where the other apartment was occupied by the owner, and the renting of rooms to boarders.

In Massachusetts the law was amended in 1963 to cover all housing publicly offered for sale or lease, as well as open land intended for the erection of housing otherwise covered by the statute.

Michigan adopted a new constitution in 1963. The state attorney general ruled that the State Civil Rights Commission, created under that constitu-
tion and scheduled to take office January 1, 1964, had authority "to enforce civil rights to purchase, mortgage, lease, or rent private housing."

Minnesota passed a law, effective December 31, 1962, covering sale or rental of all housing except rental of an apartment in an owner-occupied two-family house; rental of rooms in private homes; and owner-occupied, privately-financed, single-family houses.

New York State amended its housing law in 1963 to cover sale or rental of all housing, except rental of an apartment in an owner-occupied two-family house or rental of rooms in private homes. It covered commercial space, and applied to real-estate agents, mortgage lenders, and advertising.

**City Ordinances**

More than 60 cities in the United States had laws or resolutions affecting discrimination in housing. Fourteen of these enacted ordinances which prohibit discrimination in private housing; the others had measures applying to government-aided accommodations, such as those in public housing or urban redevelopment projects.

In addition, five cities (Baltimore, Md.; Detroit, Mich.; Kansas City, Mo.; Shaker Heights, Ohio, and Washington, D.C.) had special legislation barring real-estate brokers from engaging in certain practices designed to induce panic selling due to the entry or prospective entry into a neighborhood of persons of another racial or ethnic background.

In June 1963 Albuquerque, N.M., passed an ordinance covering the sale or rental of all housing, excluding subletting of a portion of an apartment or house occupied by a single family. It covered building lots, applied to real-estate agents and mortgage lenders, and violators were liable to fines up to $300.

An Ann Arbor, Mich., ordinance, effective January 1, 1964, covered sales or rentals by persons owning or controlling five or more housing units, and activities of real-estate agents, mortgage lenders, and advertising. Persons "wilfully" filing false complaints of discrimination were liable to fines of $100 or ten days in jail.

Chicago, Ill., passed an ordinance, effective October 4, 1963, banning discrimination by licensed real-estate brokers and barring panic peddling, such as soliciting listings or trying to induce sales on grounds of loss of value due to entry or prospective entry into an area of minority-group families. Violators were liable to loss of city licenses.

Duluth, Minn., passed an ordinance, effective October 19, 1963, covering the sale or rental of all housing and building lots, except rental of an apartment in an owner-occupied two-family house; rental of rooms in any owner-occupied one-family house, and sale or rental of any owner-occupied one-family house not defined as "publicly assisted." Violators were liable to fines up to $100 or a maximum of 85 days in jail.

An Erie, Pa., ordinance, effective September 1, 1963, covered the sale or rental of all housing, including building lots, except for owner-occupied one-
### Table 1. Laws Affecting Discrimination in Housing, September 30, 1963

<table>
<thead>
<tr>
<th>State</th>
<th>Public Housing</th>
<th>Urban Renewal</th>
<th>FHA and VA</th>
<th>Private Housing</th>
<th>Real-estate Agents</th>
<th>Mortgage Lenders</th>
<th>Advertising</th>
<th>Official Enforcement Agency</th>
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<td>Alaska</td>
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*Source: Trends in Housing, September-October 1963, p. 7.*

The state attorney general ruled that the State Civil Rights Commission, created under Michigan’s revised constitution, to take office January 1, 1964, would have authority “to enforce civil rights to purchase, mortgage, lease or rent private housing.”

A ruling that Washington State’s law barring discrimination in places of public accommodation applied to the operations of real-estate brokers and salesmen was in the courts.

Illinois prohibited restrictive covenants on urban redevelopment land.

Kansas and Alabama prohibited racial zoning.

and two-family houses. Discriminatory advertising was made illegal. Violators might be fined up to $100 or sentenced to 30 days imprisonment.

A Philadelphia, Pa., ordinance, effective June 10, 1963, covered the sale or rental of all housing, except owner-occupied one- and two-family houses. Violators might be punished by fines up to $300, 90 days in jail, or both.

Schenectady, N.Y., adopted an ordinance in 1963 covering all housing except owner-occupied buildings with three or fewer dwelling units. The ordinance was not enforced in view of the more comprehensive coverage provided by the New York State legislature later in the year (p. 34).

Tacoma, Wash., passed an ordinance in 1963 covering the sale or rental of all housing and building lots, except rental of rooms in private homes. It applied to real-estate agents and advertising. Violators were liable to fines up to $250 or 30 days imprisonment.

On December 12, 1963, the city council of Madison, Wis., passed a fair-housing ordinance, 12 to 11, covering the sale or rental of all housing except owner-occupied structures with four or fewer dwelling units and the rental of rooms in private residences. Persons not *bona fide* homeseekers were barred from “testing” for the sole purpose of securing evidence of discrimin-
natory practices. Violators of the ordinance were liable to fines from $25 to $500.

The board of commissioners of the District of Columbia unanimously adopted a fair-housing order on December 31, 1963. It barred discrimination in the sale of building lots and residences, and in all rentals except rooms or apartments in owner-occupied one- and two-family dwellings. Panic peddling or the use of blockbusting tactics by real-estate agents or others was forbidden. Violators faced fines up to $300 or 10 days in jail.

Litigation

The courts in Colorado; New Jersey; New York; Pittsburgh, Pa.; Toledo, O., and the state of Washington ruled in favor of fair housing.

COLORADO

On December 17, 1962, the Colorado supreme court reversed an adverse decision of a lower court and upheld the constitutionality of the state's law covering private housing (Colorado Anti-Discrimination Commission, et al., v. J. L. Case, et al., 380 Pac. 2d 34). The high court did, however, strike down a provision in the statute which authorized the enforcement agency to order a respondent to make available comparable housing when the property at issue had been sold while a complaint was pending.

NEW JERSEY

This state's law covering private housing won approval in a lower court on November 13, 1963 (N.J. Home Builders Assn., N.J. Assn. of Real Estate Boards, and Joseph V. Montoro v. Division on Civil Rights, Docket No. C-2196-61, N.J. Superior Court, Chancery Div., Atlantic County). An appeal was expected.

In a second case (Vesta Co. et al., v. Division on Civil Rights, Bergen County Court, N.J.), a trial judge, on December 10, 1963, ruled the law unconstitutional on the ground that it makes an unreasonable classification between housing which is covered and that which is not. An appeal was being taken.

NEW YORK

On June 17, 1963, a New York State lower court ruled that New York City's fair housing ordinance was not nullified when the state adopted legislation covering the same area (City of New York v. Claflington, Inc., 243 N. Y. S. 2d 437).

In a decision handed down on October 29, 1963, a lower court declared that the state law barring discrimination in private housing "is constitutional and valid." (Cooney v. Katzen, et al., New York State Supreme Court, Onondaga County.)
PITTSBURGH, PA.

Constitutionality of this city's fair housing ordinance was upheld in a lower court decision on November 30, 1963 (*Stanton Land Co. v. City of Pittsburgh and Dr. Oswald J. Nickens*, Court of Common Pleas of Allegheny county, Pa., Docket No. 1741). The Court said

There is no doubt that the possession and control of private property is a fundamental right in a free and open society . . . None the less our commitment to liberty is even deeper than our commitment to property as may be observed in various pronouncements of national policy beginning with the Declaration of Independence . . .

. . . the best available data impressively undermine the prevailing thought among whites that integration in itself always, or almost always, lowers the value of surrounding real estate.

TOLEDO, O.

On July 13, 1963, the court of common pleas of Lucas county, O. upheld the constitutionality of this city's fair housing ordinance, dissolved a temporary restraining order which had been granted in a taxpayer's action, and denied petition for a permanent injunction (*Terry v. City of Toledo, et al.*, No. 191309). An appeal was being taken.

WASHINGTON

On April 13, 1962, a Washington superior court ruled that the state's law barring discrimination in places of public accommodation is applicable to real-estate offices (*Curtis and Washington State Board Against Discrimination v. Interlake Realty, Inc. et al.*, Docket No. H-708). An appeal to this ruling was dismissed on procedural grounds by the state's highest court on September 19, 1963 (Docket No. 36696). The case was pending.

EMPLOYMENT

Despite passage of state laws against discrimination in employment and more effective activity by the President's Committee on Equal Employment Opportunity, employment discrimination was becoming more serious because of a combination of growing and longer-lasting Negro unemployment, a widening income gap between Negroes and whites, and the large Negro percentages in most of the job categories that were declining because of automation.

Legislation

Hawaii and Indiana adopted fully enforceable fair-employment practice laws in 1963, bringing the total to 22. The other states with such laws were Alaska, California, Colorado, Connecticut, Delaware, Illinois, Kansas, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Washington, and
Wisconsin, Iowa and Vermont adopted laws in 1963 making discrimination in employment subject to criminal penalties, joining Idaho and Utah. 

Hawaii's law provided for administrative enforcement, but with a significant change from the usual procedure for court decrees requiring the respondent to comply with the order. Instead, the act provided that any person "wilfully" violating an enforcement order from the state department of labor and industrial relations should be fined up to $200 for the first offense and up to $500 for subsequent offenses, besides imprisonment up to 90 days. 

Indiana was the last industrial state outside the South to adopt a fully enforceable fair-employment law, replacing a "voluntary" law of 1945. The new act covered employers of six or more persons, but exempted non-profit, fraternal, and religious institutions. 

The Iowa law banned discrimination by all employers and labor unions, with violations punishable by a fine up to $100 or imprisonment up to 30 days. 

The Vermont law forbade discrimination by employers, employment agencies, and unions, as well as discriminatory advertising. Anyone "wilfully" violating the law might be fined up to $500 for each violation. The law required all public contracts to contain a clause obligating contractors and subcontractors to comply with the statute. 

Additional laws or amendments affecting discrimination in employment or professional activity were enacted in seven states. In California a law barring civil-service discrimination because of sex, race, or marital status was amended to add, "religious creed, color, national origin, ancestry." Colorado extended the jurisdiction of its antidiscrimination commission to cover apprenticeship training, on-the-job training programs, and vocational schools. Illinois amended its law to cover state and city jobs as well as private employment. Missouri revised its law regulating veterinarians to provide that licenses should not be denied, revoked, or suspended because of race, creed, color, or national origin. New Jersey authorized its division on civil rights to initiate investigations of employment discrimination and transferred the division from the department of education to the department of law and public safety. New York barred racial discrimination by private hospitals in the selection of physicians accorded hospital privileges. Oklahoma set up a human-relations commission and barred discrimination in state employment on the basis of race, religion, or national origin. 

**Administrative Action**

The President's Committee on Equal Employment Opportunity continued to be much more aggressive than its predecessor under the Eisenhower administration. After a new surge of protests throughout the nation, including Negro picketing of construction sites in Philadelphia, New York, and other northern cities, President Kennedy issued Executive Order #11114, extending the committee's charter to cover discrimination on federally assisted construction projects, including those financed by FHA mortgages and VA
loans. At the same time the government invoked strict new standards in banning bias from federally aided apprenticeship programs. By November 1963, 117 companies with government contracts and 118 of the 130 AFL-CIO international unions had signed long-range “Plans for Progress” with the committee. These programs were designed to give Negro workers fair access to jobs and promotions in the firms and industries involved.

In December 1962 the National Labor Relations Board ruled that an NLRB election might be requested at any time by a union challenging the representation rights of any union whose contract with management sanctioned racial discrimination. In July 1963 the United States Employment Service ordered state employment agencies to fill jobs without discrimination or face loss of Federal funds.

City administrations in New York, Philadelphia, Trenton, Newark, Chicago, Detroit, and other large northern cities took steps to bar discrimination in the construction industry and pressed drives to open apprenticeship-training and union-membership rolls to qualified minority group workers.

The New York office of the Arabian-American Oil Company (ARAMCO), which had been ordered by the State Commission for Human Rights in 1961 to cease discriminating against Jewish applicants, hired Jewish personnel in 1963. The Pennsylvania Unemployment Compensation Board of Review ruled that a Jewish worker dismissed for failing to report to his job on Jewish High Holy Days was entitled to unemployment compensation.

**Court Action**

The United States Supreme Court (*Sherbert v. Verner*) in June 1963 reversed a lower court’s decision and ruled that South Carolina’s denial of unemployment benefits to a Seventh Day Adventist who refused to work on Saturday for religious reasons violated his constitutional rights to free exercise of religion. The court also reversed another lower court decision (*Colorado Anti-Discrimination Commission and Green v. Continental Air Lines, Inc.*) and upheld the constitutionality of Colorado’s fair-employment practice law as applied to an interstate carrier.

In August 1963 New York’s state supreme court ordered an employment agency to cease discriminating against Negro, Puerto Rican, and Jewish job applicants and ordered the agency to pay $1,000 for the costs of investigation.

**Voluntary Action**

In September 1963 the Construction Industry Joint Conference of management and labor issued detailed guidelines for local joint apprentice committees, designed to eliminate racial segregation in job training. When, in July 1963, the Brotherhood of Locomotive Firemen and Enginemen repealed its

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14 374 U.S. 398.
87-year ban on membership of nonwhites and workers of Mexican extraction, its action removed the last color bar in the constitution of an AFL-CIO international union. Of the 130 AFL-CIO international unions, it was reported in December 1963, only 19 still had segregated locals—172 such locals out of a total of more than 55,000. Unions and management alike took the initiative in various cities in setting up civil-rights programs. In Milwaukee, Wis.; Detroit, Mich.; Memphis, Tenn.; Atlanta, Ga., and Cincinnati, O., Negro, labor, and industrial leaders were meeting to foster job integration, training, and allied programs.

Of 60,000 new workers hired by companies participating in Plans for Progress between September and November 1963, 25 per cent were Negroes, compared with only three per cent for comparable previous periods. In December 1963 President Lyndon B. Johnson announced that the employment of nonwhites in salaried posts gained 23.5 per cent, in a general rise of 13.8 per cent in nonwhite employment:

Employment of nonwhites in management categories rose by 46.3 per cent . . . and by 37.4 per cent in professional and administrative jobs. In sales positions, the increase was 33.1 per cent and in technical jobs, 31.6 per cent. Within those companies whose reports have been received, the ratio of white salaried employees to nonwhite dropped from 65 to 1 at the beginning of the reporting period to 60 to 1 at the end. We still have a long way to go.

PUBLIC ACCOMMODATIONS

The United States Supreme Court in several 1963 decisions reaffirmed that no municipally-owned and -operated facilities might be segregated and no unreasonable delay would be allowed in effectuating their desegregation. It ruled unanimously in Johnson v. Virginia that racially segregated seating in any courtroom was unconstitutional, and in Wright v. Georgia that a municipality might not arrest and prosecute Negroes for peaceably seeking the use of city-owned and -operated recreational facilities. In Watson v. Memphis, the court ordered immediate desegregation of public parks and playgrounds in Memphis, Tenn. The court reversed breach-of-peace convictions of anti-segregation demonstrators in Columbia, S.C., in Edwards v. South Carolina, ruling that the defendants had exercised their constitutional rights of free speech and assembly "in their most pristine and classic form." In May 1963 the court ruled in Peterson v. Greenville; Gober v. Birmingham; Shuttlesworth v. Birmingham; Avent v. North Carolina, and Lombard v. Louisiana that cities and states with segregation laws or official segregation policies might not prosecute Negroes seeking service in

15 373 U.S. 61.
16 373 U.S. 284.
17 373 U.S. 526.
18 372 U.S. 229.
19 373 U.S. 244.
20 373 U.S. 262.
21 373 U.S. 375.
22 373 U.S. 267.
23 373 U.S. 267.
private establishments. Other Federal courts ordered desegregation of public
golf links, swimming pools, parks, and recreation facilities in scores of cities
throughout the South.

Illinois, Indiana, Kansas, Nebraska and New Mexico in 1963 strengthened
their civil-rights statutes covering public accommodations, while Maryland
and South Dakota passed laws prohibiting discrimination in places of public
accommodation. The Maryland law applied in Baltimore and 11 counties,
covering particularly the troublesome Route U.S. 40, where repeated in-
cidents involving foreign diplomats had occurred. The law specifically
excluded "bars, taverns and cocktail lounges." The Maryland legislature
also amended a statute so as to permit Baltimore to enact legislation pre-
vailing discrimination in places open to the general public, which the Balti-
more city council promptly did. The South Dakota law provided that vio-
lators would be subject to a fine of up to $200.

Louisville, Ky., Philadelphia and Erie, Pa., and St. Joseph and Kansas
City, Mo., adopted ordinances in 1963 to bar discrimination in public ac-
commodations. The governors of Kentucky and Indiana issued executive
orders barring discrimination in public accommodations.

The American Library Association reported in July 1963 that at least 24
per cent of cities in 16 southern and border states had integrated library
systems.

In December 1962 the Cone Memorial Hospital at Greensboro, N.C.,
opened staff appointments to Negro professionals.

As a result of contracts between Actors' Equity and the League of New
York Theaters to bar performances in any theater permitting racial segre-
gation "in front or behind the footlights," six legitimate theaters in the South
ended segregation. The American Guild of Variety Artists also voted in
1963 to boycott entertainment centers that practiced segregation in dealings
with customers or employees. That vote was expected to affect night clubs,
rodeos, circuses, ice shows, and other forms of professional entertainment
throughout the South.

VOTING

The United States Commission on Civil Rights, established in 1957, re-
ported in 1963 that "the right to vote is still denied many Americans solely
because of their race." It added that five years of Federal litigation had
made it clear that case-by-case proceedings did not provide a "prompt or
adequate remedy for widespread discriminatory denials of the right to vote." The
commission called for uniform voter registration standards throughout
the country and proposed enforcement of the 14th Amendment by legisla-
tion reducing congressional representation for states denying Negro citizens
equal voting rights.

The Supreme Court in Alabama v. U.S.24 unanimously affirmed in the fall

24 373 U.S. 545.
of 1962 lower-court decisions that the Civil Rights Act of 1957 empowered Federal judges to order specific Negroes entered on the voting rolls of Macon county, Ala. In 1963 the court refused in Coleman v. Kennedy to review a lower-court decision upholding the justice department's demand for Mississippi voting records.

By the end of 1963 a constitutional amendment outlawing the poll tax as a voting requirement in Federal elections had been ratified by 36 of the 38 states needed to make it law.

About 265,000 Negroes in 11 southern states registered to vote from April 1, 1962, to December 31, 1963, as a result of voter-education projects coordinated by the Southern Regional Council. Wiley A. Branton, director of the project, said a total of 327,588 persons were registered during the 21-month period as a result of the project, of whom 99 per cent were Negroes, except in Texas. In that state the 120,590 persons registered for the first time were divided between Negroes and Mexican-Americans. New registrations for other states were: Alabama, 13,487; Arkansas, 8,756; Florida, 37,111; Georgia, 46,347; Louisiana, 5,899; North Carolina, 23,323; South Carolina, 20,727; Tennessee, 34,243, and Virginia, 13,877. Branton estimated that 90 per cent of the new registrants were in urban areas, where civil-rights activity had been greatest. Participating in the project were NAACP, CORE, the Southern Christian Leadership Conference, the Student Nonviolent Coordinating Committee, the National Urban League, and a number of local groups.

**REAPPORportionMENT**

On March 26, 1962, the Supreme Court decided, in *Baker v. Carr*, that Federal courts had jurisdiction when a voters' suit charged that a state apportionment statute deprived them of the equal protection of the laws in violation of the 14th Amendment (AJYB, 1963 [Vol. 64], pp. 103-04). The decision prodded state legislatures into moving to give urban and suburban voters a more equal voice. Until that decision, unrepresentative state legislatures, in which the less populated rural counties outvoted the more populous urban areas, had become traditional in the United States. In Tennessee, before *Baker v. Carr*, a single vote in a rural county was equivalent to 19 votes in an urban county. In Georgia, before reapportionment in 1962, 5.5 per cent of the people controlled the lower house; in Vermont, 11.6 per cent, and in Kansas, 18.5 per cent.

Since 70 per cent of the American people were estimated to live in cities and suburbs, and since Negroes and other nonwhites were increasingly becoming city dwellers, the court's decision in *Baker v. Carr* was expected to have a significant impact on civil rights.

By November 11, 1963, a New York *Times* survey showed that lawsuits

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25 373 U.S. 950.
26 369 U.S. 186.
had been brought in 39 states to challenge existing legislative apportionments. In 20 states legislative districts had been revised by legislative action or constitutional amendment, usually under the compulsion or threat of a court order. The courts found a number of the new apportionments still inequitable and struck them down. In three cases a court itself drew new district lines.

The final outcome of these developments was still uncertain. The Supreme Court had not yet ruled whether the United States Constitution requires the districts in either house of a state legislature, or neither, or both, to be approximately equal in population. Those questions were expected to come before the court in a series of cases in the future.

HARRY FLEISCHMAN

Church-State Issues*

The period under review (July 1, 1962, to December 31, 1963) was by any standard a time of great consequence for church-state relationships. In the most far-reaching decision since the McCollum case, the United States Supreme Court held that Bible reading and the recitation of the Lord's Prayer in the public schools violated the First Amendment.

Another Supreme Court ruling was that a state may not deny unemployment benefits to those whose religious convictions keep them from accepting employment on Saturday. This seemed to open the way for a serious challenge of the court's 1961 Sunday-law decisions.

The controversy over tax aid to education was complicated by several developments. While Congress enacted a college-aid bill that provided loans and grants for church-related institutions, the first court action of its kind was instituted in Maryland to test the constitutionality of state aid to church-related colleges for the construction of academic and dormitory facilities. At the same time, Rhode Island enacted a law requiring that textbooks for such secular subjects as science, mathematics, and foreign languages be provided for children in parochial as well as public schools, thus extending

28 Alabama, Colorado, Delaware, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Nebraska, North Carolina, North Dakota, Oklahoma, Rhode Island, Tennessee, Utah.
29 Delaware, Kansas, Oklahoma, Tennessee, Virginia.
30 Alabama, Oklahoma, Tennessee.
* For meaning of abbreviations, see p. 361.
Michigan adopted a humane-slaughter law, but with adequate safeguards for *shehitah*, the Jewish ritual method of slaughter of meat animals.

**BIBLE READING AND PRAYER CASES**

On June 17, 1963, the United States Supreme Court held, 8 to 1, that Pennsylvania's Bible-reading statute and Baltimore's rule requiring the recitation of the Lord's Prayer or the reading of the Bible at the opening of the public-school day were unconstitutional under the establishment clause of the First Amendment (“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .”). In neither case was attendance at the school exercises compulsory.

In one case, the Schempp family of Abington Township, Pa., had brought suit to enjoin the reading of “at least ten verses from the Holy Bible . . . without comment, at the opening of each . . . school day.” Under the Pennsylvania statute as amended by the state legislature (after the action had been initiated), school children were excused from the exercise upon the written request of parent or guardian (AJYB, 1963 [Vol. 64], pp. 118-19). In the second case, brought by Mrs. Madalyn Murray and her son, a rule of the Baltimore board of school commissioners providing for the “reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer,” was challenged (AJYB, 1963 [Vol. 64], pp. 118-19).

Writing for the majority, Justice Tom C. Clark found that “today, as in the beginning, our national life reflects a religious people,” but that religious freedom is so strongly imbedded in American public and private life that the views of Roger Williams, Jefferson, and Madison “came to be incorporated . . . in the Federal Constitution [and] in those of most of our states.” In clarifying the “reach” of the First Amendment, the court “rejected unequivocally” the contention that the establishment clause merely forbids governmental preference of one religion over another. Rather it was intended to “create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion,” and the court cited its opinion in *Eakins v. Board of Education*, 330 U.S. 1 (1947).

It concluded that the religion clauses of the First Amendment require a “wholesome” neutrality, the test for which is that “there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.” The majority dismissed the defense that the Bible had been used as an instrument for “nonreligious moral inspiration or as a reference for

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the teaching of secular subjects" as being inconsistent with one rule permitting nonattendance at the exercises and another rule permitting the alternative use of the Catholic Douay version.

Conscious of the bitter criticism of its decision in *Engel v. Vitale,* also known as the Regents' Prayer case (AJYB, 1963, [Vol. 64], p. 105), the majority denied that it was establishing a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, or that it was barring the Bible as an instrument of secular instruction:

Nothing we have said here indicates that . . . study of the Bible for its literary and historical qualities or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment. But the exercises here do not fall into those categories.

Justice Clark concluded for the majority with these words:

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel. ... In the relationship between man and religion, the state is firmly committed to a position of neutrality.

In a 25,000-word concurring opinion, Justice William J. Brennan said that although the historical record contained no evidence that the founding fathers intended to bar Bible reading and prayer recitation from the public schools, he was nevertheless "persuaded" that these exercises offended the First Amendment "because they sufficiently threaten in our day those substantive evils the fear of which called forth the establishment clause of the First Amendment." Not every involvement of religion in "public life" violated the establishment clause, but religious exercises in the public school presented a unique problem. Therefore, he held, the Court's decision did not "clearly forecast anything about the constitutionality of other types of interdependence between religious and other public institutions," but foreclosed only "those involvements of religious with secular institutions which a) serve the essentially religious activities of religious institutions; b) employ the organs of government for essentially religious purposes; or c) use essentially religious means to serve governmental ends, where secular means would suffice." Accordingly, said Justice Brennan, he would support chaplains in the armed forces, invocational prayers in legislative chambers, and legislative chaplains. He would oppose "any attempt to impose rigid limits upon the mention of God or references to the Bible in the classroom. . . ." He approved of tax deductions or exemptions which "incidentally" benefit churches and religious institutions "along with many secular charities," and thought that reciting the Pledge of Allegiance with reference to the Divinity might be "no more of a religious exercise than the reading aloud of Lin-
coln's Gettysburg Address, which contains an allusion to the same historical fact."

Justice Arthur Goldberg also wrote a concurring opinion, in which Justice John M. Harlan joined. He cautioned that the concept of neutrality established by the court must not lead to a "brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious." It seemed clear to him, therefore, as it did to Justice Brennan, "that the court would recognize the propriety of providing military chaplains and of the teaching about religion, as distinguished from the teaching of religion, in the public schools."

Justice Potter Stewart, the lone dissenter, thought the records in the two cases were "fundamentally deficient" and required "remand . . . for the taking of additional evidence." He would allow the exercises to be held for those who wanted them and under conditions truly free from coercion. The latter requirement, he said, did not demand "providing an atmosphere in which children are kept scrupulously insulated from any awareness that some of their fellows may want to open the school day with prayer, or of the fact that there exist in our pluralistic society differences of religious belief." He saw no evidence of coercion in either the Shempp or Murray records.

Justice Stewart was caustic in his references to talk of "separation of church and state," describing it as "the ritualistic invocation of [a] non-constitutional phrase" and a "sterile metaphor." He declared that the refusal to permit the religious exercises in question in the public schools was not state neutrality, but rather "the establishment of a religion of secularism, or at the least government support of the beliefs of those who think that religious exercises should be conducted only in private." Therefore, he said, the cases involved "a substantial free-exercise claim on the part of those who affirmatively desire to have their children's school day open with the reading of passages from the Bible."

**Anticipation of the Decision**

Compared to the bitter, even violent, storm of abuse that greeted the decision in *Engel v. Vitale* (AJYB, 1963 [Vol. 64], pp. 107-12), the reaction to the ruling in *Schempp-Murray* was mild. The decision was by no means unexpected, legal experts and others having freely predicted it (AJYB, 1963 [Vol. 64], pp. 112-13). Most important, perhaps, were the official pronouncements and statements by religious, particularly Protestant, bodies, issued a month or two in advance of the decision.

Just before the decision, the National Council of Churches of Christ (NCCC), in face of strong opposition from its Greek Orthodox constituency, adopted a policy statement affirming that "neither true religion nor good education is dependent upon the devotional use of the Bible in the public-school program." (But it implied that the Bible was useful, or perhaps necessary, for educational and character-building purposes.) The council
also went on record in support of the Regents’ Prayer decision of June 1962 (AJYB, 1963 [Vol. 64], p. 109).

The most far-reaching policy statement of any major Protestant denomination came in May 1963 from the United Presbyterian Church in the U.S.A. It declared that Bible reading—except in connection with courses in literature, history, or related subjects—and prayers “tend toward indoctrination or meaningless ritual and should be omitted for both reasons.” It also opposed the use of public-school property for religious displays. “Provincial opposition” to the statement was “strenuous,” and the adoption of the report was “a remarkably clear victory of common sense and biblical sense over the uninformed chauvinism of the heartland,” according to an article by the editor of Presbyterian Life in Christian Century for October 9, 1963.

Educational bodies, too, sought to prepare their members for the seemingly inevitable. Finis E. Engleman, executive secretary of the large and important American Association of School Administrators, circularized the membership with a brochure describing the issues in litigation and their background. Mrs. Fred A. Radke, president of the influential National School Boards Association, sent out a similar communication to members.

**REACTIONS TO THE DECISION**

**Catholic Reaction**

With very few exceptions Catholics condemned the court’s decision, although in words much milder than those applied to the Engel verdict (AJYB, 1963 [Vol. 64], p. 108). Richard Cardinal Cushing of Boston declared: “To me it is a great tragedy that the greatest book ever published and a constant best seller cannot be read in the public-school system of education.” Francis Cardinal Spellman of New York deplored the decision as a victory for secularism and said that “no one who believes in God can approve such a decision.” James Francis Cardinal McIntyre of Los Angeles held that the decision was an abandonment of “our American heritage of philosophy, of religion and of freedom,” and an “imitation of Soviet philosophy, Soviet materialism, and Soviet regimented liberty.” For Archbishop Patrick A. O’Boyle, chairman of the administrative board of the National Catholic Welfare Conference, it was obvious “that little by little the Court is discarding religious traditions hallowed by a century and a half of American practice.”

*America* (June 29) insisted on the decision’s “clear and logical corollary: equal aid to all schools. . . .” On July 13, paraphrasing American Civil Liberties Union counsel Henry Sawyer, attorney for the Schempp, who had argued that the “public school is a Protestant institution to which all others are cordially invited,” *America* quipped: “. . . the public school

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5 A Gallup poll released in August 1963 showed that 70 per cent disapproved of the decision, 24 per cent approved, and 6 per cent had no opinion.
is now an agnostic institution to which all others are cordially invited.”

Father William J. Kenealy, professor of law at Loyola University, a Jesuit institution, was among the few Catholics who supported the decision.

**Protestant Reaction**

Leading Protestant churchmen approved the decision. In a departure from their position on *Engel* (AJYB, 1963 [Vol. 64], p. 109), President J. Irwin Miller and General Secretary Roy G. Ross of the National Council of Churches of Christ applauded the court for having “fulfilled its function of settling peaceably disputes in the American community,” and drew parallels between the court’s and the NCCC’s positions.

Franklin Clark Fry, president of the Lutheran Church in America, head of the Lutheran World Federation and chairman of the central committee of the World Council of Churches, did not believe “much has been lost [by religion] in terms of the specific points covered by the decision.” He said that it would have been “worth nothing to me as a Christian” if the Supreme Court had sanctioned the recitation of the Lord’s Prayer in the public school “only for the sake of the moral and ethical atmosphere it creates. . . . The Lord’s Prayer is the supreme act of adoration and petition or it is debased.” Similarly, said Dr. Fry, the reading of the Bible without comment in the schools “has been of dubious value as either an educational or religious experience.” Yet, he added, the decision opened an era in which Christianity is kept separate from the state in a way that was foreign and would have been repugnant to the minds of our ancestors at a time when the Constitution was written and ever since. It signalizes the fact that the United States of America, like many other nations, is past the place where underlying Christian culture and beliefs are assumed in its life.

A nine-member commission of theologians, lawyers, and educators, appointed by the Lutheran Church in America, thought the decision was inconsistent: it saw no “substantial distinction” between the government’s sponsorship of patriotic exercises “reflecting the significance of religious faith in American life and history” and the sponsorship of religious practices in the public schools. The commission, further, doubted the wisdom of having the First and Fourteenth Amendments serve as a basis for “establishing national rules and regulations in regard to . . . matters of primarily local concern and interest.” The court was seen as moving in the direction of “favoring a philosophy of secularism” over religion, and it was criticized for overlooking the importance of religious tradition even from the point of view of pluralism itself. However, “from a religious point of view,” the commission agreed that not much had been lost by the decision.

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But contrast the action taken by the Catholic bishops of the United States on a schema addressed to religious liberty at the Ecumenical Council (p. 237). On October 23, 1963, they indicated that they did not want the word “unfortunate” to be associated with the concept of separation of church and state in the document. Bishop Victor Reed of Oklahoma City and Tulsa said that the American Roman Catholic church is “in favor of separation of church and state” and the word in question might convey a contrary impression.
Methodist Bishop John Wesley Lord of Washington endorsed the decision, but World Methodist Council President Bishop Fred Pierce Corson, consistent with his position on the Engel ruling (AJYB, 1963 [Vol. 64], p. 109), said that it "penalized . . . religious people who are very definitely in the majority in the United States."

Presiding Bishop Arthur Lichtenberger of the Protestant Episcopal Church in the United States said: "The Supreme Court decision . . . put [the Christian faith] in proper perspective. The United States is a secular state of minorities." Episcopal Bishop James A. Pike, who in June 1962 had charged that the Engel decision had "deconsecrated the nation" and had called for a "restating of the First Amendment so that the Supreme Court will never be able to misread the Establishment Clause again" (AJYB, 1963 [Vol. 64], p. 109), also accepted the Schempp-Murray ruling as "best for religion." 7

The evangelist Billy Graham, was as firmly opposed to Schempp-Murray as he had been to the ruling on the Regents' Prayer (AJYB, 1963 [Vol. 64], p. 109).

Jewish Reaction

From the beginning the Jewish community had been virtually unanimous in opposing religious exercises in the public schools. The agencies represented in the Joint Advisory Committee (JAC) of SCA and NCRAC had submitted an amici curiae brief to the Supreme Court opposing the exercises. They included the rabbinical and congregational bodies of Orthodox, Conservative, and Reform Judaism; AJCongress; JWV; the Jewish Labor Committee, and 61 local Jewish community councils throughout the country.8 The American Jewish Committee and ADL had also filed a joint brief in opposition to the practices.

The court's decision was publicly welcomed by SCA President Uri Miller, UAHC (Reform) President Maurice N. Eisendrath, United Synagogue (Conservative) President George Maislen, RCA (Orthodox) First Vice President Israel Miller, American Jewish Committee President A. M. Sonnabend, and AJCongress President Joachim Prinz.

The Press

Press criticism of the Schempp-Murray ruling was more restrained than it had been of Engel (AJYB, 1963 [Vol. 64], pp. 111–12). The (Los Angeles, Calif.) Herald Examiner (June 18, 1963) held that this "latest ruling makes as little sense, morally or legally, as the historic 1962 decision. . . ." The St. Louis (Mo.) Globe-Democrat (June 18) felt that most Americans would be "saddened" by the decision, which "follows the strange trend of

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7 In a communication dated December 2, 1963, the bishop's executive assistant R. Cromey wrote that Bishop Pike "still disagrees with the Court on constitutional grounds."

8 When Thomas B. Finan, attorney general of Maryland, said that the basic issue in the Murray case was theism versus non-theism, Chief Justice Earl Warren countered by pointing to the JAC brief.
Supreme Court thinking and opinions in recent years." The Wilkes-Barre (Pa.) Record (June 19) found that the court had "enlarged its beachhead aimed at routing any trace of religious expression from the nation's schools." The (Charleston, S.C.) News and Courier (June 19) argued that the Supreme Court had "encroached again on the authority of a state to regulate its schools." A Lebanon (Pa.) Daily News (June 19) editorial was entitled, "Our Godless Court." The Clearwater (Fla.) Sun (June 19) charged that "the dissidents in whose favor the court ruled . . . are agnostics, who hold the existence of God can't be proved; and Jews and Unitarians who deny the divinity of Christ . . . ." The (Cincinnati, O.) Enquirer (June 19) said the court had "opened another Pandora's box," and that "a position of neutrality between religion and nonreligion, between religion and antireligion" is a "notable departure from the intent of the Constitution's framers." The Indianapolis (Ind.) Star (June 20) thought the decision "puts the Federal government right into the business of regulating religion," and therefore was a "step away from freedom." In his syndicated column (Toledo [O.] Blade, June 20) David Lawrence wrote that the decision had by no means settled the controversy, which would grow in complexity as the average man wondered "why his children in school can't be told by their teachers that there is a God or what the Ten Commandments say about morality."

As they had with respect to the Engel case, leading newspapers like the New York Times, Baltimore (Md.) Sun, St. Louis (Mo.) Post-Dispatch, and Atlanta Constitution (AJYB, 1963 [Vol. 64], p. 111) expressed editorial support of the Schempp decision, their general attitude being that the court had struck a blow for religious freedom. The Boston (Mass.) Herald (June 18) agreed, saying that the decision "places the state in the present march of interfaith fraternalism." The Christian Science Monitor (June 18) was satisfied that the court had come to the conclusion "already reached in the United States by most educators and many churchmen: That separation of church and state is the only workable rule." The (Cleveland, O.) Plain Dealer (June 18) said the court had "reiterated that prayer is personal and sacred, not a matter for public decision in the sensitive setting of a public-school classroom containing the elements of compulsion." The Milwaukee (Wisc.) Sentinel (June 19) thought that it might serve to strengthen rather than weaken the place of religion in our society." The Kansas City (Mo.) Times (June 19) regretted the strict interpretation of the Constitution, but felt that the decision might help emphasize "by indirectness" the responsibility of church and home for "old-fashioned spiritual training." The Detroit (Mich.) Free Press (June 19) declared that, "Christ himself made the distinction. The school belongs to Caesar, the state. Religion, and the practice of it, belong to God." The Memphis (Tenn.) Press-Scimitar, the Rochester (N.Y) Democrat & Chronicle, the (Dayton, O.) Journal-Herald, and the South Bend (Ind.) Tribune were among those voicing approval of the decision.
In a lengthy editorial the (Norfolk) Virginian-Pilot (June 18), noting that "Southern congressmen accounted for most of the public reaction against last summer's [Regents' Prayer] decision," felt that Southerners would hail the Schempp-Murray ruling because "our Southern leaders decry 'creeping centralism,' and in this area of religion the Court has checked it effectively... ."

Application and Interpretation

A rather spotty and diffuse picture developed as the nation's schools sought to adjust to the new situation.

In the South there was open defiance of the Supreme Court. Governor Terry Sanford of North Carolina said the banned practices would continue. Governor George Wallace of Alabama dared "Washington" to send troops into his state's classrooms to enforce the ruling, while the state board of education actually made Bible reading a required part of the public-school curriculum (Atlanta Journal & Constitution, August 11). Officials of Mississippi and South Carolina acted similarly, and the latter's high court, in an open rebuke to the United States Supreme Court, departed from custom by opening its November term with prayer (New York Times, November 12).

Florida's reaction was complicated by the fact that when the Supreme Court handed down its decision in Schempp-Murray it also returned the Chamberlin 9 case (p. 53); (AJYB, 1963 [Vol. 64], pp. 123–24) to the Florida Supreme Court for further consideration in light of Schempp-Murray. Anticipating an adverse decision by the state high court, the Florida legislature acted swiftly—in June—to counteract such a possibility by passing a bill allowing, but not requiring, "secular courses in religion" to be taught in the public schools. The vote in the upper house was unanimous and in the lower house 119 to 1.

Georgia Attorney General Eugene Cook, in a letter on September 18, 1963, to State Superintendent of Schools Claude Purcell, advised compliance with the Supreme Court ruling, but said that "unsupervised" prayers could be said by students on a voluntary basis before the start of classes. In September Purcell interpreted Cook's ruling to mean that Bible reading and "chapel exercises" could be continued on a "voluntary basis."

In August Delaware Attorney General David P. Buckson held that inasmuch as his state was not a party to the Schempp-Murray litigation, its law requiring Bible reading was not invalidated, and it was therefore "the duty of all those affected by said law to comply therewith as long as it remains the law of this state."

Idaho and Oklahoma also offered resistance. Idaho Superintendent of Public Instruction D. F. Engleking saw no reason to halt Bible reading: "Unless some court tells me otherwise, I plan to advise public-school districts to continue . . . as . . . in the past." Oklahoma Superintendent of

Public Instruction Oliver Hodge "was not too sure" how the decision would affect practices in his state's schools. He said that Bible reading and prayer were practiced at the discretion of the individual teacher, and that the decision would not likely change that.

Except for a few additional states which presented a rather confused picture, there seemed to be fairly general compliance with the court's ruling elsewhere in the country. This was particularly true in New York, Massachusetts (except for North Brookfield), Maine, Connecticut, Rhode Island, New Jersey (with the notable exception of Hawthorne), and Pennsylvania (except for about 10 of its 2,000 school districts). Although Bible reading and prayer recitation had been traditional and widespread in these states, opinions by attorneys general or chief state school officers established a pattern of compliance.

The most comprehensive of state opinions was rendered by Massachusetts Attorney General Edward W. Brooke. In August, in response to questions posed by State Commissioner of Education Owen B. Kiernan, Brooke ruled that neither the Lord's Prayer nor any other prayer might be recited "on a voluntary basis" in opening class exercises; that grace before meals in the cafeterias was barred, there being no constitutional distinction between the classroom and the cafeteria, and that a moment of silent prayer was barred, there being no constitutional distinction between prescribed prayer and silent prayer. Brooke held, however, that a "moment of meditative silence" was not equivalent to a state endorsement of religion, that where arrangements were entirely their own, students might engage in prayer or Bible reading on a voluntary basis, and that vocal prayer was not barred at school graduations or baccalaureate exercises.

Brooke further held Thanksgiving, Veterans Day, and Memorial Day ceremonies permissible because these "basically patriotic holidays . . . involve religion because the history of this nation is inextricably interwined with religion. . . ." He also held that Christmas, Easter, Hanukkah, and Passover might be observed with religious pageantry since, being religious in nature, their "symbolism cannot entirely be avoided."

Compliance in New York State, where defiance could result in the loss of state aid, was considered "total" by September. However, in December Federal district court judge Walter Bruchhausen enjoined the New York City Board of Education and the State Board of Regents from interfering with the recitation of a short nonsectarian prayer used by some 200 kindergarten children in a Queens public school. The action had been brought by 15 parents, organized in a group called Prayer Rights for American Youth (PRAY). Although the children had been led in the prayer and song by their teachers, the judge found that the exercise was voluntary. He wrote: "The case does not involve a state statute requiring the children or personnel to engage actively in or refrain from acknowledging their complete dependence upon God. It is merely a voluntary desire of the children without coercion or pressure being brought to offer a prayer to the Almighty." The decision was to be appealed.
New Hampshire seemed to be the only northeastern state in which none-too-subtle defiance was officially encouraged. In November Attorney General William Maynard advised Governor John W. King that it would not be a violation of the Supreme Court ruling if a "group of students seek to gather voluntarily in a public-school building to recite a prayer before or after the start of the official school day or during a prescribed recess"; that such use of the school building rested entirely with the local school board; that it was "proper and permissible for state and local officials to encourage and promote such voluntary prayer gatherings," and that it was proper for school officials and teachers "to call regular meetings during school hours for silent prayer or for student silent reading of prayers or tracts that such student may bring to school with him."

In Indianapolis, Ind., in November, the school board voted, 5 to 2, to revise its bylaws by eliminating Bible reading and the Lord's Prayer and substituting "such activities as the singing of patriotic songs, . . . the pledge of allegiance, listening to good music, and the reading or reciting of poetry or prose designed to build ethical character or to promote appreciation of our cultural and social heritage." Heated controversy ensued, but the ban remained. The Indianapolis Times (November 27) acknowledged that the decision would be "understandably hard for many people to accept," but added that this was the "way to prevent socialized religion, which no one would want."

In Ohio central direction was lacking, and "local option" prevailed.

Alternative Practices

Silent meditation, or a period of "reverent silence," as it was sometimes described, seemed to be gaining acceptance as a substitute for the practices struck down by the Schempp-Murray decision, especially in Connecticut, Massachusetts, and New York.

At its convention in Washington in November 1962, UOJCA maintained that quiet meditation was "appropriate and consistent with the First Amendment" and saw "no objection if the school day were to start with a period of meditation."

Inspirational readings at the opening of the school day was a second means of "filling the vacuum." This practice was reported from Washington, D.C., and cities in New Hampshire and Pennsylvania.

Other substitutes were also suggested. In September 1963 the Rev. Horace Taylor of the Baptist Church of Ephraim (near Camden, N.J.) urged that public-school children carry a Bible to class each day and read it before the opening bell. New York City School Superintendent Calvin Gross favored inclusion of the fourth stanza of "America" in opening exercises (Brooklyn Tablet, August 22). (In June 1962 State Commissioner of Education James E. Allen had vacated a resolution of the Hicksville school board to adopt a portion of the fourth stanza of the "Star Spangled Banner" as a prayer [AJYB, 1963 (Vol. 64), p. 115]. The stanza includes the words, "and this be
our motto, in God is our trust.”) In September Illinois Governor Otto Koerner vetoed a bill that would have permitted public-school teachers to lead children in a daily recitation of the national anthem’s fourth stanza as a form of prayer. He said that “without question, the sole purpose of the bill is to use this stanza as an instrument for indulging in a collective defiance of the United States Supreme Court.”

Teaching “about” Religion

The formal assurance given by Justices Clark, Brennan, and Goldberg in their opinions that Schenck-Murray did not foreclose instruction “about” religion had the effect of further stimulating efforts to introduce such instruction in the public-school curriculum.

After the Regents’ Prayer decision in 1962, the California legislature enacted a law which added to the state’s education code a clause making it explicit that the prohibition against religious teaching in public schools did not require the excision of religious references or themes from literature, art, or music.

In December, in a memorandum entitled “Teaching About Religion in the Public Schools,” the California board of education advised its school administrators that the schools should have no hesitancy in teaching about religion . . . to make clear the contributions of religion to our civilization, through history, art and ethics. . . . Our teachers are competent to differentiate between teaching about religion and conducting a compulsory worship service. . . .

In August, the Abington Township (Pa.) school system issued a policy statement, saying that the “study of the religions of the world is an essential part of the curriculum of the schools,” but that teachers must maintain a climate of “neutrality” and be “sympathetic . . . [to] the different religious backgrounds . . . of the students. . . .”

In Pennsylvania Superintendent of Public Instruction Charles H. Boehm was promoting courses in religion throughout the state, and in many school districts long-standing courses in religion were freshened up and re-emphasized after the Supreme Court decision (Christian Century, September 11, 1963, p. 1117).

On the whole, however, there were few instances of actual or basic curriculum changes in evidence. One possible explanation, offered by Rhode Island Commissioner of Education William P. Robinson, was reported in an 18-state Religious News Service survey (September 18). He said that in Warwick, R.I., a course on world religion had been proposed and that he would have approved it, but that he did not know “who would teach it.” Such programs required teachers of unusual skill, discretion, and knowledge.
Constitutional Amendment

Congressman Frank J. Becker (Rep., N.Y.) introduced a constitutional amendment to overturn the Supreme Court decision immediately after it was rendered:

Section 1. Nothing in this Constitution shall be deemed to prohibit the offering, reading from, or listening to prayers or biblical scriptures, if participation therein is on a voluntary basis, in any governmental or public school, institution or place.

Section 2. Nothing in this Constitution shall be deemed to prohibit making reference to belief in, reliance upon, or invoking the aid of, God or a Supreme Being, in any governmental or public document, proceeding, activity, ceremony, school institution, or place or upon any coinage, currency, or obligation of the United States.

Section 3. Nothing in this article shall constitute an establishment of religion.

The proposed amendment was typical of some 132 measures, proposed by 110 members of Congress, by the end of the year.

On July 24, 1963, the Governors’ Conference, meeting in Miami, Fla., memorialized Congress, as it had done a year before (AJYB, 1963 [Vol. 64], p. 114), to initiate a constitutional amendment to “permit free and voluntary participation in prayers in our public schools.”

There was no lack of support for a constitutional amendment. Several officials who counseled compliance with the court’s ruling called, at the same time, for a constitutional amendment. Pennsylvania Attorney General Walter E. Alessandroni was one. While ruling that the state’s Bible-reading law was dead, he said in November that he favored the practice and that if he were a Congressman, he would vote for an amendment permitting it. Similarly, when the Indianapolis school board (p. 51) voted to eliminate Bible reading and prayer, it told the disappointed crowd that the solution was to be found in a constitutional amendment, which it favored.

Miami Case

In October 1962 plaintiffs in the so-called Miami case appealed to the United States Supreme Court a Florida Supreme Court decision upholding Bible reading, recitation of the Lord’s Prayer, baccalaureate exercises (described by the plaintiffs as Protestant religious services), a religious census of pupils, and a religious test for teachers (AJYB, 1963 [Vol. 64], pp. 123–24). The appeal urged that Florida’s Bible-reading statute was even more vulnerable than Pennsylvania’s in that it did not permit children to be excused from participation; that the baccalaureate exercises enjoyed the participation of Protestant clergymen, but that rabbis and Catholic priests refused to join in the programs; that pupils were required to state their religion when they entered the Miami school system, and that their answers became part of their permanent records; that applicants for teaching positions in Dade

10 Chamberlin v. Dade County School Board, 142 So. 2d, 21 (1962).
county were required to state whether or not they believed in God, and that religious affiliation and activity influenced the rating of teachers for promotion.

In June 1963 the United States Supreme Court returned the case to the Florida Supreme Court for further consideration in the light of its ruling in the Schempp and Murray cases.

**Religious Holidays**

The annual Christmas-time wrangle took a strange turn in Sharon, Mass. (population 2,800). In the first part of December 1962 the principals of three of its four schools—James J. Dowd, William P. Brown, and Fred W. Bellows—decided that Christmas decorations might violate a school committee's directive forbidding the direct or indirect teaching of religious doctrine. The principal of the fourth school acceded to the wish of a majority of the teachers, who voted to have a Christmas tree and decorations as usual.

On December 12, 25 irate mothers demanded an explanation from Brown for the barring of Christmas trees and carols in his school. He answered that the decision was his own, based on the principle of separation of church and state, and assured the mothers that no Jewish parent or other person had raised objections to the Christmas trees or carols (Sharon Advocate, December 13).

Superintendent of Schools Herman H. Richardson expressed confidence in the decisions of all four of his principals. He denied that the school committee had adopted any new edict on religion: "We only say they shall not teach religion. We do not say they can't have Christmas trees or sing Christmas carols. We leave that up to the individual schools to do as they see fit" (Boston Herald, December 14, 1962). By December 18 a citizens' committee was formed to protest the ban, demanding that the school committee assume responsibility rather than assign it to individual principals.

On December 19 more than 800 residents of Sharon crowded into the junior high school for a nationally-publicized protest meeting. School Committee Chairman Richard Hosmer declined to call a special meeting to lift the ban, notwithstanding a vote of approximately 700 to 100 demanding that he do so. He thought emotions were "running too high" and insisted that he would "not call a meeting by force" (Boston Herald, December 20). A motion by the Reverend Daniel C. Tuttle, pastor of the First Baptist church, that a committee of nine be appointed to study the problem and report by the following November 15, was carried by an overwhelming vote. The committee was made up of three (non-voting) members of the school committee, a rabbi, a Catholic priest, and a Protestant minister, and three PTA members.

The following year School Superintendent Arthur Danielson announced that all Sharon schools would have Christmas trees under an agreement
reached by the school principals. The special committee's report stressed that the "use . . . made of Christmas trees as decorations should be accomplished in such a manner that no person exposed to them will have reason to feel that he is participating in a religious ceremony or observance" (Boston Globe, November 10, 1963).

In November 1962, the Hartsdale, N.Y., board of education voted 3 to 2 to permit erection of a crèche on the grounds of its Central Avenue school. The crèche was to be set up December 22 and taken down by January 1 (White Plains Reporter-Dispatch, November 16), presumably to conform with the ruling by New York Supreme Court Justice Elbert T. Gallagher in the Ossining crèche case (AJYB, 1960 [Vol. 61], p. 29). Sixteen Hartsdale residents thereupon brought suit, charging violation of the First Amendment. New York Supreme Court Justice Hugh S. Coyle dismissed the complaint, declaring that the crèche was not an "active involvement by the government in religious exercises."

In mid-December 1963 Charles A. Brind, counsel to the New York State education department, stated that the birth of Jesus "has not only religious significance but is an event in history." Conceding "the difficulties of drawing a line between the historical features and those that are religious," he nevertheless stated his "view that there is no violation of either the Federal or state constitutions in presenting factual material relating to the birth of Christ in the public schools in connection with the Christmas holidays as long as no religious connotations are drawn therefrom by school teachers and school officials . . . that there is no legal objection to plays or even to sets which depict the historical traditions which relate to the birth of Christ . . . , and that each presentation [would] need to be examined on its own merits. . . ." Regarding Christmas verses and carol singing, he held that, like "religious references in song and verse in patriotic exercises," these should not be prohibited.

The Baltimore board of school commissioners amended its rules in the light of Schempp-Murray, stipulating that "... the teacher may provide time for pupils to share historical or cultural information about [religious holidays] but may not engage in religious exercises or celebrations." Principals and other staff members were urged "to develop sensitivity to minority opinions and feelings."

In one of the most unusual rulings taken by any school board in the country, the Red Wing, Minn. (population 10,000), board not only barred Bible reading, prayer, Gideon Bible distribution, and baccalaureate exercises, but, except for "small-scale parties and decorations," it also "discouraged" the observance of religious holidays, sought to avoid the "atmosphere of a specifically religious or sacred concert" from public presentations of sacred music, and barred the designation of programs as "Christmas" or "Easter" concerts. Red Wing residents understood the board's edict to be aimed at the traditional 25-year-old Christmas concert in which 600 students regularly participated (Dick Cunningham, Minneapolis Tribune, November 3, 1963).
Taking the brunt of the citizens' resentment was School Board President Gordon Lee, elder of the First Presbyterian church and superintendent of its Sunday school. The *Post-Bulletin* (November 4) of nearby Rochester called the Red Wing policy "stupid."

The board held to its position, except for one minor retreat. At the request of the town's ministerial association, it agreed that the "winter" and "spring" programs might once again be called "Christmas" and "Easter" programs.

In December, the Minnesota *Tribune*, in a statewide survey among a balanced sampling of adults, asked: "In general, do you think the Red Wing School Board policy should be adopted in all Minnesota public schools?" The response was 78 per cent against, 16 per cent in favor, and 6 per cent with no opinion.

**FEDERAL AID TO EDUCATION**

In a special message to Congress in January 1963 President John F. Kennedy offered a comprehensive plan to provide funds for education from elementary through graduate school. A bill designed to carry out this program, the National Education Improvement Act of 1963 (H. R. 3000), included aids for church-related as well as public educational institutions. In higher education, particularly, church-related schools were to be made eligible for massive aids: construction loans for academic facilities; loans and grants for the construction of library facilities and for books; grants for the expansion of graduate schools, applicable to construction, faculty, and equipment; increased appropriations for foreign-language studies; expansion of the scope of teacher institutes, and grants to strengthen the preparation of elementary- and secondary-school teachers and teachers of gifted, handicapped, and retarded children. In addition, there were provisions for loans, work-study programs, and graduate fellowships for students in church-related colleges. Among the provisions for elementary and secondary education, the bill extended the National Defense Education Act, which provided loans to parochial and other non-public schools for science, mathematics, and foreign-language teaching equipment.

In February the House Education and Labor Committee began hearings on the bill. It soon became clear that the higher-education features would have fairly clear sailing. The National Council of Parents and Teachers opposed tax aid for church-related schools on every level, but the executive secretary of the division of Christian education of the National Council of Churches avoided a declaration in opposition to tax aid for private colleges and universities; regarding direct aid to schools, he said only that he favored the use of Federal funds for public elementary and secondary schools, and opposed it for private elementary and secondary schools.

Rabbi Morris Sherer, executive vice president of Agudath Israel of America, favored Federal aid for "268 Jewish schools in 27 states" for the
nonreligious portion of their curriculum. He rejected the "fallacious image ... projected to the American public of the Jewish position on this issue."

The Rev. Frederick C. Hochwalt, education director of the National Catholic Welfare Conference, declared that his church would consider the omission of parochial schools from Federal aid to be discriminatory and unfair. He asked that the administration's omnibus approach be abandoned in favor of separate bills, since most groups seemed agreed on a higher-education bill.

The National Education Association (NEA), the American Council on Education, and the Association of American Colleges made no distinction on the college and university levels between church-related and other private institutions, although a year earlier NEA opposition to the college-aid bill, on church-state grounds, had contributed to the bill's defeat (AJYB, 1963 [Vol. 64], p. 131).

In May the administration abandoned its comprehensive aid-to-education bill in favor of separate measures, and in August the House passed a college-aid bill, which included aid to church-related colleges. It overwhelmingly rejected an amendment which would have paved the way for judicial review of the church-state aspects of the measures.

In the Senate, Winston L. Prouty (Rep., Vt.) and Wayne Morse (Dem., Ore.) clashed over the constitutionality of grants, as distinguished from loans, to church-related colleges. Prouty favored grants and loans for construction purposes, calling it "patently absurd" to question the constitutionality of aiding the construction of science classrooms in church-related colleges. Morse, on the other hand, thought the church-related college should be excluded from tax-raised grants because it exercises a religious influence over its students, but that loans would not violate the First Amendment "if the interest covers the cost of the use of the money." Sam J. Ervin (Dem., N.C.) questioned the constitutionality of both loans and grants to church-controlled colleges and universities and offered an amendment for judicial review which was included in the bill adopted by the Senate.

In November a House-Senate conference committee reached agreement on a bill, the Senate conferees yielding on the judicial-review section. Grants were for "academic facilities," especially "designed for instruction or research in the natural or physical sciences, mathematics, modern foreign languages, or engineering, or for use as a library" and not "for sectarian instruction or ... religious worship." The bill provided that if its conditions for the use of facilities were met, such facilities would become the property of the private institution after a period of 20 years. It authorized an expenditure of $1.195 billion for the first three years of a five-year program and provided for a reexamination of the program before funds were authorized for the remaining two years. In November the House approved the conference committee report, 258–92, and in mid-December the Senate approved, 54–27. In signing the measure into law in December 1963, President Lyndon B. Johnson called it the most significant education bill in history, the
first broad assistance program for colleges since the Land Grand Act a century earlier.

The New York Times applauded the "great advance" represented by the college-aid bill, but regretted the "blurring of the lines of separation of church and state. The pragmatic compromise that took final form in the bill evolved from the almost insoluble mixtures of various degrees of church-relatedness in different colleges. What matters now is that the compromise be regarded as an unfortunate, if perhaps necessary, step under the special circumstances of America's peculiar higher education system—and not as a foot in the door."

Representative Edith Green (Dem., Ore.) introduced a separate bill for judicial review of the constitutionality of Federal grants and loans to church-related institutions. Four programs would be covered by the bill: the higher-education measure, the National Defense Education Act, the Hill-Burton Hospital Construction Act, and the program for facilities to deal with mental retardation and for community mental-health centers.

Two public-opinion polls differed markedly on the question of Federal aid for parochial schools. According to Gallup polls, between 1961 and 1963 approval of such aid rose from 36 to 49 per cent, and among Protestants from 29 to 42 per cent. Simultaneously Protestant sentiment for limiting Federal aid to public schools declined from 63 to 50 per cent. (In both years 8 per cent of Protestants had no opinion.) On the other hand, a Harris survey, published in September 1963, showed only 33 per cent of the public in favor, 54 per cent opposed, and 13 per cent not sure, with 71 per cent of Protestants opposed.

**Federal Aid to Medical and Dental Schools**

In May the House approved a bill in aid of medical and dental schools, 288 to 122. In September the bill was passed by the Senate, 63 to 18, and signed into law by President Kennedy. It provided for a three-year construction and a six-year student-loan program. Grants totaled $236 million, ranging from 50 to 75 per cent of construction costs, for medical, dental, pharmaceutical, optometric, podiatric, nursing, osteopathic, and public-health teaching facilities, including public, private, and church-related schools. No grants were to be made to schools for any part of a facility used for sectarian instruction or as a place of worship. Passage of the bill culminated 14 years of effort. At the signing ceremony, President Kennedy described the bill as a health measure.

**STATE AID TO EDUCATION**

In September 1963, in what was believed to be the first case of its kind, the Horace Mann League of the United States and a number of citizens asked a Maryland state court to enjoin the use of state funds for the construction of buildings—dormitories and academic facilities—at four church-related
colleges: Notre Dame (Roman Catholic) in Baltimore, Hood (United Church of Christ) in Frederick, St. Joseph (Roman Catholic) in Emmitsburg, and Western Maryland (Methodist) in Westminster. The Maryland legislature had voted the funds in 1962 and 1963 for facilities costing from $500,000 to $750,000 at each college. The suit was to test whether state and Federal constitutional prohibitions against the use of tax funds for church-related schools applied to colleges and universities, particularly when these funds were earmarked for "non-religious" purposes, such as libraries, dormitories, and science classes.

**Handicapped Children**

A program providing tax-supported speech and hearing correction for children in St. Louis Catholic schools was inaugurated in October 1963 with aid to about 3,500 parochial-school children. It was believed to be the first time in the United States that a program set up for the public schools was made available to parochial-school children on such a scale. Therapy was administered in classrooms by therapists employed by the public-school district, using equipment purchased with tax funds. A decision by Missouri Attorney General Thomas F. Eagleton in February 1963 had opened the program to them.

In New York State, Supreme Court Justice Manuel W. Levine ruled in December 1963 that a public-school district must provide home teaching for a physically handicapped child enrolled in a parochial school. The decision was based on a section of the state's education law declaring it the duty of every union free school district "to provide transportation, home teaching or special classes . . . for physically or mentally handicapped and delinquent children . . . irrespective of the school they legally attend." The decision was in a suit filed by Richard Scales of West Hempstead, L.I., whose daughter required six months of bed treatment.

**Bus Transportation**

A fierce public controversy broke out in May 1963 when the Missouri house judiciary committee voted, 19 to 8, against a bill that would have allowed children in private and parochial schools to ride public-school buses. Representative Harry Goldberg, the bill's sponsor, said he would not try to get floor consideration in view of the committee's negative vote, which meant that the bill was dead for the 1963 legislative session. The bill had been designed to meet constitutional objections raised by Attorney General Eagleton, by providing that the transportation program be financed from general revenue, rather than public-school funds.

Catholic parents retaliated by enrolling their children in the public schools. On May 7 the St. Louis *Globe-Democrat* reported that the protest movement was "snowballing." In central Missouri, Catholic students, some accompanied by their parents, crowded into public-school buses and demanded to be enrolled in the public schools. Joseph Dailey, one of the parents directing the
protest, said: "Public schools are already crowded, so they'll find it's a lot cheaper to haul the Catholic students than to educate them." The Brooklyn Tablet (May 9) reported that within a period of five days several thousand parochial-school pupils had been involved in the protest movement and that Garland Noonan, leader of the Missouri Committee for Equal Bus Transportation, predicted that "95 per cent of the parochial-school pupils would transfer." Noonan was reported to have said that it would cost the state $24.50 per year per student for bus service, compared with $600 a year for each student who enrolled in a public school. "Some of our people feel that if the legislature won't spend $24.50 for the buses, they'll let the state spend $600 to educate the children," he was quoted as saying.

However, hundreds of Catholic parents reconsidered, and several hundred Catholic pupils who had been registered in the Jefferson City public schools were reported to have returned to their own schools.

The (Protestant) Missouri Council of Churches adopted a resolution in opposition to a constitutional amendment to provide free bus rides to children in the parochial schools.

(The controversy in Missouri recalled a similar flareup in Maine [AJYB, 1961 (Vol. 62), p. 94; 1962 (Vol. 63), p. 188].)

In July 1963 the Supreme Court of Oklahoma unanimously held that the use of public funds to provide transportation to parochial schools would violate the state constitution. Other states not following the United States Supreme Court ruling in Everson, under which transportation of a child to a parochial school was described as a welfare benefit for the student, were Alaska, Maine, Missouri, New Mexico, Washington, and Wisconsin.

Tax-paid bus transportation for parochial-school children in Pennsylvania went down to defeat in August 1963, in the closing moments of the state legislature. Attorney General Walter Allessandroni had ruled in June that such aid would be constitutional. Although Governor William D. Scranton supported the aid bill, the legislation became hopelessly bogged down in legislative maneuvers.

While the legislation was pending there was spirited public debate. The Pennsylvania Council of Churches, representing 17 Protestant denominations, opposed the bill, but 13 Protestant clergymen wrote to the Philadelphia Catholic Standard and Times (July 12) in its support. In July twenty-eight Orthodox rabbis told Governor Scranton they supported the bill, convinced that it would not constitute "even the slightest breach of the wall of separation," but earlier Rabbi Morris B. Pickholz, president of the Philadelphia Board of Rabbis, and Robert K. Greenfield, president of the Philadelphia Jewish Community Relations Council, had joined Protestant and civil-liberties leaders in a statement in opposition to the bill. Among the signatories was Methodist Bishop Fred Pierce Corson, who had vigorously

opposed the Supreme Court rulings on prayer and Bible reading in public schools.

In September 1963 Ohio Attorney General William B. Saxbe ruled that the state's public-school boards had no authority to furnish transportation to private- and parochial-school pupils, but that there was no doubt that such transportation would be constitutional if enabling legislation were passed by the Ohio legislature. Catholic Auxiliary Bishop Clarence E. Elwell of Cleveland hoped the legislature would clarify the power of school boards to act, arguing that bus transportation was a safety measure comparable to the placing of a policeman at a parochial-school crossing. A survey by the Cleveland Universe Bulletin revealed that ten public-school districts had decided to ignore the attorney general's opinion. Paul Briggs, superintendent of the Parma public schools, declared: "Carrying parochial school children is incidental to our regular transportation. . . . If there is room for two children in a bus, it wouldn't make sense to pick up one and leave the other standing there. The only moral thing to do is to offer both kids a ride."

Textbooks

More than half of Rhode Island's population was Roman Catholic. Late in 1961 the Catholic diocese of Providence requested textbook aid for its parochial schools from the state legislature. A study commission of seven members, appointed by Governor John A. Notte and leaders of the general assembly, unanimously recommended in December 1962 that the state furnish science, mathematics, and foreign-language textbooks to students in private and parochial schools. The commission further recommended that the state provide periodic intelligence and achievement tests to all pupils in parochial, private, and public schools. Books were to be lent, not donated, and were to go directly to the pupils, not the nonpublic schools they attended. The state's aid was to be funneled through local school committees authorized to select the texts and to approve lists of students qualified to receive such assistance. The commission acknowledged that the issue of constitutionality was undecided.

The commission's recommendations were opposed by a dozen Protestant, Jewish, and civil-rights organizations: The Episcopal Diocese of Rhode Island, the Rhode Island Council of Churches, the Rhode Island Baptist State Convention, the Rhode Island District of the Lutheran Church in America, the South County Ministerial Association, Protestants and Other Americans United, the American Civil Liberties Union, AJCongress, the Jewish War Veterans, the Providence branch of the Jewish Labor Committee, the Rhode Island Regional Board of ADL, and the American Jewish Committee.

Notwithstanding the opposition, the legislature enacted and Governor John H. Chafee signed into law, in February 1963, a bill conforming to the commission's recommendations. The preamble prohibited the use of "any textbook of a sectarian nature . . . or which for any reason would not be proper for use in the public schools." In October 1962 ACLU had noted
"that only three states—West Virginia, Louisiana, and Mississippi—now supply textbook aid for non-public schools. Seven other states which had tried such aid have since invalidated it."

**USE OF SCHOOL PREMISES FOR RELIGIOUS PURPOSES**

In April 1963 the New York City Board of Education asked State Education Department Counsel Charles A. Brind whether it would be constitutional for the city to rent public-school classrooms to sectarian schools. The question arose when Beth Jacob Schools asked to rent space in a Brooklyn public school which had a capacity of 1,934 pupils and an enrollment of only 940. Acting Superintendent of Schools Bernard E. Donovan had recommended that the board approve the rental, but requested that action be laid over pending Brind's ruling. AJCongress opposed the rental, arguing that it would set a dangerous precedent for religious segregation in the public schools. Frederick C. McLaughlin, director of the Public Education Association, opposed the rental on the same grounds.

Although Brind rendered no formal opinion, he advised New York City school officials that "the board of education could not legally rent a portion of the school building to a religious organization for religious instruction."

In January 1963 New Jersey Commissioner of Education Frederick M. Raubinger overruled a decision of the North Hanover Township Board of Education to deny the use of three elementary schools at McGuire Air Force Base for the "moral and religious" training of the children of military personnel. Dr. Raubinger held that the base chaplain's request for the use of the school buildings was "reasonable." Officers at the base had sought the use of the school buildings because other available facilities were inadequate. (The schools had been constructed with Federal funds, but in accordance with government policy regarding schools on military bases had been turned over to the local school district.)

**WAIVER OF BUILDING FEE FOR PAROCHIAL SCHOOL**

In January 1963 Archbishop Karl J. Alter of Cincinnati asked the city council to direct the building commissioner to waive building-permit fees (amounting to $757) on a Catholic girls' high school scheduled for construction. He said this "would seem proper and fitting in view of the substantial saving to the community made by the citizens who send their children to the school at no cost to the taxpayer." The city council rejected the request after City Manager C. A. Harrell said that "any waiving of fees would impose an additional tax burden on the entire community." In April a proposal to amend the city ordinances to exempt all "accredited educational institutions" from payments of building fees was defeated, 6 to 3.
UNEMPLOYMENT BENEFITS FOR SABBATH OBSERVER

Overshadowed by the Schempp-Murray ruling, but "in the long run [one which may] prove to be more controversial" (Christian Century, July 3, 1963) was the Supreme Court decision in Sherbert v. Verner (p. 37), rendered the same day. It held, 7 to 2, that a state may not deny unemployment benefits to a person whose religious convictions keep him from accepting employment requiring work on Saturday.

The suit was brought by Mrs. Adell H. Sherbert, a former employee of Spartan Mills in Beaumont, S.C., and a Seventh-Day Adventist. In 1959 the mill introduced a six-day work week. Faced with the necessity to work on Saturdays, which her religious precepts forbade, Mrs. Sherbert felt compelled to resign. Since other mills in the area presented the same problem, she was unable to accept other employment and filed a claim for unemployment compensation benefits. State law provides that to be eligible for such benefits a claimant must be "able to work and available for work," and Mrs. Sherbert was found not to qualify on the ground that she had failed, without good cause, to accept suitable work when offered. That administrative ruling was upheld in the trial court, and sustained by the South Carolina Supreme Court.

Writing for the majority, Justice Brennan held that Mrs. Sherbert had been forced

to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work, on the other hand. Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against appellant for her Saturday worship. . . .

"South Carolina expressly saves the Sunday worshipper from having to make the kind of choice which we hold infringes the Sabbatarian’s liberty," said the court, pointing to the fact that in a "national emergency" when textile plants were authorized by the state to operate on Sunday, employees were protected by statute from being required to work on Sunday. "The extension of unemployment benefits to Sabbatarians in common with Sunday worshippers reflects nothing more than the governmental obligation of neutrality in the face of religious differences."

Justice Brennan recognized some element of possible conflict with Braunfeld v. Brown (366 U.S. 599, 1961, one of the "Sunday-closing law" cases; AJYB, 1962 [Vol. 63], p. 191), in which it was acknowledged that the decision undoubtedly served "to make the practice of [an Orthodox Jewish merchant’s] religious beliefs more expensive."

In a separate opinion, Justice Douglas agreed that the South Carolina law, interpreted as denying benefits to a Seventh Day Adventist in the circum-

stances of this case, violated the First Amendment. But, he said, so did the Supreme Court decisions in the Sunday law cases, "from which I then dissented . . . and still dissent . . . ."

Justice Stewart also agreed with the conclusion but not with the reasoning of the majority: "This case presents a double-barreled dilemma," he said, "which . . . the Court's opinion has not succeeded in papering over." The first dilemma, he said, stemmed from the court's "wooden" interpretation of the establishment clause which, as stated in Everson, maintains that government is "stripped of all power . . . to support, or otherwise to assist any or all religions . . ." and that no state "can pass laws which aid one religion. . . ." But see where the court is led by this interpretation, said Justice Stewart:

If Mrs. Sherbert's refusal to work on Saturday were based on indolence, no one would argue that she was not available for work. But because her refusal . . . was based upon her religious creed the Establishment Clause requires that she be paid unemployment-compensation benefits, thus requiring financial support of government to be placed behind a particular religious belief.

The second dilemma, he said, derived from the inconsistency between the decisions in Sherbert and Braunfeld. He could not agree with Justice Brennan that there was a "less direct burden upon religious practices" in the Braunfeld case than in the Sherbert case, if only because Braunfeld involved a criminal statute. For Justice Stewart the issue was the same in both cases—whether a state may put an individual to a choice between his livelihood and his religion.

Justice John M. Harlan filed a dissenting opinion, in which Justice Byron R. White joined, arguing that the purpose of the unemployment legislation was to tide people over, and to avoid social and economic chaos, during periods when work was unavailable. But at the same time there was clearly no intent to provide relief for those who for purely personal reasons were or became unavailable for work.

The Supreme Court, they said, was now requiring the state to "carve out an exception—and to provide benefits—for those whose unavailability is due to their religious convictions." The twofold result of such a holding, they maintained, is that "despite the Court's protestations to the contrary, the decision necessarily overrules Braunfeld v. Brown. . . ."

An amici curiae brief in support of Mrs. Sherbert's position was filed jointly by SCA, AJCongress, the Jewish Labor Committee, and JWV. Another was filed by the American Jewish Committee and ADL.

**RELIGIOUS CONSCIENCE AND JURY DUTY**

In March 1963 the Minnesota Supreme Court unanimously affirmed the conviction of Mrs. Owen Jenison, who had been sentenced by a lower court
to 30 days in jail for refusing to take a juror's oath. "It's against my Bible teachings," she had said. "My Bible tells me, 'Judge not that you be not judged.'" The Minnesota high court recalled that freedom of religion was not an absolute privilege, as the Mormons found in the 19th century, when polygamy was ruled illegal.

In October the United States Supreme Court, without hearing argument, vacated the conviction of Mrs. Jenison and remanded the case for further consideration in the light of the holding in *Sherbert v. Verner* (p. 63). On reconsideration, the Minnesota Supreme Court found that there had been "an inadequate showing that the state's interest in obtaining competent jurors" required it to override Mrs. Jenison's right to the free exercise of her religion. "Consequently," said the court,

until and unless further experience indicates that the indiscriminate invoking of the First Amendment poses a serious threat to the effective functioning of our jury system, any person whose religious convictions prohibit compulsory duty shall henceforth be exempt.

The court indicated that the sincerity of prospective jurors was a matter for determination in each individual case, for which it could suggest no guidelines. "What constitutes 'religion' and whether the free exercise of conscience is also entitled to protection, are questions yet to be decided by the United States Supreme Court," said the Minnesota court.

**CLOSING LAWS**

In April 1963 the New York legislature enacted a law granting an option to the City of New York to exempt Saturday observers from the provisions of the state's Sunday-closing statute. The measure was limited to family businesses only ("momma and poppa" stores, as they were described in the press). In September the city council voted to exercise the option and Mayor Robert F. Wagner quickly affixed his signature to the ordinance. Thus was brought to final, although only partial, fruition a long struggle to bring relief from the strictures of the state's closing law to the largest Jewish community in the world. It was expected that efforts would be made to extend the Sabbatarian exemption to all cities in the state.

In neighboring Missouri and Kansas, as the following chronology indicates, a bewildering succession of conflicting interpretations of virtually duplicate, ancient Sunday-closing laws began at the end of 1961.

- December 1961—The Missouri Supreme Court held that its Sunday law was constitutional, rejecting a charge of vagueness.
- March 1962—The Kansas Supreme Court held that its Sunday law was unconstitutional, on ground of vagueness.

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March 1963—The Missouri Supreme Court held that its Sunday law was unconstitutional, on the ground of vagueness—a complete about-face from its decision in December 1961.

April 1963—Kansas adopted a new Sunday law.

June 1963—Missouri adopted a new Sunday law.

The conflicting decisions were about the same disputed language: "articles of immediate necessity." The words had been part of the Missouri law since it was enacted in 1823 and of the Kansas law since it was adopted some 30 years later.

Kansas City is divided by a street appropriately enough called State Line, one side of which is in Kansas and the other in Missouri. Notwithstanding the accessibility of both sides of the city to most consumers, during the period when the Kansas and Missouri stores were governed by different closing laws the city's buying habits underwent little change.

In April 1963 efforts to enact Sunday laws were defeated in California, Wisconsin, and Minnesota. The California effort came to an abrupt end when Senator Joseph A. Rattigan, its chief legislative sponsor, unexpectedly withdrew the measure, saying, "Support of the bill, while substantial, is not sufficient to gain its passage." In Wisconsin the senate defeated a proposed Sunday-closing law by the narrow margin of 17 to 16 despite the exemption from its provisions of two important businesses, the production and sale of beer and recreation. In Minnesota Governor Karl Rolvaag vetoed a closing bill which had passed the senate by 48 to 17 and the house by 94 to 21. In the message accompanying his veto, he said:

The real purpose of this bill is not to provide a uniform day of rest, or to promote family unity, or to encourage religious observance. . . . [but] to enlist the power of the state to promote narrow commercial interests. . . . If it were the intent of this bill to promote religious observance it would scarcely have excluded from its scope all forms of recreation and amusement, and the operation of beer taverns. . . . Even if this bill did forbid all secular activity on Sunday, I would still oppose it because I believe the state should never interfere in matters of private conscience. . . .

HUMANE SLAUGHTER

In June 1963 a humane-slaughter bill was enacted in Oklahoma, which included the so-called Case amendment, named for Senator Clifford P. Case (Rep., N.J.), author of Section 6 of the Federal Humane Slaughter Act of 1958, which exempted shehitah, the Jewish ritual method of slaughter, by the following clause:

Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. . . .

PHILIP JACOBSON
Anti-Jewish Agitation*

Antisemitic propaganda did not diminish during the period under review (January 1, 1963, to December 31, 1963) though the latter half of the year was marked by organizational reverses for several of the major hate groups.

Techniques ranged from a revival of blood accusations to a generous insertion of Jewish names and references in attacks ostensibly directed against Communism. The conspiratorial note predominated in almost all topical applications of bigotry to national and world problems. The UN and the UN International Children's Emergency Fund (UNICEF) were portrayed as instruments of an alleged Zionist-Communist Jewish plot to control the world. Desegregation tensions were attributed to Jewish domination of Negro organizations seeking to "mongrelize" the nation as a preliminary to Soviet conquest. Threadbare canards charged Jewish manipulation of the press, of banking, of social-welfare legislation, and of mental-health procedures. Racist and religious demagogues also smeared high government officials as dupes of subversive elements, also espousing ultra-conservative concepts in an attempt to attract and influence extreme rightists.

Southern Tensions

The anti-segregation demonstrations of 1963 were extensively exploited by hatemongers. Much of the scurrilous literature circulating throughout the South originated outside, but some of the most vitriolic was produced in the South itself.

Ku Klux Klan

Fragmented for more than a decade into autonomous groups and units by schisms and internal rivalries, the Klan had a membership estimated between 20,000 and 50,000. The problem of identifying activists within the movement was complicated by the Klans' disavowals of responsibility for incidents involving violence and its reiterated pledges to adhere to law and order. The largest and most active was the United Klans of America (UKA), which moved its headquarters from Atlanta, Ga., to Tuscaloosa, Ala., when Robert M. Shelton became its Imperial Wizard. A former Grand Dragon of the Alabama Klans, Shelton merged his group with UKA in 1963, whereupon UKA Imperial Wizard Calvin Craig receded to the subordinate position of Grand Dragon of Georgia. It was active in both states.  

* For meaning of abbreviations, see p. 361.
The Klan held a rally at Bessemer, Ala., on May 10, during the riots at nearby Birmingham. An audience of more than 1,200 heard speakers denounce Negroes and Jews. Shortly afterwards, unidentified persons bombed the home of the Rev. Arthur D. King, brother of the Rev. Dr. Martin Luther King.

In the wake of the news that state action would be taken to bar Negro registration at the University of Alabama, 1,500 cheering spectators witnessed a nocturnal ceremony in Tuscaloosa in which over 200 robed and hooded Klansmen lit a 50-foot fiery cross. Six heavily armed men were arrested on their way to the rally, and nine others were apprehended after the event on charges of possessing such concealed weapons as bale-hooks. A police search of autos at the rally unearthed four bayonets, two clubs, and two pistols.

In Atlanta, Ga., on May 25 a hundred spectators saw 60 Klansmen hold a novel ceremony, in which a cross was illuminated with electric-light bulbs to avoid violation of a city ordinance against cross-burning. On July 20 several hundred Klansmen from Georgia and nearby states met at ceremonies presided over by Grand Dragon Craig in Savannah.

Four Negro leaders were severely beaten on September 20 when they were observed near a St. Augustine, Fla., Klan rally.

Publication of Klan literature was sporadic, members relying on the circulation of the products of other antisemitic groups, notably the National States Rights party. Circulation of the screeds of Horace Sherman Miller, a bedridden invalid who operated the one-man Aryan Knights of the Ku Klux Klan from Waco, Texas, declined materially. For over a decade, his widely mailed broadsides against the Jews and Negroes (in several languages) had caused concern in the United States and in Latin America, Great Britain, South Africa, and Australia over the possibility of imminent "Klan uprisings."

National States Rights Party

A Nazi-style "shirt" organization with Klan overtones, the National States Rights party (NSRP), with headquarters in Birmingham, Ala., virtually preempted the leadership in mobilizing demonstrations against that city's school desegregation during September. Two NSRP open-air rallies on September 3, the day before the desegregation move, attracted crowds of 600 and 2,000, who were warned by NSRP leader Edward R. Fields against a "Jew-Communist plot" to manipulate city and school officials. As classes began on September 4, NSRP members, some wearing the party uniform, were in the forefront of a flying squadron of demonstrators which sped from school to school, picketing, shouting epithets, and battling police. On September 23 leader Fields (officially editor of NSRP's monthly Thunderbolt) and seven other members were indicted by a Federal grand jury, Fields being charged with having directed his followers and a crowd of 75 to "overpower the police, cross police lines, injure Graymont School, and commit
depredations" inside it. Others indicted were NSRP counsel Jesse B. Stoner, a former Klan organizer, and James K. Warner, who had left the American Nazi party to help edit NSRP publications.

NSRP was active elsewhere in Alabama, too. On April 1 Warner was sentenced to 180 days in prison for trespassing on Alabama University grounds at Tuscaloosa on March 26 while attempting to picket United States disarmament negotiator Arthur Dean. On April 25, 18 NSRP activists, carrying racist, antisemitic signs, picketed the Montgomery capitol to protest Attorney General Robert F. Kennedy's visit to the governor. Their removal by the police was protested by Admiral John G. Crommelin (ret.), who stood on the sidelines. Crommelin, a perennial candidate for office on an antisemitic platform, polled 8.5 per cent of the total vote cast in the Montgomery mayoralty primary election (compared with 10 per cent in 1959). He had promised, if elected, to "expose, eradicate, wherever discovered, what I believe to be the Communist-Jewish subversion in our city government."

The party continued organizing efforts in such widely separated cities as New York, where small meetings were held; Los Angeles, where members met in January in full uniform; San Bernardino, where, after a meeting in a cafe in February, other members engaged in a brawl in which a Mexican-American youth was assaulted; Florida, where long-inactive bigot Dewey Taft was appointed "state chairman," and Cleveland, where Stoner told a small organizing meeting in May that "the only mistake Hitler made was in not killing the six million Jews he was credited with."

NSRP's greatest impact, however, was in the nationwide distribution of its scurrilous publications (p. 72).

Federal prosecution in Birmingham seemed to have ushered in a decline in NSRP strength in the last quarter of 1963. A defense-fund appeal mailed during this period complained of a sharp drop in income; "also, we are behind with our newspaper."

**Defensive Legion of Registered Americans**

The Defensive Legion of Registered Americans, launched in Atlanta, Ga., in 1962 to promote an "anti-kosher boycott" of food products through its propaganda arm, Christian Voters' and Buyers' League (CVBL), concentrated on the sale and distribution of recordings of its prime mover, former Atlanta radio commentator Wally Butterworth. A typical record label read: "Guns to Arm Your Home Against Communist-led Negro Riots." The group relocated its headquarters in Decatur, Ga.

**White Citizens' Councils**

The autonomous units of the White Citizens' Councils movement (or, Citizens' Councils) continued to be widely diverse in character, ranging from those which confined themselves to legalistic and "scientific" arguments for segregation to outright hatemongering organizations. While the move-
ment claimed a total of more than 300,000 members, its actual membership rose and fell as desegregation became more or less imminent in a given locality.

The Citizens' Council of Louisiana continued under the leadership of Leander H. Perez, who had been excommunicated in 1962 after denouncing Catholic Archbishop Joseph F. Rummel for ordering New Orleans parochial schools desegregated. In an interview published in *Esquire* (January 1964) he declared:

The Jews are leading the Negroes. They'll resent it and they'll say Perez is antisemitic. And when they say that, I'll say that they are unadulterated damn liars, because I do resent any goddamn Jew trying to destroy our country and our rights and that's what they're doing.

**AMERICAN NAZI PARTY AND GEORGE LINCOLN ROCKWELL**

With the aid of a dozen followers, American Nazi party (ANP) "Commander" George Lincoln Rockwell produced many publications on his offset press in the party's dilapidated headquarters in Arlington, Va. Though some of the activities of Rockwell and his stormtroopers (fewer than 50, including nests in metropolitan areas) gave rise to public uproar in various parts of the country, they did not win him as much attention as in previous years (AJYB, 1961 [Vol. 62], p. 107; 1962 [Vol. 63], p. 201; 1963 [Vol. 64], p. 139).

Rockwell's "soft" line on college campuses was in contrast to ANP's usual Nazi style, as he sought to capitalize on a student vogue for having him present his "side" of such issues as "gassing Jew-traitors" at campus forums. At the University of Virginia on February 14, his remarks, addressed to a thousand students and faculty members under the auspices of the John Randolph Society, were greeted with hoots and laughter. Speaking to nearly 300 students at Chicago University on February 25, he praised the Black Muslims, a Negro racist movement with headquarters in that city. On February 26 he lectured without incident at Shimer College in Mt. Carroll, Ill. He had his largest audience—3,000—at Colorado University on May 14. Though hooted and jeered, he was joyous over the turnout, asserting his reception would win him further invitations. In the fall, the announcement that a Hofstra College (Hempstead, N.Y.) student group had invited him to address it touched off a campus controversy which attracted extensive notice in the New York metropolitan press.

In contrast, outdoor tactics were manifested in Los Angeles on April 28, when ANP stormtroopers picketed an Israel Independence Day celebration at the Shrine auditorium. Police had to subdue pickets who struck protesting bystanders with the heavy sticks which supported their placards. About ten people, including police, were injured. Four stormtroopers were convicted of felonious assault and conspiracy on November 11: Lyle McLaughlin
(minimum penitentiary term of one year), Leonard Holstein (10 months, county jail), and William Krauss and Clifford Huss (care of youth authority). A fifth hoodlum, Dennis M. Reeves, was charged with and convicted of conspiracy only; he received a minimum penitentiary term of one year.

In line with his policy of keying his activities to major events and movements, Rockwell in July and August concentrated on anti-Negro propaganda when he toured Virginia to mobilize a counterdemonstration against the March on Washington (p. 18). For example, in Richmond, on July 4, he addressed a crowd from the steps of the city hall, afterward bewailing the lack of press notices; in Lynchburg, on August 20, he told a group of teenagers to "fight Communist race-mixers in the streets by standing up and meeting them there."

An ANP counterdemonstration to the March on Washington on August 28 ended in a fiasco. Rockwell and about 50 followers paraded briefly, wearing civilian clothes, in a carefully cordoned-off area. They retired in order after "Deputy Commander" Karl R. Allen was arrested for making a speech without a permit. Rockwell boasted that his was "the only opposition" to the March on Washington.

Rockwell and his supporters were engaged in a variety of other activities and legal involvements during the year. In Philadelphia, five ANP members were acquitted after trial on February 25 of charges of incitement to riot and conspiracy. The charges stemmed from their attempt to picket a meeting addressed by Communist leader Gus Hall on October 12, 1962. On March 2 "Deputy Commander" John C. McClure and another stormtrooper picketed an Israel bond rally at the Hotel Fontainebleau in Miami, Fla., but were removed by police when disorders broke out. On March 4 McClure was arrested on a gun charge at new ANP headquarters in Miami (which were soon thereafter closed).

OTHER AGITATORS

James H. Madole's neo-Nazi National Renaissance party (NRP) stepped up its activities. Working out of his home in New York City, Madole at the beginning of 1963 revived his stormtroop unit (renamed the "Security Echelon") and held several indoor meetings. Paralleling Rockwell's academic excursions, Madole lectured to 300 students at Columbia University on April 17, at the invitation of the Political Assembly club. His denial of Nazi responsibility for the mass slaughter of Jews and his charge of Jewish world domination resulted in bedlam, but the smiling Nazi maintained a professorial composure. When Madole advertised that an NRP street-meeting would be held in the Yorkville section of New York City on May 25, 3,000 counterdemonstrators gathered to protest; only a handful of followers came to listen to Madole. NRP lieutenant Louis Mostaccio was arrested for striking a detective with a flagstaff and on June 6 received a five-day sentence. No charges were lodged against Madole.
After NRP counterpicketed a Congress of Racial Equality (CORE) demonstration in the Bronx, on July 14, eight neo-Nazis, including Madole, were arrested, and a cache of arms was seized by police. Three neo-Nazis, who complained to police that CORE demonstrators had attacked them and damaged a truck they were using, were arrested after police examination of the vehicle disclosed firearms, tear-gas weapons, darts, arrows, and a crossbow. Five others (including Madole, who was not at the scene) were subsequently arrested at their homes. Charges included anarchy, attempted incitement to riot, and weapons-law violation.

Conde McGinley, who had edited the semimonthly Common Sense (Union, N.J.) for 18 years died in July. His passing proved a serious setback for the publication's supporters. Title to the publication continued in the corporate name of the Christian Educational Association; Crommelin was listed as a stockholder.

Gerald L. K. Smith (Los Angeles) centered his nonpublishing activities on the West Coast. His Christian Nationalist Crusade and other operational front, the Citizens Congressional Committee, circulated several petitions: one to impeach Supreme Court Justice Earl Warren, another to have the United States withdraw from the United Nations, and a third "to investigate the events which led up to the abuse and persecution of General Walker."

Arab propaganda was promoted by the Arab Information Office (AIC), with branches in several cities; the Organization of Arab Students (OAS), and embassy members and UN delegates from Arab countries. Generally circumspect, the propaganda line hinged semantically upon the word "Zionist," the Arabs maintaining that they were not antisemitic but merely anti-Zionist. "The Zionists" were accused of "dual loyalty" and of exercising undue political influence. An article in the Arab Observer (April 29), an English-language weekly published at Cairo and distributed in the United States, charged that the Jews had been brainwashed by "Zionist"-controlled movies and that the "next aim was toward a larger target-group, the Goyim, or non-Jews."

**ANTISEMITIC PRESS**

The principal purveyors of antisemitic literature were the Common Sense group (Union, N.J.) and Gerald L. K. Smith's Christian Nationalist Crusade (Los Angeles), publisher of the Cross and the Flag. Both groups maintained large depots for the products of other agitators as well as their own. The average circulation of Common Sense, a semimonthly, was 90,000 while the Cross and the Flag, a monthly, averaged about 27,000.

The National States Rights party's monthly newspaper, the Thunderbolt, claimed a circulation of 30,000—much more for special issues. It published canards against prominent Americans and the blood libel. A January headline "exposed" "Kosher Slaughter Cruelty" and inside pages contained photographs of cattle after kosher slaughter. Also advertised was NSRP's
reprint of "Jewish Ritual Murder," an illustrated compendium of every blood libel leveled against the Jews from Chaucer's time to the 1930s, when it was written by the late British Fascist Arnold Leese. NSRP "literature" included The Protocols of the Learned Elders of Zion and The World Hoax, by Nazi propagandist Ernst Elmhurst. The most mischievous item from NSRP headquarters was a reprint of the "Ritual Murder Issue" (dated May 1936) of Julius Streicher's Der Stuermer. In July West German authorities at Karlsruhe arrested three men for possessing a hundred copies of the reprint.

Several ministers published hate sheets in the name of religion. The Winrod Letter, put out at Little Rock, Ark., by the Rev. Gordon Winrod, son of the late Gerald Winrod, exploited "prophetic interpretations" and biblical quotations in the interests of bigotry. Winrod frequently attended meetings and rallies of the National States Rights party. Another "prophetic" preacher, the Rev. Kenneth Goff, published Pilgrim Torch at Englewood, Col.; an article in the October-November issue, "Who Financed the Bolsheviks?" dwelt on the "international banker" theme. (Goff was a former member of Gerald L. K. Smith's staff.) Kingdom Digest, a monthly, published in Dallas by the Rev. J. A. Lovell, carried the claim that persons of English descent are the true Israelites and the Jews usurpers of the title.

At the opposite pole, an atheist monthly, Truth Seeker, put out by Charles Smith, promoted racism and antisemitism along with attacks on Christianity.

Continuing her labors of more than a generation, Elizabeth Dilling of Chicago disseminated distorted "interpretations" of the Talmud and Jewish liturgy in her newsletter. From his basement "headquarters" in New York, George A. Lincke, a Rockwell follower, began publication in June of his own monthly, Hitler Was Right. Another publication was started in June by the National Citizens' Union, a new antisemitic group in New York, headed by Betty Shepherd. Originally called Appeal, and renamed Countdown Nine, the monthly's first issue bore the broadside, "The Jews Must Be Resisted Openly—Now!"

James H. Madole's bimonthly National Renaissance Bulletin couched its bigotry in "intellectual" terms—in contrast to its venomous cartoons and pictures. Its January-February issue depicted a caricatured Jew as a controller of vice. Madole also sold other racist, and Arab, publications.

A leaflet put out by Gerald L. K. Smith, titled "Jews in Positions of Great Power," listed many Americans of Jewish background. The list was substantially reprinted in the March 1 issue of Common Sense.

Other "classical" antisemitic literature widely sold and circulated were The Iron Curtain Over America, by the late John O. Beaty; an English translation of Hungarian Nazi Lajos Marschalko's book, World Conquerors and the long-repudiated International Jew.

The profusion of American Nazi party materials was attributable to Rockwell's adeptness at doing his own writing, typography, layout, and printing; his supporters assisted him with stapling, binding, mailing, and other distri-
bution. Besides the illustrated pocket-size monthly *Stormtrooper* and the fortnightly *Rockwell Report*, he also put out the weekly *Intra-Party Confidential Newsletter*, aimed at sparking controversy and press coverage. Most vicious in conception were Rockwell's "shocker" items, such as "boat tickets to Africa," "Jew Communist traitor's surrender passes" (conferring the privilege of being gassed in choice of flavors), and an advertisement for "Ann Frank soap wrappers." In April 1963 Rockwell published *The Diary of Ann Fink*, a booklet containing a dozen Nazi death-camp atrocity photos, each bearing a "humorous" caption.

George Kellman