

MEMORANDUM OF THE COMMITTEE - TRANSMITTAL
June 30; July 1, 1947
New England, N.H.

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THE PRESIDENT'S COMMITTEE ON CIVIL RIGHTS

Monday, June 30, 1947

Hanover, New Hampshire.

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Monday, June 30, 1947

The President's Committee on Civil Rights,

Hanover, New Hampshire.

The Committee met at 9:00 o'clock a.m., in ^{the Room} Paul ~~Library~~,
^{Library,} Baker Hall, Dartmouth College, Hanover, New Hampshire, Mr.

Charles E. Wilson, Chairman, presiding.

Present: Mr. Charles E. Wilson (chairman), Dr. John S. Dickey (vice chairman), Mr. Franklin D. Roosevelt, Jr. (vice chairman), Mrs. Sadie T. Alexander, Mr. Morris L. Ernst, Rabbi Roland B. Gittelsohn, Mr. Charles Luckman, Mr. Francis P. Matthews, Bishop Henry Knox Sherrill, Mr. Boris Shishkin, Mrs. M. E. Tilly, and Mr. Channing H. Tobias.

Also present: Mr. Robert K. Carr, Executive Secretary; Mr. John Durham; Mr. Milton Stewart; Mrs. Merle Whitford, ^{Huntington;} Miss Frances H. Williams; Mr. Herbert Kaufman; ~~and~~ ^{Rachel} Mrs. Sady. ^{Mrs. Ellen Ardinger, Mrs. Nancy Wechsler and Mr. Richard A. Whiting.}

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MR. WILSON: The meeting will come to order.

Shall we follow the order of the agenda? Brother Carr, will you bring us up to date on the budgetary situation and anything else ^{of which} that we ought to be informed of?

MR. CARR: Just a word about the budgetary situation. About three weeks ago we got word that there was a certain amount of difficulty developing. The Committee's activities have been financed from the President's emergency fund, and we were told that the House Appropriations Committee had approved the emergency fund for the next fiscal year in the Independent Offices bill, but had written into the report an interpretation to the effect that no existing agency could continue to be financed from the emergency fund after June 30. That apparently threw the Budget Bureau and the White House into a dither for a while. I was told that I might have to go up to the House Appropriations Committee and describe the work of the Committee, or it might even be advisable for Mr. Wilson to come to Washington and testify before the House Committee.

Mr. Niles called, two or three days before we left town, to say that everything was all right. I tried to draw him out but he refused to be drawn out. However, I was asked to submit a rather definite budget, showing the needs of the Committee

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for the remainder of its existence. I submitted a ~~quite~~ detailed budget, showing operations until October 1. As far as I know, that budget has been approved and does allow the Committee to maintain a more or less normal ~~activity~~ ^{program} until the 1st of October.

MR. WILSON: So we had better get our job through by October 1.

MR. CARR: That ~~was~~ ^{is} the inference.

I think that what may very well have happened is that some White House adviser went up and talked with Mr. Taber, the Chairman of the House Appropriations Committee, and convinced Mr. Taber that this was not an activity that would extend ~~over~~ into the campaign year. I guess that that ~~perhaps~~ was in the back of the minds of some ~~of the members~~ ^{Congressmen}.

MR. WILSON: It may have had some little influence.

MR. CARR: One or two minor matters relating to the budget. This is the end of the fiscal year today, and we were told that we should include any expenditures that we possibly could on this year's budget. So if any of you haven't completed your purchase of return railway tickets, I would appreciate it if you would talk with Mrs. Whitford. There is a ticket office on Main Street just around the corner from the Inn, and if you would put through any arrangements today, it would help a little

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bit.

I have had one member of the Committee tell me that he has never received any return on his vouchers, and there are still several outstanding for the first two trips that were made to Washington. I assure you that we have done everything within our power, and keep working on that problem all the time. I think we really will have it solved shortly.

Again, if you will all talk with Mrs. Whitford before we leave Hanover, we will try to put through your vouchers on this trip as quickly as we can.

I believe that is all.

~~MR. WILSON:~~ → I think you would be interested, unless there are some questions of Dr. Carr, in hearing of the visit which Mr. Luckman, Dr. Carr and I made to the President ^{to discuss} ~~about~~ the proposal that was made at the meeting before last. ~~I believe it was.~~ Mr. Luckman is more familiar with it than the rest of us, I think, and I would like to have him tell you, if he will, what his reaction was to the meeting with the President.

MR. LUCKMAN: Mr. Chairman, I thought that that was actually a meeting that resulted in a more clear-cut definition of our responsibilities than I might have hoped for before we went in. Mr. Wilson had no more than broached the general problem facing the Committee - which was, as we will all recall,

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whether our directive did in fact include the broad subject of mass education as to our findings, or whether our responsibilities were to be limited solely to the findings themselves, and some other mechanism set up to convey those views to the public - when the President ~~said what, I should say,~~ interrupted and said that in essence the one thing he was interested in was in going to the public, ^{he said that he had} ~~that he~~ assumed from the outset that the primary factual work done by this Committee would be the collation and interpretation of existing material and perhaps some further information that had not been secured before, ^{however,} ~~but that he~~ thought that the most practical and far-reaching aspect of our work would be whatever plans we devised for mass education of the public. He made the statement that he himself was very strongly of the opinion that the problem of civil rights was not so much a practical one as an emotional one, ~~and that it did not mean to write down the practical aspects in any way, but he was trying to emphasize that he~~ ^{He} thought we had a basic problem with the American people; one in which emotionalism was involved more than anything else, emotionalism including prejudice, and our problem was the elimination of that; and he not only thought that our responsibility included this very broad field of mass education, but that he wanted it to include that, and that he would view

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that as one of the most important aspects of it. Furthermore, that he appreciated the fact that we would have to go to work now to get that ready, that is, to set up the mechanism for that; and that he also appreciated the fact, the point which Mr. Wilson raised, namely, that in setting up the mechanism we would be doing that prior to the submission of the report to him, but that he was quite willing to accept that situation, and therefore to have us set up whatever we considered to be the necessary mechanism prior to our submission of the final report to him.

Of course, it seemed to me that that clarified all the matters that we had discussed at our previous meetings.

MR. WILSON: Will you go into the other phase of it?

MR. LUCKMAN: Some six weeks ago, I think it was, a meeting was held in Washington sponsored by the American Heritage Foundation. This group I believe emanated primarily from the Freedom Train project. The Freedom Train project was originally sponsored by Attorney General Clark, and when he asked the advice and assistance of some of the advertising and selling men, it grew from a project involving the Freedom Train to a project with a larger scope, namely, the selling of the American heritage to the American people - I should say the reselling of the American heritage to the American people.

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This group had a very large meeting in Washington, ~~the one~~
~~to which I referred,~~ ^{well,} some 250-odd leading men of business, ed-
ucation, and all other walks of life, ^{wg.} attended ~~the meeting,~~ and
^{we} were told of the plans of the American Heritage Foundation. I
must confess that I was embarrassed by the meeting in that I
am a Trustee of the American Heritage Foundation, but due to
pressure of time have not participated in the activity, ~~but~~ I
was embarrassed to learn for the first time that much of what
we had talked of here in our preliminary meetings as to mass
education on civil rights was being contemplated by the Ameri-
can Heritage Foundation. Their thinking is that they would
like to take the documents which are the physical evidence of
the rights of the people - namely, the Constitution, the Bill
of Rights, and so forth - and include those in this Freedom
Train, take it all around the country. They envision radio
programs, newspaper ~~editoriation,~~ ^{editorial,} magazine articles - in other
words, much of what we talked about as the media which we
would use for mass education.

Of course, they run into a specific problem, which is that
in selling our heritage they have to stop - none of us can
put the date as to whether it is 1858 or 1875 - but when you
are selling what we inherit, particularly from a documentary
standpoint, there is a date at which ^{we} they have to stop, and the

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weakness in their program, which they acknowledge to be a weakness, is that the logical secondary part of their program - "secondary" meaning only second in numbers and not in importance - is the matter of civil rights and civil liberties, and they did not feel that they should go very far if at all in that direction, because they did not know, of course, as to the intent and purposes of this Committee.

As I sat through that meeting, I was impressed with the fact that we should at least explore the possibilities of tying up our educational program with their endeavor. I spoke to Mr. Wilson about the matter, and to Dr. Carr, and both agreed with my view, which was that at least we should explore it.

Then it seemed quite logical, of course, that we should first touch base with the Attorney General, since he personally was definitely interested and partially responsible for both the American Heritage and this Committee. Mr. Wilson did that in a preliminary fashion, ~~and on the occasion of our visit to the White House~~ It was agreed that should the President be definitely in favor of a mass education program, that we ~~at least~~ explore his reaction to the dovetailing of these two mechanisms insofar as the educational program was concerned. That was done, and his reaction again was quite immediate that

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he thought it made a lot of sense; that he, personally, if we wanted to do it, would be most enthusiastic in having us do it. He was not suggesting that we do it, but should we care to do that, he would look with considerable favor upon our conclusion.

After that meeting was over we then again got in touch with Attorney General Clark and put it to him as a matter of policy, ^{and asked for} then, as to his views, ~~and~~ he said that while he would not ask us to do it, he would look with great favor upon our doing it.

I believe that brings us up to date. Mr. Wilson and I thought that if the Committee was agreeable, we would then meet with the head of the American Heritage Foundation, Mr. Brophy, head of one of the large advertising agencies in New York, and determine what their views would be.

~~I think it is only fair to say to you that~~ It is our opinion that they will be most anxious to do it, ~~second, that~~ they have the mechanism all set up, a mechanism which I outlined at a previous meeting, namely, radio programs, newspaper editoria^{tion}, magazine articles, tremendous rallies in each town as the Freedom Train goes through, and so forth, ~~that~~, ~~From~~ From the practical standpoint, should you as a Committee wish to proceed with this, (Mr. Wilson, Dr. Carr and I have just chatted informally about it) ~~that~~ it would seem practical that

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we have a small ^{group} ~~committee~~ representing this Committee in the contact with the American Heritage Foundation, ^{they want to appear} ~~from the stand-~~ ~~point of appearing~~ what is said, not how it is said. How it is said is a matter for men who are, I think, dealing every day in matters of radio and newspapers and magazines. But what is said is a matter in which this Committee should have some share in the responsibility.

BISHOP SHERRILL: Mr. Chairman, I don't know anything about this American Heritage Foundation. I think we ought to be pretty certain that it hasn't other objectives ~~in its~~ ~~purpose~~ which would interfere with the purposes of this Committee, ^{IS} ~~in that~~ its membership ~~is~~ representative enough so that in using it we are not allying ourselves with any one group in the community? Now I speak out of total ignorance, but ^{that} ~~those are things~~ which would seem to me to be something we would want to be careful about.

MR. LUCKMAN: That is a very basic point.

BISHOP SHERRILL: Maybe Mr. Luckman can answer that. I just don't know.

MR. LUCKMAN: I think I perhaps should answer that by saying that at this meeting, about which I spoke, some weeks ago, during the luncheon session a number of men ~~had~~ spoke~~d~~ for just two or three minutes, had been asked by the Chairman

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~~and they were~~
to ~~Speak~~, the heads of several labor organizations, AFL, CIO, and organizations of that kind, ~~to express themselves~~. Naturally they were enthusiastic. Then it was asked that expressions be made from the floor, and there is a written record of that meeting which will indicate that men, such as Walter White, spoke for five or ten minutes, pledging all of their cooperation and help to this endeavor. I have forgotten the names of the men, but men representing the United Jewish Congress, I believe it is called, pledging their support; broadcasters pledging theirs; newspapers pledging theirs. There were several representatives of various churches there, religious groups, I should say, pledging their support, and I think a record of that meeting, Bishop Sherrill, would indicate that the participation in the program is very much like our own here, as far as representation.

BISHOP SHERRILL: I just didn't know; that is why I asked.

MR. LUCKMAN: That is a terribly important point.

DR. DICKEY: I am not clear as to the timing on this program. Does this contemplate action before our report?

MR. LUCKMAN: I believe October 1st -- I should have mentioned that our Chairman is also a Trustee, and I believe he has been no more active ~~in that~~ than I have ~~because we realized this was more important~~ -- the first promotional effort starts

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October 1st, and it is contemplated to run for at least a year, ~~their program~~, because of their belief that you cannot do anything, in terms of education, in less than a year. They are in the process of securing funds, asking for contributions from all walks of life, all types of business and social endeavors; and therefore, with that October 1st date in mind, it would pretty much tie up with our own sense of timing, in that I believe our effort will be to complete all of our work by October 1st.

DR. DICKEY: That is what I had assumed, but then I am not quite clear what is the nature of this Committee's relationship and responsibility to the American Heritage program which starts October 1st and goes on for a year. Do they just take our material and use that?

MR. LUCKMAN: That is right.

DR. DICKEY: And we can consider ourselves relieved of responsibility as to the use of it?

MR. LUCKMAN: Yes.

DR. DICKEY: I think it is a perfectly good, sound idea --

MR. LUCKMAN: I think you are putting it properly except for that one reference I made, and it is purely a personal suggestion, that we have a very small committee, which won't have to do very much work but which will look at a radio script and

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see if the words that they have taken out of our report dealing with the Fair Employment Practice Act give the connotation that our report intended those words to give.

MR. ERNST: There is no intention that this be an exclusive method of getting our report to the public?

MR. WILSON: Oh, no, no, no. It seemed just a natural, because some of us, just about the time we were getting up to the drafting of our report, realized that this effort was going to be carried on in a very big way. I suppose you all know some of the stunts that are going to be used. For example, in the cities that the Freedom Train is coming to, ~~probably a week or ten days before the train arrives. It is going to cover, I think, now, 100 and some points, before it arrives,~~ the week before it arrives or ten days before it arrives, the motion picture theaters will all have special movies which are going to be very carefully prepared.

MR. ERNST: Open only to whites, I assume, just to raise a little question.

MR. WILSON: I don't know.

MR. ERNST: I am for the committee idea, but I have grave doubts.

MR. WILSON: This is all being done, you know, by the great liberal party. I wouldn't assume that, Morris. ~~And~~ the

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^{President}
~~Great White Father~~ is going to go on the air, ~~or in the~~ theaters
^{are}
~~is~~ going to have trailers, on all these movies, and he is going
to have a very specially prepared - I imagine Charlie Luckman
is going to write it for him - a very specially prepared oath
of allegiance, ~~and way beyond that, in which he is going to~~ will
lead the audience, ^{with} ~~and~~ from a promotional standpoint it has
tremendous ^{possibilities} opportunity, ~~when you stop to think that this mes-~~
~~sage, which you would hope is going to be good -- and that is~~
~~why I have been very glad that our associate is going to have~~
~~a look at it~~ ^{because} I think Mr. Luckman is just the
ideal man to take a look at this for us; as far as I am con-
cerned, I am putting the safety of this Committee right in
his hands in the preparation of or having a look ~~at~~ at the
material they are using, ~~and suggestions for the material that~~
~~they are using, and~~ ^{it} seems to me that that is the only responsi-
bility we would have -- and I think it is a great opportunity
to see that they get into it some of the very good things
that have been covered by our own report.

Of course, the issuance of the report and the beginning
of the use of this material will about coincide; just about
the time we get our report in, this thing will begin to burst
forth.

DR. DICKEY: The only question I had, Mr. Chairman, was

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whether we ought to attempt, as a Committee, to limit them in any way as to the use of this thing. I think if you men are Trustees of the American Heritage Foundation, and through that responsibility take an interest in what goes in, that is one thing. But I think that each fellow here on the Committee - at least I am at the point where I want to begin to budget my outside activities next year, ~~and while~~, if I had known how deeply I was going to get in on this Committee, I wouldn't have gotten in, because of prior commitments on other things. I feel a responsibility to see the thing through as far as the thing which the Committee must do, namely, the preparation of a report. Beyond that, I am clear that to simply stay with other commitments that I had prior to getting onto this - and I am talking about things beyond the job on which I make my living - that I have got to stop as soon as that is over, ~~and~~ I think that the educational program which Mr. Luckman emphasizes is ~~then~~ not only important, but essential, and must go beyond the Committee's report. I It has got to draw on all the material that is available. But I don't want, myself, any continuing responsibility as to ^{the} use or misuse of the Committee's report, or ~~any~~ any limitation on the uses that are made of it, ~~and~~ that is the only thing that I would like to be clear about in this connection; ~~and I want to be~~ just what

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individual committee member's responsibilities are on this.

MR. WILSON: I think ~~just~~ none, because if Mr. Luckman is willing to undertake the screening of this material that the American Heritage group will use, certainly until after our report is out, that is all that we will be called upon for, ~~that this Committee would be called upon for.~~ Then what happens after that, that is, whether the President will then appoint a permanent Committee, which would involve us in all kinds of things in making ^{an} ~~this~~ report that we are going to ~~make~~ operative, and so on, that is another story. Then we will all be up against this problem that ^{Mr. Luckman is} you are laying down right now, and that is what will you do then in case you are asked to do that. But we haven't ^{arrived} been yet, and our first job, it seems to me, is to get this report out; and from anything I could glean from the President's talk with us, the idea of getting that report out by October 1 is something that was pretty close to his heart. Dr. Carr was also with Mr. Luckman and me, and I think we all got the impression that he wanted us to get that report out, if we could, by that time.

MR. TOBIAS: I have two observations. I am for the American Heritage idea, I think it is a good thing. It can't do any harm except in one way that I am going to mention, and it certainly has great possibilities for good. I think that

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was in Mr. Ernst's mind. A great deal depends on how the presentation is made in the Southern States. It can be presented in a way to do more harm than good if it, in the very method of its presentation, belies all the principles that it is there to enunciate.

It calls to my mind an incident that Mrs. Tilly will recall, of a national preaching mission - ~~this was~~ a preaching mission that went South - and when they got to Atlanta there was objection to the presence of a Negro member on the team - I am speaking by the book here, because I happened to be that member - he could not appear in Atlanta, and I will never forget the action of the Negro ministers. They met, and sent this memorandum to the local Executive Committee:

"We cannot take part in the preaching mission because, under the circumstances, it cannot possibly have any meaning for us. Nevertheless, we hope it will succeed, because what has happened seems to indicate the need of it."

So that I think that there is a possibility of having a thing like that mean a great deal; it can do a great deal of good or it can do a great deal of harm, And if you have a train arriving with all the documents, and I understand the purpose is to take, as far as possible, the originals along so that people may actually see them and be inspired by these things,-

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if all the people have a chance to take part, and if we get the emphasis that we got in the President's message yesterday when he said "all Americans, and when I say that I mean 'all Americans'", and it is possible to do that in the South if the management will stick to its guns and not be influenced by words of caution that would come from some people who are afraid of their shadows. Henry Wallace went into the South, and in Austin, Texas, and Raleigh, North Carolina, conducted unsegregated meetings, and got away with it, ~~and~~ ^{It} seems to me that anything as big as this, ~~and~~ if it is to have the stamp of approval of this Committee, there must be that assurance to start with, because you can't afford to have those precious documents, symbolic of our freedom as a people, presented to a community on a segregated basis. It would be ironic, it would be meaningless. And knowing as I do, ~~from~~ the outstanding leadership in the South, I think it can be done, but it won't be done if it is just handled as a routine thing and there isn't some understanding about it beforehand. Mrs. Tilly will tell you that, too.

The other thing I want to say is that I am a little worried about this as taking over the function of the work on which Mr. Luckman had aroused enthusiasm and expectation, because that has something about it that is a little different from

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this. I can see value in the personal approach to a problem like one aspect of the work that we are dealing with, Negro-White relationships,- that is just one aspect, but it is an important aspect,- just the ideas that Mr. Luckman has advanced in our subcommittee, and the approaches to institutions and organizations by one influential in the business world, and the same thing would apply to yourself. That carries more weight than would come from a kind of an omnibus, an impersonal approach such as this Freedom Train would carry. Many people look upon that as a great idea, but they don't see some outstanding person whom they respect, and respect not only personally but because of the organization that he represents, saying that this is a good thing not only for righteousness' sake, but it is a good thing for business, it is a good thing to have people come together with a common mind and heart, motivated by the great ideals of freedom, in this capacity and the other capacity, and in the long run it pays off. People respond to that as they would not respond to something of this exhibit idea.

That was the expectation that was aroused in our Committee by the first thinking that Mr. Luckman did on this thing. I don't want that lost.

MR. WILSON: I don't see any reason it should be, Dr.

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Tobias. It seems to me that this Freedom Train scheme is going to be done, the American Heritage plans are well under way, it is going to be done anyway. Now if nothing else, if Mr. Luckman can guide some phases of that operation along the right lines, it is such a tremendous effort, I think, that the Committee is willing to have him do it, and I can't see that it changes anything ~~or~~ the ultimate scheme that Mr. Luckman proposed.

Of course, one thing I think we have all got to keep in mind is that come October 1st, when we put in our report, of course we are bound to be guided by what the acceptance of it is. But assuming, now, that the public acceptance is good, for example, then it seems to me that the educational part of the operation we will be commissioned to go ahead with, that has always been my assumption; ^{we} or some group will be ~~commissioned~~ to carry this out. And I certainly would hope that Mr. Luckman would be available for the guidance of that group.

MR. ERNST: Wouldn't that come up properly under No. 26 when we consider the permanent Civil Rights Commission or what happens after October 1st?

MR. WILSON: Yes.

MRS. TILLY: May I just say this, to add a little bit to what Mr. Tobias has said. I really think the American ^{Heritage} ~~Freedom~~

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Committee would be careful in its presentation of the Freedom Train in any community, but Mr. Luckman does know - he has been a little closer, perhaps, to them - of the things involved in the findings of our Committee, and if we can stand pat that the showing of the Freedom Train, the policy of it, be in keeping with the documents it shows, I think every city in the South, or anywhere else, will want that showing, and if they stand pat that it has to be in keeping with the documents, then I think we will have no trouble, because all through the South we are having ^{more} ~~more or less~~ meetings without segregation, but if there is a way to get by without having it, it will be done.

MR. LUCKMAN: Well, I would like to say, so there won't be any confusion, that, like the Chairman, I am one of the Trustees of the American Heritage Foundation. We are not in the majority. There are 14 men who are responsible. I believe, because I know the men, that they will use good judgment and will try to the best of their ability to have everything that is done in keeping with the documents which they are trying to convey to the American people. But I personally, as a member of this Committee, do not wish to accept any responsibility that they will in fact do what this Committee would like to have them do, because there is a difference

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in objective. They are trying to show documents, and we are trying to show rights, and there is a difference.

I think this might be clarified a little bit, and perhaps answer Dr. Dickey's question, too. On October 1st when this Committee submits its report, that report is a public document, and what happens with that report thereafter is no responsibility of this Committee, nor can we do anything about it, ~~and~~ I think we ought to ~~just~~ be aware of that. It is like any other report that is submitted by any other Committee of the President. Therefore, I think, in answer to the point that Dr. Dickey raised, that the members of this Committee have completely discharged their responsibility upon the submission of that final report, ~~and that we~~ have no rights, actually, as to what other people do with our report.

My thought of trying to guide the American Heritage Foundation was in a cooperative spirit and not in a spirit of any rights that this Committee has, because we have no rights once our report is published.

I can give you, as an example - and I will mention this because I know our Chairman probably will not - while we were with the President, the President took occasion to very forcefully express his pleasure and admiration and commendation for the report on Universal Training, submitted by a Commission of

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in objective. They are trying to show documents, and we are trying to show rights, and there is a difference.

I think this might be clarified a little bit, and perhaps answer Dr. Dickey's question, too. On October 1st when this Committee submits its report, that report is a public document, and what happens with that report thereafter is no responsibility of this Committee, nor can we do anything about it, ~~and~~ I think we ought to ~~just~~ be aware of that. It is like any other report that is submitted by any other Committee of the President. Therefore, I think, in answer to the point that Dr. Dickey raised, that the members of this Committee have completely discharged their responsibility upon the submission of that final report, ~~and that we~~ have no rights, actually, as to what other people do with our report.

My thought of trying to guide the American Heritage Foundation was in a cooperative spirit and not in a spirit of any rights that this Committee has, because we have no rights once our report is published.

I can give you, as an example - and I will mention this because I know our Chairman probably will not - while we were with the President, the President took occasion to very forcefully express his pleasure and admiration and commendation for the report on Universal Training, submitted by a Commission of

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others will, without twisting them, use them to the advantage of people that we are trying to help.

The basic question, I think, is only ^(whether we) ~~can we~~ shall we say, a spirit of cooperation rather than any legal rights that this Committee may have.

MRS. TILLY: I wasn't thinking of that, but if the preaching mission, at the start, which is just as sincere as we are and as unbiased as we are, - if they had said, "No city can have this preaching mission ^{which} ~~who~~ doesn't carry out the principles of what a preaching mission ought to be", then we wouldn't have had that happen to us in Atlanta, and Atlanta would have accepted it, because Atlanta wanted the preaching mission.

MR. TOBIAS: Birmingham did accept it.

~~MRS. TILLY: Of course, Atlanta would now.~~

MRS. ALEXANDER: Mr. Chairman, I think it has been suggested here, but perhaps not definitely, that you appoint a subcommittee from this Committee to confer with the Trustees of the American Heritage Foundation to acquaint them with our purposes, and to inquire first as to the identity of the Trustees so that we may have that information, and their attitude on making use of our material. It might be that in our report we would want to make a suggestion that the American Heritage

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Foundation be used. But if, after conferring with them, they say, "Gentlemen, we would like to do it, but we find it impossible, we can't promise you," then we would be embarrassed by even suggesting that it be used. So I would think that that would be our first step.

BISHOP SHERRILL: Mr. Chairman, as I have listened to this I have come to the conclusion that this is a very useful and helpful thing. It is fortunate that Mr. Luckman and Mr. Wilson are Trustees of this Foundation and are members of the Committee. But I am inclined thoroughly to agree with Mr. Luckman that when we have made our report we are through, and that we can't make any conditions; and the more conditions we try to make, the more responsible we will be for something that we ought not to be responsible for anyway. So I should be inclined not to have any official statement in regard to this thing at all, but assume that two members of our Committee are, fortunately, members of this Foundation, and it is a very happy circumstance that they can take this up, but it is apart from the official responsibilities of this Committee at all.

MRS. ALEXANDER: I understood the President was very anxious for us to work out a way of extending our information to the public, and that this was one way that we were going to

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recommend; that was the beginning of the whole discussion.

MR. WILSON: You are right, Mrs. Alexander.

MRS. ALEXANDER: In other words, the President is looking to us to say not only what we report, but how we are going to educate the public.

BISHOP SHERRILL: I can't help it if he is, I don't see how we can take any responsibility with any organization with which we are not officially connected. If there is a permanent Commission to be appointed to take it up, that is another matter.

MRS. ALEXANDER: Bishop, I don't want to prolong the discussion. I don't think we are taking a responsibility; I think we are perhaps helping to mold the thinking of another organization that would carry on. We want to help any organization working in the field if we can.

BISHOP SHERRILL: Aren't we helping it with Mr. Wilson and Mr. Luckman as members of both organizations, without officially doing anything about it?

MR. LUCKMAN: I wonder if this might clarify the point a little bit. If this Committee sees fit, today and tomorrow, to recommend as part of our final report a very strong chapter on the need and importance of mass education, then it seems to me that all these other matters fall into line, because then

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it follows automatically, covering the point that several members have brought up, that (a) we will not depend solely on the American Heritage Foundation; many of the things which have been suggested previously I still feel fall beyond the scope of the American Heritage Foundation, and we can get a tremendous amount of publicity on the report of this Committee itself, but that the American Heritage Foundation would simply be one way in which this chapter of our report on mass education would be implemented. There may be other things that might come up at a later date which might also implement it. It seems that one issue is whether we will, in our final report, have a chapter recommending mass education; and if we do, everything else falls into line.

MR. WILSON: Having that, and remembering the timing of this thing, that our report is only going to come out when this other work is starting, there is very little that we are going to be able to take out of the report and sell these people except possibly a few suggestions. But I think we are just minimizing the potentials of the report that we help to put out when we pay too much attention to what these people will do with it, the American Heritage group.

MR. TOBIAS: Mr. Chairman, may we, unless you have some other matters - I was going to suggest or move that we proceed with the agenda as prepared by the staff.

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MR. WILSON: Yes.

Since you have called attention to the agenda, let me apologize for bringing this in before we had the consideration of the Decision Papers, because I thought we might get a different result from it, but perhaps it would have been better to go on as we started, according to the agenda.

Shall we begin to give consideration to these points that are raised, which have been sent to you in advance for your consideration, and see whether we can reach some decisions here today and tomorrow?

Just let me, for those of you who haven't been meeting with Dr. Carr right along, say that Dr. Carr and the staff, as set up now, show that in the event that we can reach some definite conclusions about the points that should be included in the report, that it is hoped that a report could be ready for consideration of the Committee as a whole, -particularly if a small group could work with Dr. Carr and the staff on some points, possibly, during the intervening weeks, ^{A draft} could be ready for the Committee as a whole for their final consideration and recommendations as to changes, or anything you like, by about September 1 - is that correct? We were hopeful that it could be made available, and then we could get down and see whether it was to your satisfaction; or, if not, try to correct

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it to your satisfaction, and thus be able to put it into the President's hands by October 1st and possibly ask for our discharge.

BISHOP SHERRILL: Mr. Chairman, I move that such a committee be appointed, consisting of the Chairman, Dr. Dickey, one Vice Chairman, and one other member to be selected by the Committee.

(Discussion off the record.)

MR. WILSON: To work with the staff, you mean, in the intervening months?

DR. DICKEY: I wish we could hold that without a motion, because I don't want to be in the position of arguing against filling a Committee position, but there are circumstances which you should know concerning myself which ought to be taken into account before I do that. I will help in any way I can, of course.

BISHOP SHERRILL: Then if Dr. Dickey can't do it, I would move that the Chairman, with two members of the Committee appointed to assist him, do it.

MR. LUCKMAN: I second the motion.

MR. WILSON: All right, you have heard the motion. Will those who favor it vote "aye"; contrary-minded "no".

(The motion was carried.)

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MR. WILSON: I am sure you will give the Chairman a little time to confer with some of the members.

RABBI GITTELSON: We wish the Chairman good luck.

MR. WILSON: Thank you for those good wishes.

All right, shall we see, now, whether we can agree on some of the basic points that ought to be covered?
Decision Paper No. 1 →
You have No. 1 here. I suppose you have got all these statutes ready to read in case there is any question, Dr. Carr.

MR. CARR: If there is any question.

MR. WILSON: That covers the question of revision of Section 51 or Section 52.

MR. ERNST: Mr. Chairman, I take it you won't want a motion on each point, for example, on page 1, unless someone objects.

MR. WILSON: Unless someone objects, we will assume that this is what is going into the report. But if there is objection or suggestion, I think this is the time to speak out.

MR. ERNST: The only question that might arise is that the questions don't permit always of an answer "yes" or "no". For example, as I see it, No. 1 - which I imagine we could get through pretty quickly - would be: "Should there be any revision of Section 51 or Section 52?" And I think we would all say yes. But the last part, "Should it spell out specific

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federal rights?", we will have to get some expression as to which of those we are for. I think we can go through many of those subjects and pages quickly, if we ~~work~~^{rule} out a motion or seconding where it isn't necessary.

MR. WILSON: All right, why don't we read them together; and I take it in the case of 2 (b) there, you may want to suggest the line of thinking that the report would cover. If you do, and we can get an agreement on that, then we will be ready to go on to the next one.

BISHOP SHERRILL: Contrary to what Mr. Ernst said, I think that the subcommittee, after talking with the Department of Justice officials--and Mr. Carr will correct me on my memory of this - their advice was not to rewrite 51 and 52, but to meet that by a supplementary --

MR. ERNST: I wasn't passing judgment.

BISHOP SHERRILL: I thought you said everyone would say "yes" to a revision of 51 and 52. The report of the Committee was to leave them as they were. We were afraid we might lose them if they came up for discussion --

MR. WILSON: All right --

BISHOP SHERRILL: -- so the report of the Committee is no revision of 51 and 52.

MR. WILSON: Then on the new statute to supplement 52,

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the answer is "yes", is that it?

BISHOP SHERRILL: Yes.

RABBI GITTELSOHN: On 2(b), may I suggest that there was one short paragraph in the President's address yesterday which was a beautiful expression by way of spelling out the rights he would like to see guaranteed by the Federal Government. I don't think we can do better,

MR. WILSON: No wonder he blushes.

~~MR. CARR: You might be interested to know~~

RABBI GITTELSOHN: So help me, I didn't know he wrote it.

MR. CARR: I had always understood there were ghostwriters, but I have discovered now there are ghostwriters to ghostwriters.

MR. WILSON: All right.

MRS. ALEXANDER: What is your feeling on spelling out specific federal rights, Mr. Ernst?

did MR. ERNST: I am against it, *think me* vis-a-vis, however, spelling out very specific rights under the District of Columbia statute. I should think that would be a position which requires no appeasing and still dramatizes a piece of legislation. spelling out specific rights.

DR. DICKEY: This isn't a District of Columbia question, though, is it?

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MR. ERNST: No, but if we took the same position in the District of Columbia of not spelling out, I might have reservations.

RABBI GITTELSOHN: What is the objection to spelling them out nationally?

MR. ERNST: Just a practical matter.

MR. CARR: The lawyers all seem to object and say you get into all sorts of trouble.

MRS. ALEXANDER: You never spell out the one you need.

RABBI GITTELSOHN: Will you have anything if you don't spell them out?

MR. CARR: Yes, the present Acts are worded very generally, and have come to have considerable usefulness. I think the feeling is that they need improvement, that they have various technical weaknesses, and they are generally archaic, ^{could} and if you [^] replace them with somewhat more modern statutes but ones which still do not attempt to spell out the rights, that you would have more useful statutory tools. The idea of spelling out the rights I ~~think~~ ^{feel} dies hard, [^] it has a certain attractiveness. For one thing, you might provide yourself with a sort of modern statutory Bill of Rights which would be up to date. ^B But it has been interesting to see that almost every lawyer that we have talked with, or every witness before

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the Committee that touched on this point, said that in his final judgment it would be unwise to try to spell out the rights.

MR. ERNST: Isn't it true that many of the witnesses were not opposed to spelling out specific rights when it came to the District of Columbia? ~~and~~

MR. CARR: That is right.

RABBI GITTELSOHN: In other words, what you are afraid of is Constitutional difficulties?

MR. CARR: And judicial interpretation, as well. There is perhaps one weakness in this page as it is prepared, and that is that I don't think we would necessarily want to preclude the possibility of recommending a new statute to supplement Section 51. The problem there is not as great. There are one or two weaknesses in Section 51, one minor matter pertaining to the penalty clause that the Department of Justice has already recommended a change in. ~~Section~~ 51 is also a conspiracy statute, and it might be wise to recommend a supplementary statute that would make the purpose of 51 apply where there are single individuals who are violating the Act, as well as where two or more persons are conspiring to interfere with ~~the~~ rights.

Pardon me for putting two ideas together there that aren't

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related to each other.

DR. DICKEY: Mr. Chairman, what is the opinion - the Executive Secretary would be the one who would know, I believe - of the Department of Justice as to the possibility of including in a new supplemental statute to Section 52, the anti-lynching statute, such anti-lynching remedies as this Committee can put forward?

MR. CARR: I think they are inclined to feel it ought to be handled separately; that for one thing, you have had this background now of 10 or 20 years of an attempt to get an anti-lynching bill through, and that inevitably the campaign will continue for a specific anti-lynching Act.

DR. DICKEY: And that whatever we do on that had better be separate?

MR. CARR: Yes, or in tying that point in with the matter we were just discussing, they feel that whereas it would be a mistake to try to spell out the rights in a single statute, that you might well have several separate statutes which would refer to specific rights, such as the right to trial by due process of law, or the right to certain election privileges; that you might have a separate, specific election statute protecting the right to vote in all its aspects, in addition to a generally-worded statute protecting federal

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civil rights.

MR. TOBIAS: I take it that what you mean here is whether the Committee will or will not recommend an anti-lynching act. It will not be the responsibility of the Committee to shape up one.

MR. CARR: It ~~is~~ entirely possible to present a case that a generally-worded civil rights statute would automatically be an anti-lynching act, but I think both because of the historical background ~~here~~ ^{of} in the last 20 years, and because of the very great interest in the lynching problem, that the movement for a specific anti-lynching act is going forward in any case, and the Committee probably would make a mistake if it sort of dodged the lynching problem and tried to tie it all up in a generally-worded civil rights bill that made no reference at all to the problem of lynching or to the right of trial by due process of law, as against trial by ordeal or lynching.

RABBI GITTELSON: Is it our thought if 2(a) is adopted that we will, in our report, recommend a specific statute, draw up a draft of a statute; or just recommend, without giving a specific suggestion, that such a statute be drawn up?

MR. CARR: That is one of the decisions you have got to make. One is to accompany the report with specific bills. The

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other would be to word the recommendations in some detail, spell out what you have got in mind but not pretend to recommend the language of a bill. I think that insofar as Subcommittee 1 has any view there, they were inclined to be opposed to accompanying the report with specific bills. But that would not preclude, in the report itself, describing in some detail what you think a bill ought to accomplish.

RABBI GITTELSOHN: The reason I asked the question is that while I stand corrected on 2 (b) and recognize now the possible disadvantages of trying to spell out specific federal rights, I am very dubious about 2 (a) unless I were to have before me just about the actual wording that such a statute would have, to know whether it would mean anything at all. If you just recommend a general civil rights statute, I am not altogether sure we would get anything that would really broaden the field.

MR. CARR: I would think that at that point in the report you might have a section that would describe the shortcomings of the existing laws, and then spell out in some detail the kind of new law that is needed to correct those shortcomings and make it possible for the Department of Justice to pursue a more vigorous program.

BISHOP SHERRILL: In the report of Subcommittee 1, we had

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some very definite suggestions along that line, and, ~~it~~ spent considerable time drawing up such a proposed civil rights ^{law,}

MR. LUCKMAN: Does that mean, Bishop Sherrill, for example, that you would say, "Having analyzed the present Sections 51 and 52 and showing its weaknesses, we therefore recommend a supplementary legislation which would embody the following points: (a) - (b) - (c)" --

BISHOP SHERRILL: Without trying to get every "and" and "but" and comma.

MR. WILSON: Wouldn't that satisfy you, Rabbi?

RABBI GITTELSON: Yes.

MR. WILSON: It seems to me that that is the most practical thing we could do.

MR. LUCKMAN: You can't just say that there should be a new law passed - period.

MRS. ALEXANDER: And if we drew the law, we felt there would be much criticism in the way it was drawn.

MR. WILSON: Do we understand each other on that?

MR. SHISHKIN: In other words, what this discussion suggests would be that there would be a general recommendation in terms of the lacks, and then a set of recommendations which may be grouped in one ^{proposed law} ~~legislation~~, or some recommendations may be treated separately, but all that they would suggest

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would be the substantive provisions of such enactments, however they are formed, without the actual wording of such enactments, ~~so that~~, For example, in the case of enforcement procedure or administrative procedure, there would simply be indicated what we have in mind without writing it up. Is that right?

MR. CARR: Yes.

MR. ERNST: I take it there is going to be a directive to some lawyers to draft some legislation, over which they can squabble for years, but that is the best you can do. Each lawyer will draft it differently.

MR. LUCKMAN: I think you are quite right. If your profession can't reach a reasonable degree of unanimity, there is no chance of the Committee doing it.

MR. CARR: But there is no question why it can't be quite specific because, for example, with Section 52, everybody agrees that the penalty clause is too weak, and one of the recommendations could go so far as to recommend what you think would be a desirable penalty, - for instance, 20 years or \$20,000 fine.

MR. ERNST: And why.

MR. WILSON: Is that satisfactory?

MRS. ALEXANDER: Are we going to make a recommendation that the States enact similar statutes?

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MR. WILSON: That is what we are coming to now, that is No. 3. That is the question - shall we recommend to the various States, make recommendations to them, or shall we confine ourselves simply to the broad statement of federal consideration?

MR. ERNST: May I ask, Dr. Carr, how far you have gotten on the State civil rights statutes so as to be specific as to which of the States have the better ones as to draftsmanship, or is there one State statute that you would hold up and say "This is to be carried or should be carried into all States"?

MR. CARR: There is no such a thing as a single civil rights statute at the State level that does a complete job. There is the New York type FEPC law which might well be called the Civil Rights Act.

MR. ERNST: You are not referring to that here?

MR. CARR: No, but in these 25 pages again and again the question comes up of recommending action by the State, and I think if the Committee would decide as a general thing that it would direct no recommendations to the States, you would necessarily have to drop off a good many things that sooner or later ought to appear in a comprehensive report. There is, I believe, no State that really has today a State law comparable

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to the Federal 51 and 52, and it has been suggested by some of the organizations that the States should be invited to enact legislation much as they passed Little Wagner Acts or Little Wages and Hours Acts. Perhaps those are not good illustrations to use here, I don't want to start a controversy in another direction, but in general it has been true in the last decade or so that where the Federal Government embarks upon a program under our Federal system of Government, there is also much to be said for the States having similar legislation which they would have a responsibility to enforce as well. I don't think you would need to be very specific about anything like that. You could perhaps cover much of it in one paragraph in the report, that the Committee --

MR. ERNST: I take it that what you do is refer to the legislation that is presently on the books in the State, make clear that the Federal Government has not preempted the entire field and that there are wide areas still open for the States, ~~and~~ here are these 18 States with rather limited statutes, even doubtful as to the contours of what are places of **public accommodation**, and then go forward with rather specific proposals of the areas still open for State action, ~~because~~ The Federal Government, from my point of view at least, should not preempt the entire field, because that is the road toward totalitarian state-ism. This thing must be indigeneous in the

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States.

MR. WILSON: I take it that it is the feeling of the Committee, since that would be helpful to winning the objectives we are after, that we incorporate ~~that, that is,~~ the recommendations with respect to the States, ~~that that shall be the basic~~

MR. ERNST: I didn't mean to limit it. Of course, you go into the inadequacy in New York as to proof.

MR. CARR: In some areas, probably the States should have the greater responsibilities; in some areas, the Federal Government; and in some areas, they could parallel each other nicely.

RABBI GITTELSOHN: When we say here, however, "comparable to Sections 51 and 52", don't we have in mind comparable to these sections with the changes we are going to bring forth, the improved sections?

MR. SHISHKIN: Aren't there two questions, one with regard to a general statute that might be provided at the State level; and another one, whether, on each one of the specific areas we are to cover, there is need for State enactment? On some there might be, and on some there might not.

MR. CARR: It will certainly vary, depending on the subject matter. I think here on page 1, my own feeling would be that

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it would be highly desirable for the States to have on their own statute books ^{laws} ~~statutes~~ which do something more than guarantee access to places of public accommodation, ^{laws} that would make it possible for the States to use criminal sanctions, or any other desirable sanction, to prosecute people who interfere with civil rights. For the most part, those laws don't exist today on the State statute books. The States do have their criminal laws, and very often a traditional criminal statute - murder or burglary or something like that - can be invoked in what is really a civil rights situation.

MR. SHISHKIN: Without going into detail, the only thing that bothers me about it is this - well, to take a very extreme example, suppose Alaska is getting Statehood next year. The Committee has done its work and made its recommendation, and people go to our record and say, "What have these people recommended in the way of basic protection of civil rights at the State level?" Would they find it here? That is what I had in mind, without matching the objective necessarily against each one of the State structures and writing it to them, whether a brief statement of objectives could be given as to what are the tests of adequacy of State enactments in protecting civil rights.

MR. CARR: I think it would be handled both ways. You

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might want to deal with some materials on a subject-matter basis - fair employment practices - but you might also have a section where you would review and summarize actions that are open to the States, so that if Alaska were in the position of drafting a Constitution, you could refer to your report and see what is recommended as appropriate for State action.

MR. WILSON: Dr. Dickey, ^{do} you have a point, ~~do you?~~

DR. DICKEY: I think we have a point that should be noted in passing, because it will be applicable to quite a few as we reach them. I think one of the greatest dangers this Committee faces is lack of emphasis focus, and thereby ~~the~~ ineffectiveness of its recommendations, ~~and~~ while I personally think we should show that we are aware of things like the need for protection of the basic rights in the States, ~~that~~ we are going to have to be awfully careful ^{so that} ~~when we come to~~ our report ~~and our recommendations that is just~~ doesn't look like another edition of the Encyclopaedia Britannica on these things, ~~and that we hit where a Federal Commission on Civil Rights can really hit with some hope of effective political impact. I have a hunch that the influence of this Committee on State legislation of that sort might not be very great as compared with the responsibilities that we have. I would like to see it mentioned, and I don't want to suggest now how it~~

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should be mentioned, but I do believe that throughout we have a great problem of focus and emphasis for the purpose of being an effective Committee in some area. That may or may not suggest points of view to other members.

MR. WILSON: I think it is a good point that you have made to keep before us.

Mr. Luckman referred to that report of UMT, and I can tell you that as we first came up with that, it was going to be this thick, because we all wanted to get in so much. And I think it would have been one of the worst mistakes the Commission could have made had we finally permitted it to go through on that basis; but by boiling it down, and in that case not being very specific about what we thought ~~the State gods~~ ^{be done,} and ~~we~~ should do, we saved ourselves a lot of space, and I don't think we hurt the report any.

MR. LUCKMAN: I don't think it is necessary for me to add anything, because I am sure I made myself completely obnoxious on this point at previous meetings, but I think that Dr. Dickey has raised the issue which will determine the success of our report in the final analysis. If we try to use a shotgun, we will have accomplished nothing. If we try to use a rather strong-gauge rifle and aim at two or three or four objectives, I think we have a hope of accomplishment.

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I didn't say anything at the beginning because I think that maybe we should wait until we get the written report before us, and it was my intention not to get on my knees and plead with you, but to get on the table and slug it out with you to have that report hit very hard at four or five basic issues, and have everything else refer to the fact that these things are problems that should be looked into and properly handled.

MR. CARR: I think we are probably all agreed --

MR. LUCKMAN: There are 29 pages here.

MR. CARR: That is true. This was intended to review everything that had been brought before us at one time or another. When I say that there is no real dilemma, what I mean^{is} ~~was~~ this, that on one hand you can't leave certain things out altogether, ^{for} you will be criticized for omitting them; and yet, on the other hand, what Mr. Luckman and Mr. Dickey have said is really true, and when it comes to writing the report it ought to be possible to show that the Committee is aware of the existence of many problems and touch upon them very briefly, and then by good organization focus attention upon the truly great and basic problems and give them extended consideration.

MR. ERNST: I agree with Mr. Dickey, except I think he has

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picked on the wrong point to raise the question. The dilemma is not our dilemma, but the dilemma of the great experiment of federalism, and that is the dilemma of civil rights in America. I would be frightened if the report were only to mention further concentration of power in the Federal Government, because it might be the lowest common denominator of decency and not the highest, depending on life itself. So when you come to the duties and obligations of States, it is something I don't think you can avoid if you want to have your national policy made clear and effective, because the States are all going to say, "Give us time and we will cure it" or "It is on its way", and I don't think you can avoid that kind of a plea, nor do I think we should.

Elsewhere, I would like to cut down other portions of the report that don't agree with my own prejudices.

RABBI GITTELSON: I would like to suggest that Mr. Luckman was correct in not raising the point at the beginning of the meeting. I think we have got to wait until we have gone through these pages, and possibly until the first draft of the report is ready, before we can intelligently discuss it. Otherwise, it is just an academic discussion.

MR. WILSON: Certainly the drafters of the report are getting some idea of what you want, which was the first thing we had to determine. I don't know whether they are very

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picked on the wrong point to raise the question. The dilemma is not our dilemma, but the dilemma of the great experiment of federalism, and that is the dilemma of civil rights in America. I would be frightened if the report were only to mention further concentration of power in the Federal Government, because it might be the lowest common denominator of decency and not the highest, depending on life itself. So when you come to the duties and obligations of States, it is something I don't think you can avoid if you want to have your national policy made clear and effective, because the States are all going to say, "Give us time and we will cure it" or "It is on its way", and I don't think you can avoid that kind of a plea, nor do I think we should.

Elsewhere, I would like to cut down other portions of the report that don't agree with my own prejudices.

RABBI GITTELSON: I would like to suggest that Mr. Luckman was correct in not raising the point at the beginning of the meeting. I think we have got to wait until we have gone through these pages, and possibly until the first draft of the report is ready, before we can intelligently discuss it. Otherwise, it is just an academic discussion.

MR. WILSON: Certainly the drafters of the report are getting some idea of what you want, which was the first thing we had to determine. I don't know whether they are very

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clear on it yet.

MR. CARR: Let me say one word more, if I may, in defense of our agenda. If I thought the report was going to consist of 29 equal sections in which each of these topics was discussed, I would agree that that would be a dreadful situation. I think it is going to be relatively easy, along the way, to see that there are a half a dozen or so basic issues that need extended treatment, and some of these other matters perhaps can be touched upon in summary fashion very readily, and the Committee can easily show that it did not overlook certain matters that some people might think should have been considered.

MR. WILSON: Do I understand that on No. 3, the conclusion was quite unanimously "yes", for the guidance of the drafters? That was my conclusion from the remarks.

BISHOP SHERRILL: Would there be any point in suggesting at this place in the report that the States might well follow the example of the President in appointing commissions similar to this in the States to consider their present enactments, with the idea of working them out in harmony with the objectives and the spirit of this report? It seems to me it is going to be impossible for us to take up the enactments of 48 States and express any intelligent opinion about them. But if we

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could get the States to appoint commissions somewhat similar to this, of citizens of each State, who would consider the problem along with our report, that that might be a real step forward.

MR. ERNST: New York is doing it at the moment.

MR. WILSON: There is no reason why we can't make that a strong suggestion.

DR. DICKEY: I think that is a very helpful suggestion, myself.

BISHOP SHERRILL: And it saves us from going into a lot of details.

MR. SHISHKIN: I was just wondering, Bishop Sherrill, whether that suggestion might not be thrown, instead of an objective and high-spirited kind of meeting of the minds on the State level, into the lion's den, because the political exigencies in some States might be such that a civil rights commission of this kind in some of the States would seize upon the President's recommendation to tear down what we have said here. I don't think that in the present conditions, if you take some of the States and the experiences that we have had right currently with the State reactions of this sort, we could be sure they would respond positively to such recommendation and not negatively.

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MR. WILSON: Even with respect to such high motives --

MR. SHISHKIN: With respect to anti-lynching and involuntary servitude.

BISHOP SHERRILL: I don't think that answers the need of getting States to consider this question. You can take any weapon and use it locally if you want it. It seems to me that in many States it would make for a real improvement.

MR. ERNST: At least a debate on the subject, and that is the important thing.

RABBI GITTELSOHN: What Mr. Shishkin is actually saying, I think, is that we have no guarantee that that suggestion would accomplish anything in some States, but I don't think it could do any harm. Any State that is so bad on the civil rights level that it would react negatively to that simple suggestion is almost beyond our immediate help in any event.

MRS. ALEXANDER: It would also protect us from criticism that we were trying from the federal level to control them.

MR. WILSON: Yes, it seems to me that it covers that point.

Well, I take it that there is general agreement that we should follow Bishop Sherrill's idea and make those recommendations to the several States.

Decision Paper No. 2
Here was one of the first questions, as I remember it, that was laid in ^{our} ~~my~~ lap when we ^{heard} had Attorney General Clark and

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some of his cohorts:

"Does the Committee wish to recommend an anti-lynching act directed against:

- (a) public officers?
- (b) private mob members?
- (c) communities in which lynchings occur?
- (d) making kidnaping of a lynch victim across state lines a specific offense?"

MR. ERNST: I would like to hear from Bob Carr whether there is any committee report ^{whether} or the office has a recommendation as to what you do with the communities in which lynching occurs? Has there been any decision reached at all as to penalizing communities, either for or against; and if not, what does (c) mean?

MR. CARR: At this point we simply took the most recent comprehensive anti-lynching bill, the Case bill in the House, and the Wagner-Morse bill in the Senate, and gave you everything they attempt to do. Actually, the point raised by (c) has not been considered by Subcommittee 1, I think, at any great length, and it remains a rather controversial point. I think there are those that feel that politically, at least, you have got a much better chance to persuade Congress to enact an anti-lynching bill if you don't put into it a proviso ~~providing~~ ^{a lynching} for the fining of a community in which ~~it~~ occurs.

MR. ERNST: Is it your feeling, in the absence of a Com-

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mittee report, that your report as drafted can do more than raise the issue and the pros and cons? I am only talking about (c) now.

MR. CARR: It may be down to the point now that it would be wise to omit it altogether.

MR. TOBIAS: I don't see, Mr. Chairman, that it is really quite the thing for this Committee to go into details on an anti-lynching bill. There is one rather carefully prepared in the light of all the experiences of the Dyer bill of some 20 years ago, and the Costigan-Wagner bill, and the others. People have been thinking about that and working on it for years. Of course, we could clarify some of these things for our own individual thinking. It seems to me that what we want to decide is whether or not we want the Committee to go on record for or against an anti-lynching bill.

MR. ERNST: That isn't the point, Mr. Chairman. I didn't want to raise that point. I assumed that generally (a), (b) and (d) would find no objection here.

MR. WILSON: I thought we were quite in agreement, from the conversations in this Committee, for the strongest anti-lynching bill that we can get. I took that for granted.

MR. ERNST: The point I am raising is whether we have come to the point where the office could even write a report

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or recommendation as to the impacts on the community, or whatever you mean under (c). Which one of the discussed opinions do you want to take, withdrawal of federal funds or what?

MR. CARR: It is a provision in virtually every bill that has ever been introduced, providing for the fining of a community or suit for damages by the wronged persons.

MR. ERNST: Which, if either or both of those, do we want to adopt?

MR. CARR: I think it wouldn't be enough to recommend an anti-lynching bill, because the contrast between (a) and (b) is rather important, and I think it is important to recommend a bill that does something more than provide penalty against public officers; that within the limits of the Constitution, you have got to try to get at private members of mobs as well.

RABBI GITTELSOHN: Would the bills now pending do that?

MR. CARR: Certainly the Wagner-Morse-Case bills do. They are the most comprehensive bills of ~~that type~~ that have ever been before Congress.

RABBI GITTELSOHN: Then may I suggest that we probably would be best following the same kind of procedure which I suspect we will follow when we get to FEPC, namely, of saying that since there are bills or a bill which is far from a poor one, our best efforts would be along the line of trying to

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push that bill.

MR. ERNST: I agree with all that has been said. I am still asking the question: Is this Committee ready to go on record to go forward with civil actions, which certainly I am for? There is the more doubtful question that people may want to disagree on here as to whether or not you want to fine a community, ^{impose} ~~put~~ a sanction against the community. That, honest people can differ on, and some bills have it and some haven't, and what I am asking is this: During my absence, has this Committee or any Subcommittee really resolved that question, whether you withdraw funds or otherwise impose sanctions on the community?

MRS. ALEXANDER: You would never get a conviction.

MR. ERNST: I am asking: Had you made up your minds whether you want to go for it or not?

MR. CARR: The answer to the specific question is that no great amount of attention has been given to that point.

MR. ERNST: Has the office got enough instruction on (c) to go forward with drafting a report as it relates to 2(c)?

MRS. ALEXANDER: I think we discussed it in Subcommittee 1.

MR. CARR: But I don't think you ever voted on it.

BISHOP SHERRILL: I think we discussed it, and I think

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the general opinion, without taking a vote on it, was that we wouldn't do anything about it, and that is my judgment now.

MR. LUCKMAN: ^{It} ~~That~~ is my impression, that we did in a general meeting discuss it.

MRS. ALEXANDER: We did in a subcommittee.

MR. ERNST: Oughtn~~ed~~ that to be a vague or general instruction to Bob Carr?

MR. CARR: That there be no particular reference to communities?

MRS. ALEXANDER: Yes.

MR. WILSON: You think it is quite impractical?

MRS. ALEXANDER: Very much so. You can't penalize a community.

DR. DICKEY: Mr. Chairman, I actually think - I feel clear enough on the thing after discussions in Subcommittee 1 - that this Committee might conceivably make what I call an effective political contribution to the anti-lynching problem by being clear about it so that at least those who haven't thought about this thing ^{up} ~~down~~ on the Hill, when it comes up will say, "Well, here is a group that has given some thought to it, and they don't think it is practical; let's not waste our fire on this and split up our forces over this issue." I would be quite prepared to have our Committee say that we have considered

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it and believe that at the present stage of the situation it is not an effective sanction, and is more likely to be a political deterrent. I think that is the sort of thing on which this Committee --

MR. ERNST: I don't believe in mass guilt. What you are saying, in effect, is that all the people in the community are guilty, and you are therefore not going to have hospitals provided by Federal funds, which is an outrageous sanction.

MR. LUCKMAN: What you are saying is that we should not be guilty of taking civil rights away from people.

MR. ERNST: It is a sort of guilt by association because you live in a community, you don't get a hospital or a school. And it weakens the impact against the officials responsible.

MR. CARR: I think that ^{it would} perhaps make a sound contribution to go so far as to suggest that any attempt to include the community penalty is unwise.

MR. WILSON: At this time.

RABBI GITTELSOHN: Do any of these proposed anti-lynching bills provide for punishment of those who are convicted of withholding information, those in the community who know something about a lynching but refuse to divulge it? After all, those are the people in the community that we are really after. If we could hit at them without hitting at the whole

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community, it would be an ideal solution.

MR. TOBIAS: I am not in favor - especially with the little thought that confessedly we have given to this particular aspect of it - of making a definite statement that might be contrary to a specific recommendation of a bill like the Case bill. I just don't know enough about it. I would rather deal in general terms of approval of an anti-lynching bill without going into those details, because on the one hand we are in trouble with the people who do not favor legislation of this kind at all; on the other hand, you are in trouble with people who have given a lot of thought to it and who would question our right to weaken any proposal that they make, with the little amount of thought that we have been able to give to it. So I think we ought to approve, - stating in general terms, as you will, about other proposals, - a bill to blot out lynching, and not go into details.

MR. SHISHKIN: On the question the Rabbi has raised, it seems to me that if we go to that question at all, that our answer would have to be no; I mean that we cannot recommend any action that would reach the people who withhold information. I don't see how we can recommend anything that would affect that.

MR. TOBIAS: Before we did that, I would like to have

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access to, I would like to have before the Committee, the bill that is before Congress now. I don't think we ought to make a decision of this kind until we know.

MR. SHISHKIN: We have copies that have been sent to us.

MR. LUCKMAN: I wonder if it isn't practical to suggest something which I am sure will occur later as we go through these matters, and that is that where there is a point of this kind raised and there is a divergency of view, that the staff draft a proposal that appears to carry the view of the majority. At the moment, at least, the majority seems to feel that we should express ourselves against this. Would it not be wise to have the staff draft such a proposal so that in your next session in September we can look at the specific proposal?

MR. ERNST: At which time the dissenting members could ask to have included that there were one or more members that felt as follows.

MR. LUCKMAN: Surely. So many of these things you can't really tell about until you see them.

MR. WILSON: Of course, if this group sitting here today could come out with a unanimous report, if we could agree on something, if it is possible, that we could unanimously support, I think we would do more good for this cause than almost any-

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thing else we could do. But if we get all these dissents in here we will just add to the confusion on the subject, it seems to me, and weaken the possibilities of getting through the action that we so earnestly want as a Committee.

MRS. ALEXANDER: I think Dr. Tobias' viewpoint we can all ^{agree} ~~reach~~. His only difference is that he doesn't wish this Committee to come out against something that persons who for years have worked for an anti-lynching bill have stood for; and if it is our opinion that community sanctions are improper, we simply leave it out as a recommendation without commenting upon it. I think that satisfies you, doesn't it, Dr. Tobias?

MR. TOBIAS: Yes.

MR. LUCKMAN: But it may not satisfy the rest of the Committee.

RABBI GITTELSON: I wouldn't want to assume that Dr. Tobias was the only one who has such misgivings. I don't know what my answer would be on that, but I would want to think a long time before I subscribe to any action which would decrease the possibility of getting the present and pending anti-lynching bill through. If I thought we were taking the slightest step that would decrease that possibility, I wouldn't want to do so. We don't have a theoretical situation; the bill

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is ready.

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DR. DICKEY: I don't feel that on any one of these subjects the Committee as a whole has anything more than, at the very best, an informed citizen's point of view from which to form a judgment. I am bound to say that except with respect to a very few subjects on which I had some previous interest and acquaintance, that I wouldn't want to stand up in any collection of social scientists or lawyers, or anyone else, and say that by reason of my association with the Committee I knew an awful lot more about this subject than I knew before.

MR. WILSON: Let me say amen on that one.

DR. DICKEY: So I am not going to decline to take a position on some of these things simply because I don't feel that I am qualified as an expert on all the subjects.

MR. SHISHKIN: Mr. Chairman, while I am a representative of labor, I don't want to create any impression, directly or indirectly, that what I am about to say implies any promise of benefits, which statement would be prohibited by the Taft-Hartley Act, but the reporter would like to have a two-minute recess in order to rest his hands.

MR. WILSON: We will take a short recess.

(Short recess.)

MR. WILSON: Are you ready to proceed?

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MRS. TILLY: I would like to say this. You know, I live where these things happen, and the Methodist Church, and now the Council of Church Women, have sent me on investigating tours of where these things happen. Now on this question about the community, ⁱⁿ Walton County in Georgia, the Grand Jury never met, never brought in any presentments about that lynching of four people. If there had been some pressure or penalty on the community, there might have been something different there.

I can see, at the same time, why we would be curtailing the civil liberties of a great many people, of the majority of the people in the community, and I am puzzled about it.

But after all, there ought to be some responsibility on the county where these things happen, enough to at least make them bring in some Grand Jury presentments when four people are murdered. They just absolutely ignored it, never did anything.

MR. CARR: There seem to have been two specific points of view suggested: ^{on a community penalty} one, that there be no reference at all, and the other, that there be specific opposition to the inclusion of this kind of penalty in the bill.

MRS. ALEXANDER: And now we have a third.

MR. ERNST: Why don't you draft it with the opposition. We can always cut it out and have no mention.

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MR. LUCKMAN: I would like to see how we oppose it, and we can determine that later.

MR. SHISHKIN: Mrs. Tilly is raising a question of affirmative duty rather than sanctions.

MRS. ALEXANDER: She is also saying that in a county where murder occurs and where there is no indictment by the Grand Jury, that there shall be a penalty against the county; isn't that what she is saying?

MRS. TILLY: Yes.

MR. LUCKMAN: And I think that is a highly dangerous subject to try to finalize on.

MRS. TILLY: It is.

MR. LUCKMAN: I travel, and if a murder takes place in my community while I am gone, is there to be a sanction where I pay \$20 like everyone else?

MRS. ALEXANDER: When no action is taken by the community.

MR. LUCKMAN: I am a citizen in the community. What rights do I have to force a Grand Jury? I think it impossible to legislate a point of view.

MRS. ALEXANDER: You have a right to appear before the Grand Jury and give it that information.

MR. LUCKMAN: I have that right, but I think we are going a long ways when there is a law that says I must find out about

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the situation and do something about it.

RABBI GITTELSON: If there is no objection, why not settle this by authorizing the staff to draw up such a statement of our opposition to community sanctions for us to see, and reach a definite decision after we have seen it?

MRS. ALEXANDER: May I first ask one question. What does the Case bill provide regarding sanctions?

MR. CARR: Every governmental subdivision shall also be responsible for any lynching--"any such governmental subdivision which shall fail to prevent any such lynching, or any such seizure or abduction followed by lynching, shall be liable to each individual who suffers injury to his or her person or property, for a sum of not less than \$2,000 and not more than \$10,000 as monetary compensation for such injury or death; Provided, however, that the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace **** used all diligence and all powers vested in them for protection", etc.

MR. ERNST: Don't you have to divide it with these two different sanctions: one, civil suit for dollars against officers; and the other, the withdrawal of federal funds?

Now I take it that under (c) we were discussing the second

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of my two remarks, because under (a) you could have the public officers not only liable criminally but civilly.

MR. WILSON: I took it that on (a) we were in agreement, were we not?

MR. ERNST: Yes.

MR. WILSON: I thought we agreed to that, and we had gotten down to the sanctions against the community, and there we had a definite opposition to that on account of its non-feasibility.

MR. LUCKMAN: So we might move on with the other 27 pages, may we accept the Rabbi's suggestion?

MR. WILSON: Do I hear any objection to that?

MRS. ALEXANDER: I want to ask Mr. Carr if, under (b), he is going to attempt to show how (b) could be Constitutional?

MR. CARR: Yes.

MR. WILSON: We will move on, then, to (d).

DR. DICKEY: Could we, Mr. Chairman, get some general expression here among the Committee members as to the priority which they give the lynching subject in our deliberations? I think the staff ought to have some guidance, probably, as to the emphasis and background and analysis, and in terms of calculated Constitutional risk, which this Committee is prepared to take on the lynching question.

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I was at the hearings in Washington when Mr. Houston appeared, and I was - I will put it this way - intellectually impressed with his analysis, which seemed to me to go to the point that while lynching in many respects was the most horrible aspect of the deprivation of civil liberties, as far as he was concerned, it was after all a symptom rather than a fundamental cause. I say I was intellectually impressed with that argument. But the more I thought about the thing, I think the members of this Committee have got to at least ask themselves, and I have asked myself and know the answer for myself, the question of whether we weren't primarily established by the President because of certain public outrages in the lynching field, and while we have been functioning as a Committee, several of the more outrageous forms of the crime have taken place and there have been public failures on the problem such as we haven't had in recent years.

Both of those things led me to believe that this Committee is going to get awfully short shrift for anything else that it deals with - it may just get laughed out of the papers - unless it gives really more attention to the lynching problem than intellectually I believe it warrants, in line with the analysis that men like Mr. Houston gave the problem.

I believe that we shouldn't pass this lynching subject

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without some pretty thorough expression of views by the Committee members on this subject. I may be completely miscalculating our public relations problem in this respect, but I believe it is one we just can't duck; that the editorial writers, the day this report comes out, are going to turn right to the index, under anti-lynching, and say, "What has the Committee said about it?" And I think we have got, in order to stand a chance of coming off successfully, either to make a top contribution on the side of suggesting something to be done which is going to involve pretty serious constitutional risks, or we have got to make a top contribution in analysis and explanation of why we are not proposing something pretty drastic in the way of legislative action.

MR. TOBIAS: Mr. Chairman, I agree absolutely with Dr. Dickey, ~~and~~ ^{the} the appointment of the Committee did come about as a result of this lynching fever, there is no question about it.

I think that what Mr. Houston had in mind is something that over and over again we need to consider when we try to analyze this practice and get down to the basic underlying causes. What he had in mind, and what is true, is that lynchings occur because of the cheapening of the personality of the group that is most often the victim of lynchings, by

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apparently small acts of discrimination. People don't just wake up in the morning determined to do somebody to death. But here you have a group in the community that has been side-tracked, it is not a participating group in the sense that other groups are in the life of the community, and for that matter in the life of the nation. Disfranchisement is a very direct cause of lynching, it creates a cheap group of people in the community, so that those who will to do violence on slight provocation don't hesitate, because they know that it won't cost as much.

So I don't think we can avoid the point that Mr. Houston was making, but I do think, with Dr. Dickey, that we have got to call the attention of the entire country to this evil, not so much because of the effect upon the people victimized as because of the spiritual effect upon the nation as a whole and the violence that is done to the great principles that we talk about from time to time.

I think that is where the emphasis has got to be placed.

MR. ERNST: Can't we let the selection of emphasis go until after we find out how many points we are going forward with? It seems to me we can spend hours on emphasis.

MR. TOBIAS: I am quite willing to do that, but I was speaking to Dr. Dickey's point, which I don't want to go

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unnoticed.

MR. WILSON: I think it is good, and I am glad it is in the record, and we ought to apply ourselves to it, I feel.

DR. DICKEY: Is this the last ~~that we are going to have~~ discussion of lynching ^{we will have} at these meetings? I assume it is.

MR. WILSON: At this meeting it will be, until we get the draft.

DR. DICKEY: Which bill, then, is the staff going to back? Have we made up our minds on that? Subcommittee 1 has a very real concern with this thing.

MR. CARR: Do you want to anywhere in the report name bills, and say that "We specifically advocate enactment of the Wagner Bill or the Ives Bill"?

MR. WILSON: I think we ought to keep our report on the highest ~~tone~~ level and demand the most that we ^{can} ~~could~~ possibly hope to get. ~~out of any of the bills.~~ It seems to me that ~~our~~ report should be, ^{our report} that the tone of ~~it~~ should ~~be~~ demanding the maximum preventive measures.

MR. LUCKMAN: As soon as you name a bill you become political, whether you wish to or not.

DR. DICKEY: I misspoke myself. I meant the substantive provisions of these different bills, have we made our minds up on how far we are going to go ~~on~~, for example, ^{with} this problem

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of attempting to reach private mob members?

I take it that it is the sense of this Committee that it wants the staff to take very substantial ~~of~~ constitutionality risks in supporting legislation to achieve that end. I wish Bishop Sherrill would express his views on this, because this is something that Subcommittee 1 directed its primary attention to during its existence.

MR. ERNST: I agree with that, except I hate to hear us talk in terms of ~~of~~ Constitutional risks, because there aren't any, because the Constitution is fluid and it changes, and the judges are changing their minds about it. Sometimes they don't change as fast as we want.

But for us to pick it up as a rigid document and say that we are afraid of it - there are risks in doing nothing, too.

MR. CARR: I ~~would~~ think you would do well at one point in ^{the} that report to raise that subject and handle it and dispose of it, and say what you have said, that we have a fluid Constitution, one that has, during a century and a half, proved adaptable --

MR. ERNST: Judicial reversals all the time.

MR. CARR: And accordingly, you are being forward-looking ^{in the field} on ~~the~~ basis of civil rights.

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MRS. ALEXANDER: On the other hand, we want to make ~~it~~ clear to the common person why the Federal Government hasn't been able to act in lynching matters, and what will be necessary in order that they can act, ~~because~~ ^{because} the people don't yet understand.

MR. SHISHKIN: I think "fluid" is a very extravagant word on that; it might be called "plastic".

MR. CARR: "Flexible", maybe.

BISHOP SHERRILL: My feeling about this lynching thing is that if there isn't a fundamental right to breathe, then there is no use talking about fundamental rights to go to a movie with somebody else; that it is pretty nearly a major problem, the civil right to be allowed to breathe. And we discussed in Subcommittee 1 a proposal by Dr. Dickey in regard to the placement of responsibility further than the present very inadequate responsibility upon officers of the law. That is a very technical situation which exists at present, and one that seems to us ought to be amplified, and I should hope that we would make a very full and complete statement.

It is up to the Supreme Court to declare that it is unconstitutional, and not for us to.

RABBI GITTELSON: Mr. Chairman, I don't think there is

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dis
any basic agreement here at all. If we seem to be neglecting the subject of lynching, it is only because everyone is agreed and takes for granted its high priority, and tells the staff to go ahead with it.

MR. TOBIAS: Mr. Chairman, I want to ask for a strong preamble to whatever recommendation is made, one that calls attention to the effect of this evil on American prestige throughout the world, which I think people don't give enough thought to. They ought to realize where it places ^{us} ~~it~~. The President referred to it yesterday briefly with regard to totalitarian nations that have a clean bill of health on that, ~~to question their motive for exploiting that~~. Nevertheless, it is true, and it undercuts any efforts that are made in America among people who are victims of this evil to counteract favorable thinking on their part toward these totalitarian powers. There isn't any question about that. The average Negro who is appealed to against Communism isn't disturbed at all and will frankly admit that he isn't disturbed at all because he feels that the hate movements in this country that support lynching are going unquestioned, and why should he worry about some far-off power that is represented by a negligible minority in this country and the possible evils that might result in this country from their activities, when

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we are doing nothing at all of any consequence to counteract this evil here in America.

That, I think, needs to be plainly stated in whatever preamble we write. I am not offering this for argument, but just as a suggestion.

MR. WILSON: All right, I think that is a good point.

Decision Paper No. 3

MR. ERNST: Are we on page 3, Mr. Chairman?

MR. WILSON: Yes, sir.

This is a subject ^{on} which we can get, in the drafting of our report, whatever help we need from the Attorney General's office, because this is one that they are very keen about.

BISHOP SHERRILL: In that interim report of Subcommittee 1, we went into these first three points very thoroughly.

MR. ERNST: And did you decide on No. 3?

BISHOP SHERRILL: We decided on No. 3.

MR. ERNST: Which way, the law or the Constitutional amendment?

BISHOP SHERRILL: The law.

MR. ERNST: Then I take it that No. 3 will eliminate, for instructions to the office, the Constitutional amendment?

BISHOP SHERRILL: That is right.

We discussed No. 4 at considerable length, and I think we thought we wouldn't take any action on it, didn't we, Mr.

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Carr?

MR. CARR: Most of the witnesses were inclined to oppose it. The question was asked again and again of witnesses whether it would be fruitful to try to invoke that long-silent clause in the Fourteenth Amendment.

MR. ERNST: That doesn't mean that you won't point to the argument implicit in No. 4?

BISHOP SHERRILL: Yes, but I meant making the recommendation of penalties involved.

MR. CARR: You wouldn't call for the use of that clause in the Fourteenth Amendment.

MRS. ALEXANDER: That No. 4 is my pet. It seems to me perfectly unbelievable that we would have representation in Congress to the extent that we do, from States where we know that there are 10,000 people ~~or 100,000 people~~ who elect the representatives to Congress, and the other million are disenfranchised. (?)

MR. ERNST: I didn't mean to disagree with you. The question is: Do we come out for the Amendment?

MRS. ALEXANDER: No. 4 is in the Constitution.

MR. ERNST: I know, but you would have to implement it by a statute or by a resolution to bar somebody from the Floor, which would have to go up to the United States Supreme Court,

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which ^{only} begrudgingly becomes a political agency, ~~at the time.~~

MRS.. ALEXANDER: I want to see it pointed out.

BISHOP SHERRILL: I will agree with that, but the other seems to me politically impossible.

DR. DICKEY: I feel that same way, after the hearings, but I must confess a personal surprise that the witnesses all went that way.

MR. TOBIAS: So was I, because there is that difference of opinion. There are those who would not favor a statute carrying out that provision in the way that we are thinking of it now, because it would permit a State or a community, a Congressional District, that wanted to pay the price of losing representation, to prevent people from the use of the franchise by paying that price, which it seems to me is open to argument, ~~open to question.~~

RABBI GITTELSON: Did Subcommittee 1 discover any magic way of hitting at this idea of primary elections being private affairs?

MR. CARR: Well, I think the feeling is that the Supreme Court will take care of that very nicely, and that a properly worded Federal Elections statute would make it possible to go ^{after} any type of interference with the right to vote; the "white primary" device or the Boswell Amendment device, whereby

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you administer a literacy test unfairly.

Decision Paper No. 4

MR. WILSON: We will now go to page 4.

MR. CARR: I might say that there is virtually no opposition to page 4. Everyone seems to agree that that sort of a change is necessary, and that it would be probably non-controversial.

Decision Paper No. 5

MR. WILSON: All right, shall we go to page 5?

MR. CARR: Perhaps I should say that the next three pages all deal with administration of the civil rights program, and are directed primarily at the work the Civil Rights Section has been trying to perform, that is, in enforcing laws dealing with lynchings, ~~these~~ elections, and involuntary servitude; and thereafter come a number of somewhat ^{different} ~~more original~~ problems - fair employment practices, health, education, and that sort of thing.

BISHOP SHERRILL: The major question there that Subcommittee 1 did not finally decide was as to whether it should be made a Division in the Department of Justice or remain as it is, a Section. I don't think we voted on that.

MR. CARR: The first 6 recommendations, I think, were approved by Subcommittee 1.

BISHOP SHERRILL: That is right, because we had a conflict of testimony in regard to ^{Point 7.} ~~that~~. I think most of the present

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members of the ^{Section} Bureau felt that it was unwise to make it a Division for budgetary reasons.

MRS. ALEXANDER: But that, to my mind, couldn't be sustained, because every penny that is spent in a Section can easily be determined; and I think, Dr. Carr, I asked the question -- someone from the Department of Justice said they had to call on attorneys in other sections for the appellate work. I was anxious to find out how many men outside of the section had ever tried an appellate case, because it wouldn't be possible to draw a man into a civil rights case who didn't know the law.

MR. CARR: The Criminal Division is quite a solidly-knot unit. For example, ⁱⁿ the cases that have reached the Supreme Court, such as the Classic case, the Screws ~~(A)~~ case, the Solicitor General's Office has done much of the work in presenting the case at the appellate level to the Supreme Court.

RABBI GITTELSON: Mr. Chairman, I would like to voice a very strong, vigorous personal view that the Civil Rights Section should by all means be made into a Division. I think the status it will have as a full Division under an Assistant Attorney General will in itself go a long way to accomplish many of these other points; and I think, furthermore, without meaning to reflect in any way whatsoever on the integrity of

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any witness, that we must take the testimony of all personnel within the Department of Justice with a half a grain of salt, at least, because knowing that the Attorney General himself apparently feels that the Section should not be made a Division, they could not have testified very well to the contrary.

MR. SHISHKIN: I agree with that.

MR. WILSON: You all heard, or at least most of you, the testimony of the various witnesses on the subject, and some of us have talked to other members privately about it. I think there is some difference of opinion among them, I think we will have to acknowledge that.

Do you want to go on record in a recommendation for a Division?

MRS. ALEXANDER: To bring it to a head, I should like to move that our recommendation be that it be made a Division.

RABBI GITTELSOHN: I second the motion.

MR. ERNST: May I make this comment? What you are proposing on Nos. 1 through 6 requires a vastly increased budget, and I don't think we ought to duck that issue.

Now if you got all of what we are asking for in an expansion of powers and personnel and functions and filing of briefs, then I would not be disinclined to go along with making it a Division. In the absence of that, I would be opposed to it.

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MRS. ALEXANDER: Take No. 2, Mr. Ernst --

MR. ERNST: I am in favor of each of the powers.

MRS. ALEXANDER: If you are going to investigate, you have got to have a head who will immediately say the investigation shall be made, and who hasn't got to go through the head of the Criminal Division.

MR. ERNST: I am agreeing with that. All I am saying is that I oppose changing it over to a Division unless there are these additional functions.

MR. WILSON: I see no reason we can't recommend that budgetarily it be taken care of.

MR. CARR: Wouldn't that be a natural solution?

MR. ERNST: You must realize that is a compromise for some people here.

I have a subsidiary comment on 6 (d), because I don't understand what it means. Who is going to issue the orders to cease and desist?

MR. WILSON: Let's vote on the motion. We have that specifically before us. The motion is that our report recommend a Division for the reasons set forth here for the necessity of it. Will all who favor the motion vote "aye"; contrary minded "no".

It is unanimously passed.

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MR. CARR: No. 6(d) is discussed at greater length at other points, and perhaps it shouldn't be here at all. What the staff was bringing to your attention is just the possibility of making greater use of the administrative procedure that ~~this~~ ^{the} agency in New York State employs in enforcing the Ives-Quinn bill, the FEP Act. There is an administrative body that has power to negotiate, and at a certain point along the way the right to use the sanction of the cease-and-desist order.

MR. ERNST: The power would not flow from the prosecuting arm of the Government.

RABBI GITTELSOHN: Would this not come more properly under the Permanent Civil Rights Commission that we probably will recommend?

MR. CARR: Not necessarily, because I think there is a real choice there as to whether that permanent Commission should be just an advisory body or whether it should be an administrative arm of the Government.

MR. SHISHKIN: But whatever the body, the point is clear that the cease-and-desist procedure doesn't belong to anything but an independent agency rather than the Department of Justice.

Of course there is the possibility
MR. CARR: ~~Except as, for example, the Taft-Hartley Bill,~~
~~the notion of taking an agency and separating it into two or~~
three sections, one of which has the power to issue cease-
and-desist orders and another arm of which might be a prosecut-

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ing body; whether you want to separate them and take one part out of the Department of Justice altogether, I think that is pretty technical and this Committee need not answer it.

MR. SHISHKIN: The reference to precedent doesn't carry a great deal of weight with me.

MR. CARR: It is an argument that has been going on for 10 years as to whether you should take your independent commissions, or agencies within the established old-line executive departments, and separate the prosecuting function from the cease-and-desist function.

MR. ERNST: That can well be debated in the SEC and the Wagner Act, but I don't think it can be debated with the Department of Justice, being the prosecuting arm of the Government, having the power to issue a cease-and-desist order. That would shock me, if the prosecuting arm of the Government had that power.

MR. CARR: So often you find the people in the Civil Rights Section saying that they can, through negotiation, bring about the alleviation of a bad condition without actually going into court and prosecuting; ~~that they would more~~ ^{they feel} ~~often than not.~~ They would like not to prosecute; ^{that} that criminal prosecution should be a last resort, and if through negotiation --

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MR. ERNST: It can do a lot of good, but the wrong man in there can do a terrible lot of harm.

MR. CARR: Except negotiation has to be supported by some sort of sanction if it is going to be successful, in many instances, and under the Administrative Procedures act your cease-and-desist sanction is subject to a pretty considerable measure of judicial review.

MR. SHISHKIN: Plus the safeguard that none of the evidence presented in negotiations can be used in the cease-and-desist procedure, ~~that~~ that has ~~got~~ to be issued de novo.

MR. CARR: I don't think the Committee need take a very specific stand here. I think it would be well at some point in the report to call attention to the possibility of using these newer sanctions in an attempt to --

MR. ERNST: In the operation of an FEPC, it seems to me a proper function.

MR. LUCKMAN: I agree with Mr. Ernst. I think we would be very ill-advised to suggest to ^{ing}give to the prosecuting branch of our Government such judicial powers, ~~which that~~ does. I think we again enter this realm of whether you take more civil rights away than you gain.

RABBI GITTELSON: Do you want a motion for purposes of clarifying this?

MR. SHISHKIN: Couldn't it be taken out of the section?

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RABBI GITTELSON: That would have been my motion.

MRS. ALEXANDER: Where would we put it, Dr. Carr?

MR. CARR: It could come in at many points. You could say in dealing with election violations, for instance, that the idea of using the Commission approach --

MR. ERNST: Even there, I think we ought to make it clear that the Department of Justice would have to go to court to enjoin human beings. I am against the injunctive process in life, anyway.

MR. CARR: Do you object to the use of the cease-and-desist technique in the FEPC?

MR. ERNST: What I am objecting to is ~~some~~ who has the power.

MR. CARR: What about New York State, where your SCAD does have the right?

MR. ERNST: It is not the Attorney General of the State of New York.

MR. CARR: But ^{there is a} ~~it is the~~ body *that does have it.*

MR. ERNST: That is all right. If you create an FEPC, of course they should have that power.

MR. CARR: Why wouldn't that technique work in election cases, if you can clear up a series of election violations through a cease-and-desist order technique --

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MR. ERNST: Issued by the Department of Justice, I take it you mean?

MR. CARR: No, I would leave that question open.

RABBI GITTELSON: That is the only point at issue.

MR. ERNST: That is the only point I am raising - who has got the power to tell me to stop, and to whom do I appeal, and under what terms do I appeal, as Boris says. I have no objection to cease-and-desist orders.

DR. DICKEY: They are not going to grant that power to the Department of Justice. What I was saying is that I think that your general attack on the power of injunction in the common law is not supported by all history.

MR. ERNST: What is?

DR. DICKEY: Not many things.

MR. ROOSEVELT: If we change the word "issue" to "seek", and leave it until later to decide who he is going to seek it from--

MR. MATTHEWS: I think that that is what Dr. Carr means.

MR. LUCKMAN: That would change it completely, as far as I am concerned.

MR. CARR: That satisfies me. ~~As~~ I would hate to see ~~happen is~~ this whole notion go out altogether. ~~That~~ here is a new technique that might be much more successful and much less extreme than criminal prosecutions.

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RABBI GITTELSOHN: As I understand it, the only thought was to take it out of this context.

MR. ROOSEVELT: Even here it does belong, but it is ^{a question} ~~the~~ ~~agency~~ ~~to~~ ~~issue~~ ~~such~~ ~~orders.~~ ~~and~~ ~~then~~ ~~in~~ your final report you can tell us where you think it ~~best~~ ~~fits~~ ~~to~~ ~~seek~~ ~~it.~~ (laughter)

Decision Paper No. 6

MR. WILSON: Shall we go to page 6?

MR. CARR: This material is in here primarily as a result of the fact that many witnesses ^{referred to} ~~referred to~~ ~~particularly~~ the United States Attorneys as in many instances being incompetent or badly trained or not enthusiastic about proceeding in civil ^{that} rights cases. It occurred to us ⁱⁿ the report a rather casual reference might well be made to the fact that since much depends upon the United States Attorneys, that greater care might be taken in their selection.

BISHOP SHERRILL: Couldn't that come into a general section to point out that the Government has control over a great many employees which it doesn't exercise - for instance, discrimination in the Army and Navy. The President has power to settle that tomorrow in regard to a great many other matters of Governmental employ. Couldn't that be thrown into a section as to the responsibility which the President already has?

MRS. ALEXANDER: Mr. Carr is going further here in suggesting a program of training for them.

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MR. CARR: Yes, there are some specific recommendations toward the end as to how the Department of Justice might help the United States Attorneys.

BISHOP SHERRILL: I am talking about No. 1, the appointment of judges.

MRS. ALEXANDER: Federal judges are appointed for life, and I know that there is no presiding judge, in my district, of the District Court. Therefore, each judge is a power in himself, and he may hold a case as long as he pleases without an opinion, and nobody can say anything about it, and the only thing you can do is to impeach him by going to Congress, which you don't do. It seems to me a practical thing would be some way that the federal judges in the district courts would have control by having a presiding judge. You could at least call for an opinion.

MR. MATTHEWS: They have that now.

MRS. ALEXANDER: Not in the district courts.

MR. ERNST: They do in our district.

MR. MATTHEWS: The senior judge directs the administration of the law in our district in Nebraska.

MRS. ALEXANDER: I would like Mr. Carr to inquire into that. I know it is not so in the Eastern District of Pennsylvania.

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MR. ERNST: Mr. Chairman, I take it the purpose of this whole page is to call attention to the fact that some district attorneys and some judges are not mindful of the emergence of the civil rights issues, and ~~it isn't going to the administration courts.~~ As far as you do mention it, you do have in mind that it is very hard for the Federal Government to get lawyers, because if they are any good they will be stolen by private industry promptly, and I wouldn't like it to seem a one side of the medallion comment. The best lawyers in private practice today were ^{pull} with the Government and ^{were} picked up for private practice, and I don't think we ought to give a one-sided picture. Very few of them can afford to stay at the salary schedules.

MR. LUCKMAN: I think the point can well be touched upon ⁱⁿ with our report, but I would like to suggest that the "er" be taken off the word "greater".

MRS. ALEXANDER: Coming down to the United States Attorneys, as long as a United States Attorney can practice privately, I think we will have great difficulty in finding those that are going to go against the mores of the community, if they are going to come into the court and carry on private practice. The answer there is the same that Mr. Ernst raised, that the salary scale is low and therefore they are permitted

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to practice privately. But you don't find in the State courts that a District Attorney is permitted to try criminal cases in the court where he is prosecutor.

MR. CARR: I am afraid the Committee would be going rather far afield if it took up the whole matter of the organization of the Federal Judiciary and the United States Attorneys, ^{and} the reorganization of those branches of the service. I do think that the Committee perhaps should touch upon the matter, and point out to the public how much depends upon the abilities and interests of these Federal officers.

MR. ROOSEVELT: Isn't this something that the Committee - and the Rabbi mentioned earlier that we are going to recommend a sort of a continuing membership - isn't this something that they can do more through personal contacts rather than by putting it in the report and adding a controversial issue?

MR. WILSON: I surmise it could be a recommendation to that Committee to give these points their attention. I don't think we can do much beyond that, anyway.

MR. SHISHKIN: There is one point I am not clear on. Mrs. Alexander mentioned the problem of private practice by United States Attorneys. But in 2(c) it says "greater use of Departmental attorneys and private attorneys as special assistants to the Attorney General".

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~~MR. CARR: That is the other way around.~~

~~MR. SHISHKIN: I mean --~~

MR. CARR: It is common practice, or has been in the times past, for an ^{private} attorney to be appointed as special assistant to the Attorney General, ~~and~~ he handles the case, and there are those who feel that in the civil rights field that procedure should be used more often than it has been in the past.

MR. SHISHKIN: I have a feeling that if any such recommendation is made, ~~that~~ there should be safeguards that go with it, with respect to the attorney so used.

MR. CARR: There are, I suppose, standard safeguards in the selection of men in any area.

MR. SHISHKIN: I mean what is the relationship to the court or to the case. I don't know whether it will be covered by the standard practice or not.

I come from Virginia, and there is a practice there of permitting a private attorney to come in with the Commonwealth Attorney in prosecution without even an appointment, and conducting the prosecution of the case with which the Commonwealth Attorney isn't concerned.

MR. ERNST: He represents the complainant, though.

MR. SHISHKIN: No, the State.

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MR. ERNST: But in reality it is the complainant.

MR. SHISHKIN: Yes.

RABBI GITTELSOHN: Regarding the context of this entire page, I would want to see somewhere in the report a section dealing very emphatically with the need for constant vigilance all along the line for the protection of civil rights, vigilance by the individual citizen, by the community, by government officials in every category, and by the occupant of the White House, recognizing that from the top down to the very bottom, only the measure of constant pressure interest on the part of all concerned will accomplish anything. And I think that this whole approach on this page would fit very definitely within that context, rather than forming a major area of recommendation within itself.

MR. LUCKMAN: All of which might very well be listed under our recommendation for a permanent Commission, as indicating the reasons and necessity for that Commission, with 10 or 15 or 20 points under that.

Decision Paper No. 7

MR. WILSON: Shall we go to page 7?

MR. ERNST: As to 1 (c), I am against this Committee taking on deprivations of rights beyond those that arise out of race, creed and religion, such as the rights that may be impaired under the loyalty test provisions. And if I am opposed to

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including our observations, if any, on the loyalty investigations, then I am opposed to (c) being in here.

MR. TOBIAS: There is a sense in which that impinges upon this other question in which we are interested. For instance, the FBI investigations for loyalty that I have seen or heard of up to the present time, are confined to the examination of persons with reference to their affiliation with the Communist Party or with Communist front organizations, and leave out of account those hate organizations like the Klan and the Columbians and the thousand others - I have got a batch of literature here that they spread over the country, poisoning the minds of the people - and if we are going into that on one side, then I think we ought to insist that something be done on that other side that does have a very real bearing on this.

MR. ERNST: On the assumption that it be one-sided. I am working on the loyalty test stuff with other organizations, and I think we are going to get a very good set of rules and regulations that are going to protect most of the rights. A few of them I don't know how anybody can protect, as against underground forces.

I would be opposed to this Committee, for many reasons, going into the whole subject.

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MR. CARR: Insofar as 1(c) bears upon loyalty, how would it be to wait until we get to page 18, which raises the whole issue?

DR. DICKEY: I certainly want to throw out a caveat that I am very much in disagreement with Mr. Ernst on that. I am quite content to wait until we get to page 18 to hear it discussed, and I am not going to urge that this Committee attempt to go into detail on it, but if the Committee on Civil Rights is not concerned with and does not at least make some mention of this subject, as far as I am concerned, this subject of political prosecution in this country, I am going to lodge a dissenting opinion.

MR. ERNST: Why don't we take up page 18 now, Mr. Chairman?

MR. SHISHKIN: I don't know what the Chairman's decision is on that.

MR. WILSON: Is there anything else on page 7 --

BISHOP SHERRILL: There was a question there that we haven't answered. "Changes in the operational relationships" - wasn't the question there ~~as to~~ whether the FBI was to be limited in its investigation until it had been given a special directive?

MR. CARR: Yes. You will recall that there was quite a discussion with Mr. Hoover and Mr. Clark as to whether the FBI

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had been held back in some of its investigating work because of the need of getting clearance. I am inclined to think there was a good deal of misunderstanding ~~on the part of~~^{by} both sides ~~there~~. I am told by some members of the staff who spent most of ~~the~~ last week over in the office of the Civil Rights Section going through some of their material, that they have apparently already made a change, largely on the basis of the discussion that took place with members of this Committee.

I think that ~~perhaps~~^{to} is a little unfortunate, ~~in that~~ I don't think the Committee had reached the point where it intended the Department of Justice to do anything about the situation, but the statement that has been placed in my hands is that the FBI ~~have~~^{has} now been given greater authority to go ahead and make preliminary investigations without first obtaining clearance.

BISHOP SHERRILL: That was the question at issue.

MR. ERNST: Your report might so mention, that during the sessions of the Committee this expansion of self-starting power had been inaugurated.

MR. SHISHKIN: What is behind this question?

MR. CARR: There was a good deal of discussion as to whether, for example, in the Walton County case, ~~or some other case~~, the FBI was prejudiced in its investigation because it was held back for 24 or 48 hours waiting for clearance before it could send its agents in. I think there was a misunder-

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standing there, and as a matter of fact I think the Departmental records will show that there hasn't really been any delay that was based upon the necessity of getting clearance. There has sometimes been delay for other reasons, physical reasons of one kind or another, but apparently the Department is now more aware of the importance of getting agents into a scene as quickly as possible, and perhaps Mr. Ernst is correct that we could claim a little credit for having started that.

MR. SHISHKIN: It was a mechanical problem there --

MR. ERNST: It is much more than that.

MR. CARR: You can argue ^{it} both ways, ~~that~~ ^{for} it is a very controversial field, and there are times when the Federal Government wants to be pretty sure of itself before it goes ahead, and you wouldn't want to give to every line officer authority to go ahead and start Federal investigations.

MR. WILSON: I don't think we would want to recommend it.

MR. SHISHKIN: But I think there is a larger question involved here, which is touched upon by these questions, and that is the status of the Federal Bureau of Investigation ⁽ⁱⁿ⁾ ~~with~~ relation to the Department of Justice as a long-term problem. I mean the Federal Bureau of Investigation occupies pretty much the status of a separate department, there is no question about it; in its relationship with Congress it doesn't lack

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independence, I mean it makes judgments. And as I told Mr. Clark when he met with us, I think one of the things the Committee ought to be concerned with is the fact that the Committee can deal with Mr. Clark or Mr. Hoover as personalities, they have been ingrained upon the public mind as identified with the FBI, particularly Mr. Hoover, and the degree of confidence we may have in him or them personally is different and apart from the status of an agency of this sort with respect to over-all policy. It seems to me extremely important to have the question of top discretion, policy discretion and procedure on these cases, vested in a full-fledged department rather than in the Bureau; and to that extent, unless that question is raised very clearly, I think, and stated in long terms, I think it might have been a disservice to have moved in the direction that we did.

MR. CARR: That is exactly what I have in mind, that if any change was brought about as a result of the discussion with this Committee, it was unfortunate, because the thing was never explored very carefully nor was the problem seen from both points of view, the point of view of the need for action but also from the point of view of giving the responsibility for clearance to somebody pretty well up in the hierarchy who understands the difficulties both ways.

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MR. ERNST: I didn't mean that the Committee should take credit. I think it is worthy of a comment, because questions have been raised - have there been delays by asking Tom Clark's approval?

We ought to make a comment and say that during the period of the last few months the FBI has done so and so.

MR. SHISHKIN: I think the FBI ought to be strengthened along these lines, but I think they also ought to be given an increased degree of responsibility in relation to the Attorney General, who has prime responsibility as the prosecuting officer of the Government.

MRS. ALEXANDER: Isn't it a fact that Mr. Hoover does not move until he gets a direction from the Attorney General?

MR. CARR: We have been talking about that, and I have pointed out that there apparently has already been a change in the working relationship that exists as a result of the discussion that took place with the members of this Committee involving Mr. Hoover and Mr. Clark.

MR. TOBIAS: I think the record will show that the Attorney General, when this question arose, assured the Committee that Mr. Hoover was absolutely unhampered in his approaches. When the question was raised - I happened to be sitting next to him - I think he was a bit sensitive about it at the time.

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MRS. ALEXANDER: When you say "changes", what do you mean, Mr. Carr?

MR. CARR: When we put this down, we had that specific problem in mind, whether the Committee wanted to make any specific recommendation about ~~the~~ clearance. ~~Mr. Stewart~~ has been in the Civil Rights Section during the last week.

MR. STEWART: The Bureau now can authorize preliminary investigations, can undertake preliminary investigations, without being authorized by the Attorney General, which has meant in the past the Civil Rights Section. That is, ~~he~~ ^{it} can interview the immediate participants in a civil rights case, but not go beyond that, ~~that is~~, in the collection of evidence ~~or look for clues or anything~~ preparatory to a prosecution, without ~~them~~ getting the clearance. ~~But~~ ^{for} a preliminary investigation, ^{the FBI agents} ~~they~~ don't need any approval.

MRS. ALEXANDER: How much value has a preliminary investigation if they cannot get clues?

MR. STEWART: They can get the witnesses' story, ~~As~~ ^{As} I understand it, the purpose was to get agents there in a hurry to activate State and local officials, and generally give the impression that the Federal Government was on the job. ~~And~~ ^{themselves} Regardless of how far they ^{can} go, this apparently is designed to have that effect.

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MR. CARR: Well, I think the thing for the Committee to do, insofar as it touches on this, is to show the need for prompter action and the need for responsibility in this matter so you don't have a lot of line officers doing what they want to.

MR. SHISHKIN: The FBI's point of view was based on their assertion that their effectiveness depends to a great degree on the hot pursuit idea; tracks disappear and clues evaporate. It seems to me that the answer to that is that while the machinery should be expedited, ~~that the~~ responsibility should be retained *where it is*.

MR. CARR: As far as I have had any experience in working in these cases, I would be prepared to argue against the stand that the FBI has been delayed in many civil rights cases because of the need of getting clearance. There have been delays, but I think the reasons for those are much more complex than the clearance issue.

RABBI GITTELSOHN: Didn't we get that original impression from Mr. Hoover himself?

MR. CARR: I went back and read that testimony very carefully, and I had a strong feeling that the thing was rather vague, that the problem was not raised in any specific fashion. I wasn't sure that Mr. Clark had grasped the exact meaning of

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the question, whatever it was, that was put to him. As I say, I think the records in the Department of Justice will not show many cases where, in a civil rights situation, the FBI - certainly I am sure it wasn't true in the Monroe case - that the FBI itself was held up for any length of time because of the need of getting clearance. In every lynching case in the last five years, the clearance for preliminary investigation ^{has} come~~s~~ instantaneously.

MR. ERNST: Automatically?

MR. CARR: Yes.

BISHOP~~S~~HERRILL: Isn't this taken care of at the present time?

MR. CARR: They may not get anywhere, but I don't think you can show factually that it is because they are held up for 24 or 48 hours before they are allowed to go into the community.

MRS. ALEXANDER: Isn't it because they have to depend upon the local police in their other work, and when they come in they go to the local police; but if we had regional offices with people that weren't investigating other kinds of cases and only these, I don't think we would have the difficulty.

MR. CARR: I agree with that. I think the clearance issue has been magnified *too much*.

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MRS. ALEXANDER: It is an issue of not having men who are responsible to regional directors in charge of prosecuting civil rights cases.

MR. ERNST: I take it we are only discussing the question of clearance. We have passed on, by silence if nothing else, the regional office.

I have the feeling that unless the office has a body of evidence that would indicate that there has been a miscarriage of justice because of a miscarriage in clearance, we oughtn't to comment on it.

MR. ROOSEVELT: Why don't we simply state that the prime responsibility is still that of the Attorney General, but that we urge strongly that his administrative procedure be such that no delays could be encountered, even when a lynching is threatened, through the necessity of getting a clearance.

MR. CARR: That would be a very sensible sort of a statement to make.

MR. ROOSEVELT: So you don't shift your responsibility, and you don't criticize, but you do encourage the elimination of the red tape about which we are talking.

MR. WILSON: All right, a note will be made accordingly, and we will proceed on that basis.

We are now ready to discuss page 8.

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Decision Paper No. 8

MR. LUCKMAN: This we have pretty well covered.

MR. CARR: That is pretty harmless.

MR. ERNST: Just one comment again. This power of a cop is an important thing in American life, over the individual, and I am in favor of everything here, but I would like to say it requires a lot of money, and I don't think we ought to duck it.

This little job that Hoover is doing with 300 local cops costs some money, and it is very well worth while.

MR. WILSON: We will include that statement, and otherwise I take it that you approve of that.

MRS. TILLY: When we worded this, didn't we go further than just saying "training of police officials"?

MR. SHISHKIN: This is State and local police forces.

MRS. TILLY: Where our trouble is is the sheriffs and the deputy sheriffs that have the civil liberties in their hands.

MR. CARR: How about also saying "county officials"?

~~Decision~~
MR. WILSON: Maybe we can cover page 9 before we adjourn for lunch.

MR. CARR: Page 9 opens up a series of four or five pages that are closely related to each other.

MR. WILSON: Then if there is no objection, we will now

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adjourn for lunch, and come back at 2:00 o'clock.

(Whereupon, at 12:00 o'clock noon, the Committee adjourned
until 2:00 o'clock p.m., of the same day.)

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AFTERNOON SESSION

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2:00 p.m.

Decision Paper No. 9

Mr. Wilson: Shall we turn to page 9 where we left off this morning when we discovered the nature of the items on that page.

Shall we recommend: "1. Federal encouragement of full employment?"

Mr. Luckman: I think it should be pointed out, as the asterisks will indicate that that was not a recommendation of Subcommittee No. 2, not that that statement implies that it should not have been a recommendation of Subcommittee 2, but it is my own personal view, and I say "personal" because the subcommittee did not even discuss this No. 1, that we might be ill-advised to have that in. That pertains to economics, and while I am quick to recognize that economics are indelibly tied up with employment, I think that it does raise a host of questions in the minds of people who will be reading the report, ~~as to full employment,~~ that need not be contained within our report.

Mr. Shishkin: If you drop the word "federal" would that take care of it?

Mr. Luckman: No, I think the words "full employment" raise a number of questions, the Federal Works Administration and all types of things that I believe bring up a lot of pros and cons that we should not encourage, and other issues that

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are really economic, and while the Fair Employment Practices Act is of course based upon the economic system, it should prevail whether we have full employment or whether we don't have it.

Mr. Ernst: You would have no objection, would you, to having the report in effect say that during periods of increased unemployment the minority groups are harder hit, or the first to be hit?

Mr. Luckman: I would be very much in favor of that. I think that is an extremely important point.

Mrs. Alexander: But of course if we had full employment we wouldn't have to have any of it. If we had full employment we then would not need necessarily an Act because when you have full employment the minority groups are employed.

Mr. Shishkin: It depends upon your definition of "full employment" which I think is back of Charlie's point. A lot of people say we have it now and we certainly need the Act, but I agree that another way of putting it in, showing that the problem is greatly intensified when there is unemployment, is an effective way of doing it.

Mr. Wilson: Do you all agree on that?

Mr. Tobias: Yes.

(There was no disagreement)

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Mr. Wilson: All right.

Mr. Luckman: On point No. 2, Subcommittee No. 2 did give consideration to one point which is not contained in this brief statement. We were all very much in accord with the last phrase, "and carry sanctions as well as educational machinery". But we also discussed the matter of recommending the enactment of a fair employment act and to have the sanctions become effective one year after the date of enactment of the act so as to give a period for employers, both private and public, to voluntarily adjust their work plans, and I think that point should be discussed by the Committee to see if they feel there is some merit to that thought.

Mr. Wilson: What is your thought on that? Shall we put in that period of preparation for it, one year to prepare for it? Are you in favor of that?

Mr. Ernst: Mr. Chairman, I have no strong feeling about it. It seems to me that in this committee we ought to be less compromising than the President might have to be when he sends the message to Congress, and there will be enough compromising of our position down the line as we go along, and I am not in doubt at all that many people will propose such graduation steps in the meantime. If there are no objections just come out, and let the President cut it down a bit, or

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the Congress will cut it down.

Mr. Luckman: I don't view it as a compromise, I look at it more as a practical thing, but I think we should endeavor to the best degree of our ability to be practical in our recommendations.

MRS. ALEXANDER: Would that one year apply to federal employment as well as private?

MR. CARR: You probably wouldn't have the same sanctions, would you, in federal employment?

MR. SHISHKIN: No.

MR. WILSON: I don't think you would.

MR. LUCKMAN: The subcommittee believed that the sanctions should be positive, definite and substantial in nature, and I think all of the experience of our nation is that when you have a law on the books and the law is flouted, it does more damage than the absence of the law itself might do, and if we are to have severe sanctions, as we believe we should, then perhaps there is more judiciousness in having a period of adjustment.

MR. SHISHKIN: Well, I think that any such proposal, whether it is for a year or six months or eighteen months, is certainly a meritorious one. The only question I have in my mind is a question that Mr. Tobias raised earlier, I mean we do have the

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Ives-Chavez Bill, a non-partisan proposal, before Congress, and if we make a substantive recommendation which squares with it on every point except one, it would to that extent raise the question of the validity of that particular legislative proposal, and that is the only thing that concerns me.

MR. LUCKMAN: We did more or less agree that we would not specifically recommend any pending bill, any piece of legislation.

MRS. ALEXANDER: But that is not the point. We do not wish to lend support to the defeat of a bill which is now pending by saying that our bill that we would recommend would contain such and such. What does the ^{present bill} President want to provide regarding sanctions?

MR. CARR: Provide sanctions but with no delay. However, I should think that would be the sort of amendment that could easily be offered without upsetting the bill itself; if Congress were otherwise minded to pass such a bill, I don't think that type of amendment would be very difficult to get over.

MR. SHISHKIN: The bill is before the committee now, and it isn't very likely that the committee will act on it before this part of the session closes.

MR. LUCKMAN: In my personal study of the testimony before the committee on the present legislation - and I have gone over

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reams of it - there have been at least ten or fifteen people of substance who have appeared in opposition to the bill, having as their main point of opposition that there would be a tremendous upset if over night they had to follow all the provisions of the bill. They ~~made~~ quite an issue of that in trying to defeat the bill itself.

MR. SHISHKIN: I was wondering - the committee hasn't met to mark the bill and hasn't set a time for that purpose yet, and I thought some informal discussions might be carried out with regard to the sponsors of the bill on both sides.

MR. ERNST: Might it not be well at this stage ~~that we~~ ^{to} instruct the ^{staff} ~~office~~ to bear that in mind and write that part of the report without a period of transition, and see what the report would indicate as to the type of sanctions. I agree with Charlie entirely that if you make your punishment ~~too~~ ^{to} severe you will get no enforcement. I would be inclined to say that there would be no serious objection if the thought was, to give a period of readjustment. If I were in the Congress I would vote for it without the period, but if somebody came along and said, "How about this period", and we could get it through, I wouldn't feel that I was prejudiced by allowing the year or year and a half for readjustment.

MR. WILSON: I think that is very practical.

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MR. ERNST: So we don't seem arbitrary and just dream boys; but I would come out for the whole thing.

MR. WILSON: Well, as I understand it, we will leave it out, leave out the year; is it the desire of the majority that we leave that out? Are you willing to go along with that?

BISHOP SHERRILL: I would be in favor of putting it in. I don't think it is a vital thing; I don't think we are going to defeat any bills or pass any bills. We don't want to take ourselves too seriously, that our report is going to be a bible that Congress is going to follow. It seems to me that it gives appreciation to the difficulties involved, and the reasonableness of the report. We are going to recommend a lot of things that are going to seem very radical to a great many people.

MR. LUCKMAN: I think you might get a considerable amount of favorable editorial comment if in two or three places it does appear that we are trying to be practical as well as idealistic.

MR. WILSON: All right. Will you go along with putting it in or not? Is there any objection?

MR. MATTHEWS: Which way?

MR. WILSON: Putting in the suggestion of a year's lapse before it becomes operative.

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RABBI GITTELSOHN: Before the sanctions are operative.

MR. WILSON: Yes.

MR. LUCKMAN: You can always strike it out. I think it is easier to do that.

MR. WILSON: Does anybody object? Hearing no objection, we will go along with it.

Now, "The enactment by the states of similar laws." Do you want to make a recommendation as to that?

MR. ERNST: May I just ask as to that if you have been in touch with the Commission on Uniform Laws?

MR. CARR: We have, but we have received no word from them.

MR. ERNST: If we could get them to try to work out a standard statute for the states to copy, it would be fine. If we could get even a comment in the report that you are working with the Commission on Uniform Laws --

MR. CARR (Interposing): We have made the approach.

MR. SHISHKIN: If there were a recommendation in the report on Item 3, in what form would it be?

MR. CARR: In that part of the report dealing generally with fair employment practices we might just say that this is an area ⁱⁿ which ^{is} also appropriate for the States to pass legislation, ^{on} and that that would merely continue a movement that

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is already under way.

MR. SHISHKIN: You mean stating the facts - where the law is in effect, where it is pending, and so forth?

MR. CARR: Yes, and that the Committee recognizes that here is an area where it is entirely appropriate and positively desirable that there be both federal and state legislation.

RABBI GITTELSOHN: You would establish the pattern just once for federal legislation, and just comment that the states go along with it.

MR. CARR: There is certainly no need to discuss the difference between the New York Act and the New Jersey Act, or anything like that.

MR. LUCKMAN: That seems consistent with several other matters that we have handled in a similar way. I should think we could go ahead and do that.

MR. WILSON: Are you agreed? Hearing no objection we will proceed accordingly.

Now I notice that we have two asterisks on this next one, No. 4, to suggest "The reenstatement by the President in even more vigorous terms of the polity of non-discrimination in the government service".

MR. ERNST: Mr. Chairman, I don't quite understand that. My own position is that there ought not be any stating in

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terms, that it ought to be an absolute mandate, with no doubt about it. It isn't a question of stating it in stronger terms. For my part I would like to see us come out and say, "This is the root; this is the crux; this is where we have got to start". I am not saying that the President won't have to compromise it somewhere, or that Congress won't have to do something, but it seems that our function is quite different, and on that I feel very strongly that we ought to make it very clear that there be no discrimination on these grounds on everything, Army, Navy, civilians and everything, and I don't see that the report gives any meaning or inspiration to the American public unless you so state.

MR. SHISHKIN: And yet it is one of the areas that is least explored, both in the legislative history of the present legislation -- the proposed law itself is quite weak on discrimination in the government, and all we have gotten in the discussion was a very general statement by Tom Clark that the Department of Justice is pretty holy, but there is ample evidence the other way about other departments, I don't know about the Department of Justice, but there is no direct remedy even in the proposed legislation. So the emphasis on the administrative side is extremely important, I think.

MR. ERNST: Yes, but this is like an act of faith on our

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MR. ERNST: Yes, but this is like an act of faith on our

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part. We are not telling it to an employer who is in business for other reasons than the government. We ought to state it in terms as an act of faith.

MR. WILSON: Are you agreed with Mr. Ernst that it should be stated in those terms?

MR. ERNST: I would be frank with the public that there are difficulties and that it may impair the machinery of government in spots, but as between that impairment and a decent life for the national government in this field, I have no choice.

DR. DICKEY: Would you make that same statement with respect to national defense?

MR. ERNST: What do you mean, the Army and Navy?

DR. DICKEY: Yes.

MR. ERNST: Oh sure.

DR. DICKEY: Suppose you were to state as an assumption that it would impair the national defense?

MR. ERNST: I would tie it up again with the international front.

DR. DICKEY: I said impair the national defense --

RABBI GITTELSON (Interposing): That to abolish discrimination would impair the national defense I think is a false assumption.

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DR. DICKEY: But men hold a lot of false assumptions.

MR. CARR: It boils down to whether we would accept the statement of the generals and the admirals that it would impair the national defense.

DR. DICKEY: I think that is one of the most difficult things we are going to have to face on this Army and Navy business.

MR. TOBIAS: We are going to come to that as a section by itself.

DR. DICKEY: Yes, that is right. I just don't think it is quite as easy --

MR. ERNST (Interposing): I take it that this No. 4 will only go to the civilian branch of the government at this time.

DR. DICKEY: That is where I would prefer to confine it on this point.

MR. ROOSEVELT: I think you can avoid the other difficulty if you don't go so far as to even suggest that it is going to impair the efficiency. If you leave that suggestion out then you don't leave yourself open to a lot of argument.

MR. ERNST: It is true, and we are going to have to face it. We are going to have to build new barracks in places and all kinds of things.

DR. DICKEY: I think we do have a problem when we come to

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national defense, but I would take de minimis on this.

MR. TOBIAS: It is on the national defense ^{that} ~~where~~ I would be most unyielding.

RABBI GITTELSOHN: I think a very good case can be made out quite to the contrary, that our present policies of discrimination impair the national defense.

MRS. TILLY: I think so too.

(Discussion off the record)

~~DR. DICKEY: Let's take up Point 5.~~

MR. ERNST: I take it that 4 only relates to the non-armed services?

MR. CARR: That is right.

RABBI GITTELSOHN: And on that we are going to make it even more vigorous.

DR. DICKEY: Wouldn't it make that even more forceful, may I ask the question, if we said, "Even if it be argued that this will present difficulties and impair - just to use your words - a certain functioning of the civil government, we still believe that the national interest is best served by doing it"?

MR. ERNST: May we wait for the armed services point? You are laying a foundation for under-cutting me on that.

DR. DICKEY: No, I am not.

MR. ERNST: It would under-cut my argument.

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DR. DICKEY: I just believe that what you can do you ought to do effectively.

MR. TOBIAS: I think we ought to lay it down as a principle for ourselves, whether we recommend it or not, that no defense, whether it is civilian or armed, should be upheld at the price of full exercise of citizenship responsibilities without discrimination of any kind. . . I don't see how we can do otherwise and have our Committee mean anything at all. Of course there are going to be people who will say, "If you employ Negroes or Jews or Orientals in this plant it is going to dislocate everything." What are you going to do?

RABBI GITTELSOHN: You have the same thing in private employment.

MR. TOBIAS: Yes. What are you going to do? Are you going to say, "We will temporarily lay aside the principles on which our government is established for the expedient of getting ahead with this work?" To what end is the work going on? What is the great principle that you are fighting for? You believe the inexpediency at that moment and it isn't worth fighting for.

RABBI GITTELSOHN: I would rather, personally, meet that issue head-on, than with any "if" phrases. The Department of the Interior, for example, which under Ickes went a long way

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to abolish discrimination, certainly didn't suffer in efficiency as a result, and I think that is where we have got to meet the issue by saying that the full living and practice of democracy doesn't diminish efficiency, and that in the long run, and possibly in the short run, it increases efficiency.

MR. SHISHKIN: The question also raises an issue here of what we mean when we talk about national defense. The efficacy of national defense depends a great deal on what you are defending.

RABBI GITTELSOHN: I am talking about the civilian defense at this point.

DR. DICKEY: I don't want to be involved in an argument on the civilian end because I think that if there is any impairment - to cite Mr. Ernst as my authority that there may be - I would regard it as de minimis and would think that it served the national interest to just override it.

MRS. ALEXANDER: It is important that in this stage of our life we do put emphasis upon the morale of the people because if, in times of peace, we do not give the rights of first-class citizenship to all of our people how can we expect in an emergency that they will rise to the needs.

MR. SHISHKIN: I think that is really subsidiary because the crucial point, to my mind, is the one I raised - what are

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you defending. If you are defending a house against an invader and you say that in this house there are seven people and that all of them are going to help in the defense, all are going to be able to carry a gun, but there are different kinds of ammunition and so and so is going to stay in the basement and he cannot go to the third floor because that is not part of the policy inherent in the defense, then you are not really providing the fullest defense of the house you are defending because the people that are limited there can only do so and so, and not give their full contribution to the defense, and you have the kind of a system with which you defend in which the validity of the defense rises and falls.

MR. ERNST: Do I understand we are discussing the military aspects?

MR. WILSON: The civilian.

MR. ERNST: I understood we were all agreed on the civilian.

MR. SHISHKIN: Everybody except you.

MR. ERNST: I am laying low until the military end of it later.

MR. WILSON: Right now, as I understand it, we are discussing the purely civilian phases.

RABBI GITTELSON: And we aren't going to make a statement

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on that even if it impairs efficiency.

MR. WILSON: No. Now we will go on with No. 5, "The establishment in the Civil Service Commission and government agencies of adequate machinery to enforce a non-discrimination policy in government employment."

MR. ERNST: Have you a suggestion more specific as to where that will lie if it isn't in the Civil Service Commission? ~~I am only interested in government and government agencies.~~

MR. CARR: The recommendation is that it be in the Civil Service Commission and that each agency in its own personnel department have machinery.

MR. ERNST: Tied in with the Civil Service machinery?

MR. LUCKMAN: In exploring that we arrived at the only place it could be focalized as being the Civil Service Commission.

RABBI GITTELSOHN: Do you mean to include both (a) and (b) in the double asterisk note below?

MR. WILSON: Yes. Now 6, "The application of fair employment requirements to unions and other trade and professional associations so that they cannot practice or enforce discrimination in their memberships or placement work?"

Doesn't that naturally follow?

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MR. ERNST: Yes, in even their own employment.

MR. CARR: I take it that "professional associations" includes bar associations and medical associations.

MR. ERNST: Even in their own staffs.

MR. LUCKMAN: That would come under Item 2.

MR. SHISHKIN: In the pending bill the section ~~applying~~
~~to this~~ applies only to labor organizations and not to professional organizations or associations.

MR. WILSON: Our recommendation is to go beyond that.

MR. SHISHKIN: Yes, but in the way that section is drafted the fair employment requirements affect membership status only to the extent to which the membership status has a bearing upon wages, hours, working conditions, promotion, demotion and other employment aspects of this. So it is purely the economic aspects of this that are regulated.

MRS. TILLY: Is this to be part of the FEPC proposal ?

MR. SHISHKIN: This doesn't state it clearly because it says "in their memberships or placement work".

MR. CARR: Doesn't this mean that in so far as the right to a job without discrimination depends upon membership in any sort of a professional or labor association, that that organization shall not be allowed to discriminate? I mean access to a job.

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MR. SHISHKIN: That is what the Ives Bill does. It says "As far as any discrimination in employment" is concerned. Discrimination is clearly stated, because it is not only discrimination as generally understood or interpreted by the Supreme Court, but also segregation or classification of membership. All of that is prohibited.

MR. TOBIAS: That would eliminate the auxiliary unions.

MR. SHISHKIN: Yes, but what it does ~~is~~ ^{do is} not ~~to~~ tell a labor union that if ~~a labor union~~ ^{it} has a picnic or a social function ~~that the labor union~~ ^{it} must, under the fair employment practice procedure, have non-segregation in a social function, which does not bear on unemployment.

MR. TOBIAS: I don't think anybody is worried about that, I mean to the extent that you lay down the law.

MR. SHISHKIN: ~~Any acceptance of this whole thesis.~~ In the Fair Employment Practices legislation we have won a tremendous amount of support in the South by being able to very clearly state that this whole thing is an economic law, it bears on the employment opportunities of the people and on their work standards when they are employed, and it has nothing to do with social discrimination aspects. That is the main thing that I was concerned with, in the wording of this particular statement.

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MR. TOBIAS: I don't think there ought to be any assurance of that kind in the statement, but I think that you could depend upon the union, in its own administration, to handle those affairs to suit themselves. I don't think there ought to be any assurance in the statement. You could say that it was economic, but I wouldn't go into any interpretative statement that would be a palliative to those who are afraid of the bogey that is raised.

MR. SHISHKIN: No, we shouldn't go into that aspect at all, I think, but my only concern is with the efficacy of an enactment of this kind in terms of its feasibility of passage. I am concerned with what this thing does when it gets on the books, and I think our approach ought to be in that direction too.

MR. LUCKMAN: I think we are all in accord on that.

MR. WILSON: Are we in agreement?

RABBI GITTELSOHN: There is one point, which will come up later I am sure when we discuss fair education legislation, but perhaps we should mention it here before we pass over it, as the fact of including professional associations raises the point of certain sectarian organizations. I can see, for example, certain Catholic, Negro or Jewish charitable or religious organizations which would have to be excluded here

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because of the nature of their work, so we ought to bear in mind here that we do not want to set up anything which would prevent a group dealing in a restricted social or religious area, where their employees must be of a particular nature, from operating on that basis.

MR. SHISHKIN: The bill provides that exemption.

RABBI GITTELSOHN: Yes, but under No. 6 I think we ought to at least have it in the minutes that that is our thought.

DR. DICKEY: Should it provide that exemption?

RABBI GITTELSOHN: I don't see how, as a practical matter, you can help it. I just came from the annual convention of the Central Conference of American Rabbis. That is a professional organization, but I would defy any non-Jew to sit in the room and take minutes. There is a use of Hebrew terms constantly in the course of discussion.

MR. ERNST: The discrimination there would be on the lack of knowledge, not on race or color or creed.

RABBI GITTELSOHN: But it could be so interpreted. Or a Catholic parochial school, for instance.

MR. SHISHKIN: One of the matters that came up in the discussion of this was that one of the representatives of a Catholic group came around and said, "Now we have a lot of stores that sell sacred objects, and in all of them it is required

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that one be a qualified member of the church to be employed in the handling of them, because it has to do with the correct explanation of what this is and to what use it is put, and it is part of the religious education, and the employees are restricted to being members of the Catholic Church, and if the wording isn't changed then their employment there would be restricted."

DR. DICKEY: How about a Catholic or Jewish medical association of doctors?

MR. ERNST: Mr. Chairman, there is a case now in which I happen to be professionally involved, with Catholic hospitals opposed to contraceptive information and they have refused admission of doctors to their hospitals, or thrown them out, if the doctors sign a petition to the state legislature asking for a change of the law. That is on the ground of religion. A man is disqualified from practicing medicine virtually in a town where there is only one hospital and that one is run by Catholics. I don't know the answer to these. It is the same question we had originally in New York State where the French restaurants said, "We only want Frenchmen", and the Swiss restaurants would only employ Swiss waiters or Swiss cooks. It is a question of how far afield we want to get.

DR. DICKEY: When you get into "Education" you have got

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to face it and discuss it.

BISHOP SHERRILL: I should be all for a Swiss restaurant having a Swiss cook.

Decision Paper No. 10

MR. WILSON: Now we will turn to page 10.

MR. LUCKMAN: Mr. Chairman, the remarks I made about full employment I should not like to repeat, but simply go on record. I feel that they apply on Item 1. I have made personal utterances about my personal belief regarding the necessity of federal grant-in-aid programs for elementary and secondary schools. But nevertheless I don't feel that that is part of this Committee's function.

MR. ERNST: You wouldn't have any objection, would you, to the report indicating in some way that this problem of bigotry requires further education and a further expenditure of money?

MR. LUCKMAN: That is all right. Doctor Dickey knows far better than I do that there are tremendous numbers of educators who are opposed to federal grants-in-aid, and I see no reason to call forth their objections to our report.

MR. WILSON: Item 2.

MR. MATTHEWS: What are you going to do with Item 1?

MR. CARR: Not recommend a specific program of federal grants-in-aid, but in a more general way say that we have got to have education as a means of --

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MR. ERNST (Interposing): That we ought to spend as much for education as we do for perfume, or some remark like that.

RABBI GITTELSOHN: Not that much. (Laughter)

MR. ERNST: I mean just such an illustration.

MR. LUCKMAN: It will be extremely pointed up when we get to this matter of necessity for mass education on this subject, and that is where you can bring it in, I think, very logically and where no one can be critical.

RABBI GITTELSOHN: You can also mention in passing, directly parallel to what we said on full employment, that when you have adequate school facilities for all, the chance of bigotry in admissions to colleges, towards members of minorities, is thereby decreased.

MR. LUCKMAN: That is right - minimized.

MR. WILSON: All right; we will take up Item 2 now.

MR. CARR: I want to say that the choice between (a) and (b) is one that recurs again and again and is more or less fundamental. You have got to decide whether you want to recommend that federal grants-in-aid be spent in such a way as to guarantee equality to racial groups, the benefits they receive, or whether you want to go a step further and absolutely oppose any segregation.

MR. ERNST: Mr. Chairman, I am for the latter, and again

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you are going to get to the question as to whether there ought not be a time lag to let people adjust. That is another question but I wouldn't want to sign a report that didn't come out for that.

MR. ROOSEVELT: Isn't this a good place to point out too the actual saving of money by the elimination of segregation; where you have no discrimination? You have two schools and where you have no segregation you only have one building. It may be a little larger, but from a strictly economic point of view it seems more intelligent.

MRS. TILLY: I wish all these problems were more clear cut. I am for this, of course. Yet at the same time if we get this it will delay the day longer when we will reach a place in the South where we won't have the things happening that are happening now.

MR. TOBIAS: In other words, you can get (a) with the support of the South; but you can't get (a) and (b) with the support of the South.

MRS. TILLY: No, you can't.

RABBI GITTELSOHN: Mrs. Alexander properly raised a point. Do you have a ghost of a chance of getting equality as long as you have segregation.

MR. TOBIAS: It wouldn't be absolute equality; you will

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get something.

MRS. TILLY: If we get (a) it will be a step toward (b), when we get (a).

DR. DICKEY: I think this is a really tough proposition for this committee. I have a hunch that it is at the heart of the educational problem that this committee faces. The other things are not likely to be greatly changed by the Committee's position, and I may be in the very distinct minority on that. But I think that the position that this Committee takes on this issue is of real consequence as to what happens in the foreseeable future. I have changed my opinion on it since our original meetings, as the result of a good bit of thought, and I am not prepared to argue it but I am quite clear in knowing where I stand on it. Mrs. Tilly touched on it. I don't believe we are going to get anywhere with this cheapened citizen problem that Dr. Tobias has spoken of a number of times, in the South, except through the processes of education, and not just adult education. I think you have got to get started at this thing where prejudice apparently takes its hold, with the youngster in the elementary schools, and coming out of the control of the family into the control of the school.

Every study that has been made on education in this country,

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I believe, shows many of the Southern public schools to ~~just~~ be terribly deficient both in quantity and quality in the education which they give the whites - I am not going to talk, for a moment, about the colored schools - the whites, who in turn create the problem; that they get into many of these schools prejudiced, bigoted, narrow teachers who in many instances could not make a living doing anything else; that the level of compensation there is frightfully low. I don't see how there is ever a chance that we will get at this problem in the South until, to put it bluntly, Northern money is made available to help them, or money from the rest of the country, to raise the quality and the quantity of the teaching of the whites in their schools. I believe that as you raise the salary of your teachers you will get a more sophisticated person. The chances are you will get a person who may have had her or his higher education, her professional education, outside of the prejudiced community, who knows a little bit more than just the community's lifelong convictions about this business of discrimination or segregation and so forth, and that until you begin and find and attract that type of person into the public school systems of the South, I have very little hope that we will breed a community which will do very much down there about things like lynching.

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I was originally very clear that I wouldn't go along with any proposal for federal grants-in-aid which seemed to be financing schools where discrimination and segregation were practiced, and the more I thought about the thing, even though it is still a very unattractive alternative to me, I have become convinced myself that that would be a very short-sighted position to take, and that while I would be glad to see some formula worked out that kept the pressure on, kept the carrot out in front of the Southern school systems, to change their position while they were getting outside money to aid them in improving their teacher personnel, I personally wouldn't be able to go along with a proposal to shut them off from federal aid during this critical period when our whole hope is to get inside that system with people, not importing carpet-baggers, but Southern people who are willing to go into education because it will be a little more remunerative.

That is about the rest of my position on the thing. It is one of the few things here where a study has really changed my position completely.

MR. ERNST: May I ask Dr. Dickey a question? You wouldn't want to come out in a report for that position, which I interpret to be segregation plus a lot more money?

DR. DICKEY: I don't interpret it that way at all. I would

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come out in the report and state where I stand, and why.

MR. ERNST: Which would mean a ^(condemnation) condonation of segregation, but more money is the answer, for the purpose of better teachers.

DR. DICKEY: I don't believe in getting at segregation by forcing the Southerner to say, "Well, if they think they can change my way of living with a few of their dirty dollars, they can keep it", and it would be one cold day before you ever got federal money into those schools after that attitude was taken in the South. I think it would be a setback to the federal aid to education, which I happen to believe in, in the areas where it is going to be most crucial.

MR. ERNST: Would you go for a time lag and say, "After 1951 no more federal financing of the process of segregation?"

MRS. TILLY: I don't believe you would get anywhere that way. I am terribly troubled about my own position too. I see ourselves as a Committee, and the kind of report we should bring out. A study of Walton County, and a study of the county in which Columbia, Tennessee, was in, and of Smith County, Mississippi, showed that the salary of the white teacher was \$60 and that of the Negro teacher \$40 and \$45. Now they of necessity had to be a person of that community. Nobody can go from the outside to live there on that sum of money. Unless

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we get federal aid to education we cannot raise the teachers' salaries because ^a ~~the~~ larger percentage of the tax money in the South has already been spent on education, than in any other section of the nation. And when we do get to where we can raise the salary we get a better teacher and then you raise the whole attitude of a community. It is rather a ring around the rosy.

MR. ROOSEVELT: That is what I wanted to ask. Where you do really have decent pay for your teachers is it reflected, over a period of years in the attitudes?

MRS. TILLY: Yes.

MR. ROOSEVELT: Does lynching occur where you have low-salaried teachers and not where you have high-salaried teachers?

MRS. TILLY: There are two community institutions. One is the church and the other is the school, and in all of these cases you will find the absentee minister who gets to that community only once a month; you will find the schools with the white teacher from the community drawing a salary of \$60, and the negro teacher \$45.00. Whereas in the community where you have better schools, consolidated schools and things like that, we do have a better pattern. That can be said generally. But if it is a situation in a mill community where the fight against labor has existed and the smoke-screen of it has been racial hatred and prejudice, you will find lynching even with

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a good school.

MRS. ALEXANDER: What is your explanation of Chapel Hill, North Carolina, where you have well-paid teachers and a good school system, but a separated system, and we almost had a lynching there?

MRS. TILLY: Well, it is going to take a series of years. You had people there in that lynching situation that didn't have over a third or fourth grade education.

MRS. ALEXANDER: Yes, but you had these things you were talking about, you had well-paid teachers.

MRS. TILLY: You didn't have them in their day. Those people didn't go through a school that was decent.

MR. SHISHKIN: The impact of a teacher is over a long period of time.

MRS. TILLY: It wouldn't come overnight even with a high-paid teacher.

MR. ERNST: It seems to me that one of the greatest educational impacts of this report can be to raise the sights of the American people, and in this field nobody has been able to do so yet.

MRS. TILLY: I am not against this.

MR. ERNST: What happens to our report if our sights are low enough to indirectly condone segregation?

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MRS. TILLY: I see that.

MR. ERNST: What happens to the spirit of this report if we want to get an aroused public?

MRS. TILLY: I am terribly disturbed about this.

MR. SHISHKIN: The only point I wanted to make before Dr. Dickey had spoken is a very simple one, regardless of the way that question is decided. I believe, and feel very strongly, that segregation is discrimination. I feel very strongly that there is confusion on that point, as shown by the discussion on this record a few moments ago, and I feel very strongly that certainly as far as anything that I may sign in this report goes, any implication that segregation and discrimination are two different things is going to go without my signature, because from the standpoint of public understanding of what discrimination is, I think that is the crucial point, and I think that the question that Dr. Dickey has raised does not go to (b), does not go to segregation alone, it goes to the question of both, and I think it has to be decided on that ground.

BISHOP SHERRILL: Can't this report on this situation describe how we feel about discrimination and segregation, but isn't the point of withdrawing funds really a punitive means of immediately achieving that goal, and I think Dr. Dickey's point is that we are taking away, by refusing funds,

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the very means of redemption. Isn't the whole taking away of funds a punitive enforcement measure to try at once to force this which may not be done, and it seems to me we can state the point of view of segregation and discrimination without necessarily tying it up to a punitive measure which may in the long run defeat the very educational policies that may achieve your goal?

MR. ERNST: If you are sitting in Congress - which is different from here - and a bill comes up and provides for so many million dollars to go to state schools, with the proviso in it that the schools may discriminate by segregation, would you vote for it? That is really the test.

DR. DICKEY: There wouldn't be a proviso like that.

MR. ERNST: It would be implicit.

BISHOP SHERRILL: I would have to consider on the long range what that was going to produce, rather than my immediate reactions at that minute; I would have to consider all the circumstances and what would happen in the long run for the best advantage of achieving that goal.

MR. ERNST: Don't you think that the function of voting is a little different than the function of saying to the President, "You want a report on a decent world", and we hold up the goal?

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BISHOP SHERRILL: I think we can hold up the goal without necessarily putting the punitive measure tied on it.

MR. ERNST: Punishment is the other side of the medallion of reward. Some say that you are getting the money to carry on segregation. Others will say that it is punitive.

MRS. TILLY: In the South when you face this they will say, "This affects states' rights", and also it would affect their attitude towards federal aid to education and they would say, "We prefer to be ignorant than to have the Government tell us how we shall live."

RABBI GITTELSOHN: Would the South feel any better about it if we said to them, "You must apportion the funds on an equal basis"? Will they do what we say they must do?

MR. LUCKMAN: That depends on what happens to the mechanism that is set up.

MRS. ALEXANDER: Land grant colleges have been going on for years. We know that the Negro teacher in the land grant college does not get the same salary as the white, and we know we don't get the same type of building or laboratory.

MRS. TILLY: But in the last few years there has been a change. For instance, the educational system of Georgia is different than it was a few years ago. The state controls the funds, not the county, and when they are sent to a county

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they have to go to the Negro and the White teacher, and where the county superintendent has not done so the state has withdrawn the funds and enforced it.

MR. CARR: The federal government has never really tried to enforce equality of expenditures between races, ~~I think it can be said~~, and ~~that~~ a much more effective system could be set up to achieve that more limited goal, if you wanted it.

MR. ERNST: The courts have held, as I recall it, in the few cases brought, that there must be equal pay for teachers.

MR. CARR: It seemed^s to me, as I listened~~d~~ to the two points of view, that everyone is against segregation and that can be said in a straightforward fashion in the report. The argument is really about the method by which you are going to overcome segregation in the end, whether by immediate sanction that would withhold funds from the state, or whether you are going to put your hope in the educational effect of better facilities over a longer period of time.

MR. ROOSEVELT: Rather than saying that you are going to pull out federal funds, why couldn't you say, as we have in one or two other sections that all professors, teachers and so forth who in any way derive benefit from federal funds must undergo a special course in this problem, and where it is found, through examination or otherwise - a board could be set

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up in the state or any other system of examination - and where it is found that a teacher does not meet the requirements ~~of~~ ~~nonsegregation~~, that that teacher would have to be withdrawn from the teaching system. That would take a little longer.

RABBI GITTELSOHN: Would you need policing on that?

MR. ROOSEVELT: You would, but on the other hand you wouldn't be sacrificing the very goose that lays the future golden egg, as Dr. Dickey points out. Yet you are setting up a police system, you are setting up some kind of a black-jack. That is the type of formula I think that Mr. Dickey is talking about.

MR. WILSON: To enjoy the benefit of federal funds for education, the scale for teachers, the requirements for teachers, must be exactly the same. If you leave out the question of segregation, no matter for what group it is, and the pay must be exactly the same or else you can't enjoy it, they can't enjoy the receipt of federal funds, does that not go a long way toward reaching the goal that Dr. Dickey has spoken of?

MR. ROOSEVELT: . You are actually stating the punitive thing but you are stating it in a positive way, which I think Mrs. Tilly would agree that the South would go along with.

MR. ERNST: That only goes to equal pay for teachers.

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MRS. ALEXANDER: It doesn't touch the students.

MR. SHISHKIN: It seems to me it isn't quite as rigid as that, and if I may I will just take a few seconds to tell about this. The A.F. of L. arranged an educational exhibit in New Orleans in February. It was a large-scale thing, and we had a daily attendance - it was for three days - of 2000 people. It was one of those things for which we, with our poor public relations, never got credit generally. We made a market survey during the war on expenditures locally in New Orleans, in parts of the town. It wasn't town-wide but it represented a large portion of the community, of the workers during the war, where their money was spent, and a lot of it was misspent and the survey showed it. So what we did then was to provide a series of visible exhibits, with things on display, a panel showing different kinds of housing, photographs blown up to a large size so that everybody could see, at different levels of income, and then actually put out various things including refrigerators and radios and things of that sort, that each income level would command. Then there was a discussion of the economics of this, and the one and sole purpose of the exhibit was to show what the purchasing power level, if maintained and properly spent, could attain in the way of a standard of living. And the question of ^{race} ~~raise~~ was right

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square in this because we also had surveys made of how the income was used and misused because of a lack of understanding and knowledge of how a proper spending of the income is essential in order to achieve that standard of living. The meeting was non-segregated and we went around and asked a number of schools in New ^{Orleans} ~~York~~ if they would like to send their school children to the exhibit and told them if they did it was to be a non-segregated meeting, no separation, and not only public but private schools brought hundreds of students, and pupils came with their teachers and sat for hours in these meetings and looked at these exhibits with a tremendous amount of interest shown. And the impact of that was tremendous. Here by a simple device of this sort, in any school we found that had never done it before, that the children were brought into a non-segregated meeting, and it was a part of the educational program that the school itself was lacking, because they felt the need of an understanding of that basic economic problem that they faced in the white and colored schools because they were side by side and part of that neighborhood.

RABBI GITTELSON: Mr. Chairman, I find it is necessary to divide my own thinking into two categories. As an individual citizen I will be amply satisfied if in my lifetime we can make appreciable steps toward equalization, even though we

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still have segregation. I am trying to be modest and realistic in my approach as an individual citizen. As a member of this Committee, however, I cannot conceive ^{of} signing my name to a report which by any stretch of the imagination condones segregation. I think that were we to sign such a report, even though we did nothing more than refuse to condemn segregation in vigorous terms, that we would be laughed out of court by that part of the American public which really believes in civil rights genuinely.

I have got to break down my thinking into those two categories, and I get a different answer in each category.

MR. ERNST: Since the question isn't whether you are for segregation or not - as I understand it, the question Bishop Sherrill asked was what kind of a sanction do you want to use to do away with segregation.

RABBI GITTELSON: I assume we are going to have some kind of sanction based on federal grants in aid for schools, and it is going to be one or the other kind, so by implication we must take one or the other position whether we like it or not. If we apply the sanction only in the direction of equalization we are saying to the American people, whether we put it in so many words or not, "We don't care about segregation for the moment."

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DR. DICKEY: Maybe you could condemn them both and conclude in your deliberations that it would be counter-productive to attempt to apply a sanction.

MR. ROOSEVELT: That is what I was trying to say. I think you are trying to use this as a blackjack, and I think that Dr. Dickey is using it from a much longer range point of view, with a modified blackjack, and the problem is to find out how to modify it.

DR. DICKEY: I don't want to be misunderstood at all. I am prepared to sign my name today to a report that condemns both of these things.

MR. ROOSEVELT: We all are.

DR. DICKEY: I am sure you wouldn't be here if you weren't. But what has bothered me is that I assume that we only talk about this sanction and consider it ^{as} if we are directing it at the objective of getting rid of these things. We are not interested in the sanction as just a form of penal action. And what has bothered me, the more I have thought about it, is that it seems to me that that sanction was just going insure that the objectives, which I am prepared to subscribe to, would be postponed indefinitely.

MR. ERNST: As an offset to your contention, don't you agree that it does something to the American people to have

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their monies voted by their Congressmen under a system by which there is segregation, and for the use of segregated school children?

MR. LUCKMAN: I think that the answer to that is no. I think that the fact that we have segregation today answers your question. I think that three-fourths of the population of the United States is not even aware of segregation. I think that is our great problem when we talk about mass education. I think if you were to walk down the streets of Los Angeles and ask people about segregation they would say, "What do you mean?"

MR. ERNST: They wouldn't say that in New York City, and I don't want anyone to assume that the problem is only down South.

BISHOP SHERRILL: I have another point, too. It seems to me that we ought to make a report - if we are to get practical results - which will bring behind it the element in the South which sees these problems and is anxious to make progress. I think the minute you add this sanction to it of immediate withdrawal of federal funds, and they are faced within one year or two years or four years with adjusting ^{to} that system, that even people who do not believe in these things would be against that proposal, and I think essentially you have cut off your best people in the South from the support of any

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progress.

MR. TOBIAS: May I ask - do we foresee that this will be one of the three or four main proposals that we are going to narrow down to before we get through?

MR. WILSON: It seems to me it is.

MR. LUCKMAN: I would so consider it.

MR. CARR: The same thing comes up in connection with all these public services. If you put them all together it certainly is one of the major ones.

RABBI GITTELSON: This is the second most important recommendation of our sub-committee.

MR. ERNST: Am I right in assuming that everybody is in favor of condemning segregation, or rather discrimination in all forms, including segregation and the difference ^{is} ~~is~~ the use of this federal spending power? I would think that the project in relation to the use of the spending power should be put up in the report to the American people, pro and con. I, for one, wouldn't want to subscribe to a report that didn't mention it, and Dickey obviously wouldn't want to subscribe to a report that used the spending power as a technique of getting to a change, because he thinks it is ineffective, and maybe our function would be just to pose the problem both ways.

MR. WILSON: Without a recommendation?

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MR. ERNST: It seems to me that this is one of those fundamental things, and you may find it in other aspects like the Armed Forces and elsewhere, where there isn't unanimity and I am frank to say that unanimity procured at the sacrifice of getting at the lowest common denominator isn't worth much for the American public, not from the Committee. The Congress or the President may have to do it, but the Committee in reporting ought to have higher sights.

MR. LUCKMAN: Could we for a moment explore the premise which I understood at least Dr. Dickey left toward the end of his remarks, and that is consideration of the elimination of the sanction on discrimination and segregation, but the acceptance of the premise that we as a Committee are opposed to discrimination or segregation and we believe that the solution to it lies rather solely in the field of education of our young people as well as our adults, and therefore the Committee is in favor of any and every effort that the federal government can make to expand the educational facilities all over the United States, with a view towards using that education for the complete elimination of discrimination and segregation?

RABBI GITTELSON: Mr. Chairman, may I think out loud for a half a minute or so without necessarily committing even myself to what I am going to say? I want to see what it sounds

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like out here on the table. How would it be were we to make a categoric emphatic statement along the lines Mr. Luckman suggested initially, that we as a committee are opposed to all forms of discrimination and segregation, because to us segregation is discrimination, and at the same time, however, because we fear that withdrawing federal grants-in-aid immediately in all cases of segregation might defeat the very objective which we seek, we are willing to say that as a first step - and clearly label it as a first step - in the direction of achieving our ultimate goal, we would recommend withholding federal grants-in-aid only in those cases where there is lack of equality? Would that hang together or would it not?

MR. ERNST: Indirectly condoning segregation - you can't avoid it.

RABBI GITTELSON: That is right.

MR. ERNST: We are saying to the American people, "Segregation shall continue" and we are putting our blessing on it by our silence.

MR. LUCKMAN: Just take the other side and you figure out a way that you are going to eliminate segregation tomorrow.

RABBI GITTELSON: I object to saying "by our silence" because we start out by saying that we are against it, that we think it ought to be abolished immediately, but we are dealing

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with human nature and know that no matter what we did it wouldn't be eliminated immediately, and therefore we recommend the following as the first step in the program.

MR. ROOSEVELT: Mr. Chairman, I haven't completely made up my mind on the sanction business, but I would like Morris to answer Mrs. Tilly's point that if the federal government were to enforce sanctions and withdraw all federal grants-in-aid of education tomorrow, and if Mrs. Tilly is right, many communities in the South will say, "All right, take your filthy money and let us educate ourselves" - now where do you move from there? What is the next step in your series because you have reached what might be a much more serious situation?

MRS. TILLY: That is exactly what will happen.

MR. WILSON: You will have reached a new low.

MR. ERNST: That is the kind of question I always have put up to me on free speech. They ask me the hypothetical question - "What if a man recommended murder?"

MR. CARR: That isn't hypothetical --

MR. ERNST (Interposing): No matter what we recommend on it, it isn't going to catch the South next Tuesday without any money for these schools. In the second place there would be the vastest debate we ever had in the country, and maybe that for a short time is worth what you picture as a temporary loss of

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educational standards because there is no decent world here without that debate being carried on, and to the extent we put that debate to sleep and say that we are for segregation it is just as if we said that we are against vice.

MRS. ALEXANDER: I would like to point out that we would permit ten or twelve Southern States to set a pattern for the entire United States, States which for eighty years have been fighting the same Civil War, that we couldn't afford to have the American people say that federal money can be used to establish segregated schools in California for the Japanese, and for the Indians in Arizona, because ten Southern States don't want to come along.

MRS. TILLY: But the thing about your ten Southern States is that that is where your children are.

MRS. ALEXANDER: Not all the children of America.

MRS. TILLY: The large percentage is there. I agree with you in principle but at the same time I see the children of the South and the reaction of the South.

MR. ROOSEVELT: Morris pins his hopes on this national debate, and I think there is a possibility of a very great awakening of the people. I think you line up with your North, your Middle West and your West all on our side, and your South will still say, "Keep your filthy money, we are still going to

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do it our way." In other words, you haven't given me an answer to "Where do you move from there?"

MRS. ALEXANDER: Private funds.

MR. ERNST: The answer in effect would be that the eighty per cent of the people outside of those States would not be contributing to a continued life of segregation for a vast portion of our population.

MR. SHISHKIN: I don't want to say anything detracting from Morris' ability to convince a jury, but some of the very forceful arguments that he has presented have put me pretty much on the side opposite to the one he argues. The point that stands out, though, in my mind in connection with the point Mrs. Alexander made, is that it is not only a question of the twelve Southern States that is involved, and one of the important questions that is involved here is also the discrimination on the basis of creed, when we talk about the federal grant-in-aid program. That is a very basic element in it, and I think - at least my impression of the current trend which certainly is gaining momentum very rapidly on the whole question of federal aid, is coming to a point where that issue is very much in the balance, and I think that a thrust in the direction in which you are pressing might bring us back very quickly to the elimination of the whole prospect of federal aid to educa-

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tion altogether.

RABBI GITTELSON: Mr. Chairman, I am deeply disturbed by this notion that by putting more money and better teachers into a segregated school system in the South you will thereby take an appreciable step toward the eventual elimination of segregation. You won't. Children don't learn from books but from the life they are living, and the basic truth of a Southern educational system lies not in what you teach but in the fact that the white child knows that the colored child isn't good enough to go to school with him, and I don't care how much money you put into it, so long as you tell a white child, merely by implication, that the Negro child can't sit next to him in school, you are licked. That is the thing that disturbs me.

MRS. TILLY: There are lots of liberal people in the South who got their education in segregated schools, and there is a liberal South. I don't know where I stand on this, I would dislike very much to put my name to something that didn't go all the way against discrimination and segregation, but I am merely bringing in this other side. We do have a large liberal South who did get their education in segregated schools.

RABBI GITTELSON: My guess would be that those Southerners who were educated in segregated school systems, but who are

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liberal in their point of view, actually didn't get their education in the segregated schools, but somewhere else, the church or the home, but the normal average child will not be reared to be a decent democratic human personality if he is educated in a segregated system.

BISHOP SHERRILL: I think we should make a strong statement against discrimination and segregation, pointing out everything that has been said. What I rather hesitate to say because it is going to weaken the educative force of that statement, "or else we will take away all the money for your education". We aren't called upon to say the latter unless we think it is going to get somewhere. My opinion is that it isn't going to get anywhere, and that we are going to alienate the very educative process by tying up the punitive measure with the strongest possible statement of ideal and purpose.

MR. WILSON: After listening to that statement and the others, pro and con, shall we take a vote now on whether we go along with that kind of a statement, a strong statement against discrimination and segregation, just as strong as we know how to make it - period - without the sanctions?

RABBI GITTELSOHN: In other words, we are throwing the whole idea of federal grants-in-aid out; we aren't going to

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use them?

MR. WILSON: At this point in our report we wouldn't mention that as a punitive measure in case we weren't able to convince the people of the ten Southern States referred to.

MR. SHISHKIN: In other words, withholding of federal aid would not be mentioned?

MR. WILSON: That is right.

MR. ROOSEVELT: Could we sort of have a compromise here, that the Committee seriously considered the proposition of withholding federal grants-in-aid but at this time feels that such action should not be taken. However, this is one of the matters which we refer for subsequent consideration and watching by the permanent Committee which we hope will continue where we leave off, and we can foresee a time when it might be necessary.

MR. TOBIAS: I would rather leave it out altogether than to make that kind of statement.

MR. ERNST: I don't see any objection to that statement, which seemsto me to be the truth. As far as the division goes, if we say that a majority of the committee - and I just assume that - are against the use of the federal spending power in connection with education, as a sanction --

MR. ROOSEVELT (Interposing): I am against it now.

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MRS. ALEXANDER: They are against it in ten states.

MRS. TILLY: Thirteen out of the 48.

MR. TOBIAS: I am not ready to vote because I don't think that the thing has been sufficiently explored. In the first place there was a bill similar to this, I think it was in the 78th Congress, that embodied substantially the principle of aid here. I think this is poorly worded, I mean for the purposes that we have in mind. That bill received the support of the National Association for the Advancement of Colored People at the time. It was defeated as you know, it was defeated by a trick device of Senator Langer who knew that the way to defeat it was to put in a clause saying that no state could avail itself of these funds which segregated the students into separate institutions - which of course immediately brought about its defeat. As I recall the discussion of it in the NAACP at the time, there was the feeling that to insist that there be no discrimination in the distribution and use of the funds would have one effect on the rest of the country and another effect in the South, that in the South it would be interpreted to mean equal distribution, and that they had to risk something and they would rather risk the administration of the funds by the local authorities honestly, than to risk not having the aid. As I recall it that was the argument.

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Now I agree with Dr. Carr that this presents a most difficult problem, the most difficult one, probably, that we have got to decide. If it means that we are saying to the South, "You must give up your segregated school system now or forfeit government funds", there is only one result, and that is that the South will forfeit the funds.

On the other hand I don't see how, ~~if we are going to use this form of approach to that question, I don't think we are quite closed into that if we are going to use it, and I don't see how we can fail to denounce discrimination in this case as we will in everything else affecting free American citizens.~~

Now that is the dilemma with which we are confronted.

MR. LUCKMAN: Mr. Chairman, I wonder at this time - not in the interests of getting over to the next page - but I wonder if we shouldn't go on to Housing and Health, because while we think we are facing quite a problem in education, I suspect it is an enormous problem rather than quite a problem, because whatever we do for education it seems to me must follow in Housing and Health, and perhaps if we go on we may come to a conclusion one way or the other as to the complete enormity of the problem and how far we are willing to go in trying to solve it.

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MRS. TILLY: Before we do that may I say that when I made the statement about the liberal South getting its education in segregated schools I did not mean to imply that I am in favor of segregated schools.

MR. WILSON: I don't think that anybody misunderstood you as to that.

MRS. TILLY: But that was in my statement and if I could add to it and say that I am not in favor of segregated schools, I would feel better about it.

MR. ERNST: I think we ought to leave it, because I think if you were facing a situation where there had been no expenditure of federal money permitting segregation in the fields of Education, Health and Housing, there is no question as to what this Committee would do, we would never start off with it. This goes to the basic question of the federal spending power.

MR. WILSON: We will take a short recess.

(A short recess was taken)

Decision Papers Nos. 11 & 12.

MR. WILSON: Shall we get back to work and see if we can arrive at some conclusions? Housing is the next subject, page 11.

RABBI GITTELSON: Is our conclusion on our point that the Staff is going to draw up two reports for us?

MR. WILSON: I thought our conclusion, if any, was that we

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leave that up in the air for the time being until we see just what we felt the effect was in these other fields that we are coming to; and whether that will help us or further complicate it, I wouldn't know.

MRS. ALEXANDER: Before we move on I wonder if the Committee fully realizes that there is no federal grant-in-aid program at the moment for elementary and secondary education.

MR. WILSON: I presume it was because they thought it was coming reasonably soon that they thought they had better face up to it, but currently there is none, that is correct, as I understand it.

MR. LUCKMAN: We couldn't very well take the position that we are in favor of the elimination of segregation and discrimination in the newly-acquired federal aid to primary and secondary education and yet we are willing to continue it for a while in the colleges.

MRS. ALEXANDER: I didn't think we would. I thought that if we realized there were no such law we would want it, when enacted, to assure us that there would be no discrimination.

MR. LUCKMAN: My point is that we can only take that position if we are willing to take the position that there is to be none in the colleges.

MR. TOBIAS: That is why I asked if this was to be among

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the three or four principal recommendations. It doesn't seem to me that on that basis it qualifies for a position in the top 3 or 4.

MR. ERNST: Do I understand that we are going to hold it in abeyance until we complete Housing and Health?

MR. WILSON: That is what I understand, until we get through with Health and Housing.

MR. LUCKMAN: We can just sit and talk about the same problem on Housing, but are we going to recommend that there be no federal aid to housing unless there be an elimination of segregation?

~~MR. WILSON: We have that law now.~~

MR. ERNST: Some people might make a distinction and make some sacrifice on the Housing program, but not on Education.

MR. LUCKMAN: Can we do that?

MR. ERNST: As a practical matter it could be done.

BISHOP SHERRILL: I think there is a difference between Education and Housing, because Education is a matter of improving the standards of young people, where Housing is an immediate problem and it isn't going to affect that long-range objective, and I can see a very great difference between Health and Housing and Education. I feel an entire distinction there. I am not willing to take the same position in regard to Housing

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and to practical measures immediately now; it is the long-range opportunity of Education that seems to me puts it in a class by itself.

MR. ERNST: Do you mind, Mr. Chairman, if we discuss this spending power of the Government from all three spheres at the same time, or do you want to move into Housing specifically?

MR. WILSON: It seems to me that there is a disposition to accept the housing proposition, the proposition as it affects housing, even if we don't as it affects Education.

MR. LUCKMAN: I would like that explained to me. I don't see how you answer Rabbi Gittelson who makes the point that the problem of the young people is that you can't get them to believe in equality if you segregate them and send them to separate schools. How, if you force them to live separately, if you have segregated housing projects paid for by the federal government, do you eliminate from their consciousness that matter; how can you educate in the school --

MR. WILSON (Interposing): Maybe that is my fault. I thought we were accepting the position - maybe I am mistaken - of no segregation on Housing, first because federal money is already being employed, and it is an immediate thing. Now maybe I misunderstood you.

MR. CARR: I thought some of the others had just the

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opposite feeling, that segregation in Housing was more reasonable than in Education.

~~MR. LUCKMAN: I thought that was expressed.~~

BISHOP SHERRILL: My point was just the opposite.

RABBI GITTELSOHN: Are we agreed unanimously that no federal funds --

BISHOP SHERRILL (Interposing): My point is that I would be perfectly willing to withhold federal funds for Housing where there was segregation because that does not seem to me to affect the educational salvation for the future, and both Health and Housing seem to me for that reason to be in a different classification so far as achieving our ultimate objective is concerned, than Education.

MR. LUCKMAN: If I understand, you would be quickly agreeable for the moment to withhold federal aid if there is segregation in either Housing or Health facilities?

BISHOP SHERRILL: That is right, because it seems to me that the educational means is the very means of overcoming the prejudice.

RABBI GITTELSOHN: I agree one hundred per cent, but may I point out that the same objection Bishop Sherrill raised in the field of Education applies equally in the fields of Health and Housing, that he could say that until the poor Whites of

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the South have adequate Housing and Health you won't eliminate discrimination, ~~from them~~, and therefore you can't deny them those things any more than you can Education. I think we are going to have to be consistent.

MRS. TILLY: We have, all through the South, Negro and White communities mixed up, and there is no trouble if there is plenty of housing, it is when housing is so acute that you have no roof over your head ^{that} ~~which causes~~ people like the Columbians ~~to~~ rise.

MR. ERNST: There is more segregation in Housing in the North than down South.

MRS. TILLY: Yes. He referred to the South. But the Housing and Education situations in the South are two entirely separate things.

MR. ROOSEVELT: When you have - and this comes from a fairly comprehensive study of restrictive covenants, how strictly they have been enforced - when you have plenty of housing available and the landlord is primarily anxious to fill up that housing, he doesn't really care whether he is putting a Jew in next to a Gentile or a Negro next to a White man because it is the rent that counts. But when you have a tremendous demand and not enough supply, that is when he can become restrictive, and he remembers that he has the restrictive covenant.

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That is an interesting thing, actually, if you compare the situation around '34 and '35 with what it is now in New York City alone.

RABBI GITTELSON: Then, if you are going to be consistent with the attitude that some members of the Committee expressed on Education, you are going to say, are you not - I don't agree - but you are going to say, I think, that the thing to do is let the federal government spend its money on housing regardless of whether it is segregated or not, in order to eliminate the housing shortage?

MR. ROOSEVELT: No, I think both will come to the same end. I think that we should immediately withhold funds and go ahead and build. I think the demand is so tremendous that you can force that through your withholding of funds.

RABBI GITTELSON: Do you think the South will take federal money for housing on a non-discriminatory basis where they would reject the funds for Education?

MR. ROOSEVELT: That is right.

RABBI GITTELSON: Would you agree with that, Mrs. Tilly?

MRS. TILLY: Not altogether.

MR. LUCKMAN: What is our position as a committee? Do we feel that we can take different positions on Education versus Housing and Health, or must we have a uniform position

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on all three as regards this problem of segregation?

MR. ERNST: I am not in favor of the distinction but it seems to me that a rational argument can be very well developed for a distinction between Housing and Health on one side, and Education on the other, on grounds that I don't agree with, but the fact that schools, outside of the parochial schools, are virtually the monopoly of the state, on the theory that education is the root of the cure of the problem, and that the school is more important than Housing or the Health of the low Whites or the Negroes. I think that argument can be made, I wouldn't agree with it, but many people make the argument.

Of course I am confused on the talk on Education because as I understand it this is primarily a matter of college education.

MRS. TILLY: No.

MR. TOBIAS: Secondary and elementary.

MR. CARR: The whole program.

MR. TOBIAS: We already have grants-in-aid on the college level.

MR. ERNST: That is what I am saying. Historically, though, people do distinguish between the grants made on the college level for discrimination and segregation, and those

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made on the lower levels. I don't know where you get off if you once make the distinction, but most people seem to be satisfied with that.

RABBI GITTELSON: I would like to enter my opposition again, in another form, to the statement that more education eliminates prejudice or discrimination. It doesn't. More of the right kind of education does and more of the wrong kind makes it worse. It is like religion. I am not sure that the blanket statement, that the world needs more religion, is true. It depends on the kind of religion you have in mind.

MR. TOBIAS: As an added fact I would like to say that so far as the differences in the pay of teachers are concerned, the NAACP has approached that from another direction, they have gone to the courts.

MR. ERNST: We have been in the courts for them, case by case.

MR. TOBIAS: It is winning case in state after state. That part is moving along.

MRS. TILLY: And it is having a wholesome effect on the states who have had no test case because they are gradually increasing the salaries of Negro teachers and doing away with the differential.

MR. LUCKMAN: I find myself completely unable to mentally

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adjust myself to taking a position on one side on Education and on another side on Housing and Health.

MR. TOBIAS: So do I.

MR. LUCKMAN: I feel I am compelled to a necessity for uniformity of thinking. Your view is either that we must try to eliminate it immediately in all three or that we must in the case of all three approach it from some aspect other than immediate elimination.

MR. ERNST: That is why I would like to get the Housing and Health cleaned up in the hope that we will go unanimously for using the sanction, and then see what those who don't want to use it in the case of Education can say.

MRS. TILLY: I thought we were putting everything on the table first of all and then would come back to Education.

MR. WILSON: That was the idea, Mrs. Tilly.

MR. CARR: I think you have reached the point where you probably have got to do one of two things, you have got to take a stand one way or the other, or you have got to decide that perhaps the way to handle it is to let the thing be written up both ways and reargue it at the draft report stage. I think the arguments have been stated pretty fully both ways.

MR. ERNST: Aren't we ready to vote on Housing and Health and then we can come back to Education?

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MRS. TILLY: I think we have a goal here and we have two roads to it, and when we get them before us we might find a clearcut path between them.

MR. LUCKMAN: I think that is a good tactical move on our part.

MR. ERNST: I wonder if it would be helpful if we had an informal vote on Health and Housing, not binding on anyone as to how you stand - make it on Health, Housing and Education.

MR. WILSON: Off the record.

(Discussion off the record)

MR. DICKEY: If that isn't adopted I think that I would be content to have it indicated that there was disagreement so that if this report is going to have a continuing life, whether one is called down to testify in Congress or whether he is called upon to make a speech, or whether he is discussing the problem with his colleagues in business or in education or wherever, I think it is not a healthy thing to be in the position of saying, "Well, I signed that report - but" - "It was unanimous - but". I would much sooner say that the report indicated that there was not complete unanimity and that it so happens I was one of those, but I wasn't interested in jeopardizing the success of the report so I didn't force any minority opinion. On this issue I would be quite satisfied to simply have the report show that the majority felt in favor

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of this and not say anything about the minority, as far as I am concerned, although I personally, feeling as I do about it, must feel perfectly free to express my views if I am ever testifying before Congress or anywhere else on this matter.

MR. LUCKMAN: Could we not go on then and make very clear in our report that there are two sides; could we not then consider as a group something in which we could all agree as an interim step?

DR. DICKEY: I think we might. I have tried to find that in a good many places.

MR. LUCKMAN: I mean whether it is a five year period or ten. But I am so disturbed about leaving the issue up to the American public because I think our problem is that we have a division today and therefore our job as a Committee is to make some recommendation that will help eliminate the division of thinking.

DR. DICKEY: I just wanted to be clear that when we carelessly use this language of "I wouldn't want to sign this report", or "I would want to write a minority report", the only thing that I would write a minority report on up to now is ^{the} ~~your~~ remark that this Committee shouldn't mention the subject of political persecution because if the Committee is going to completely ignore something then you may have to take

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affirmative steps, but if the Committee has an affirmative report in which it says that the overwhelming majority or the majority of the Committee feel that this should be done, although there were minority views, just so it is ticketed so that a person going over it would see that, I don't believe that would destroy the effectiveness of a report which showed everybody signing.

MR. CARR: I think you have a real problem when you have, as a basis, a six-to-five split; I think it is going to be pretty hard to get a strongly worded statement in favor of using the spending power to prevent segregation and discrimination in the South, when almost half the Committee doesn't believe in it.

RABBI GITTELSOHN: The vote was decisive enough in the fields of Housing and Health, so there there is no problem, I take it, and the Staff can be directed to proceed with a strong statement, but the outcome of the vote on Education having been what it was, namely practically an even split, I think the only thing we can do at this point, having had that vote, is to direct the Staff to draw up two statements on that so that we can, as individuals, do considerably more thinking on it between now and September first, and then before September first have before us two specific statements to consider.

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I don't see that we can go beyond that at this point.

MR. ERNST: I think we can go one step beyond that. I think the President of the United States, if he wants advice from this group, is entitled to the advice of the minority as well as the majority. I see no point in going to the President with a report and saying, "This was a close vote and here is the position of this group, and you are entitled to know that the opposition on the Educational sanction point was as follows."

RAEBI GITTELSOHN: I am trying to defer that decision if possible until a later date, one reason for that being that there may be other points on which we will face this same dilemma and also, with more individual thinking by ourselves as individuals, and with two specific statements to base that on, we may be able to reach a more satisfactory conclusion later.

BISHOP SHERRILL: I would like to see the minority statement made so that there was no weakening about our feeling about segregation and discrimination. That is my only fear that the minority statement would seem to imply that we were minorities on that point.

MR. LUCKMAN: I think those who were in the minority would insist on that.

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MR. ROOSEVELT: From a public relations point of view the moment you say that there is a minority report on the question of segregation - bing. That is, from a public relations point of view how many people are going to read through the whole thing? They are going to interpret, and the press is going to interpret, and they are going to say that a minority report was entered on the problem of segregation, and they are not going to pin it down to actually what the minority report was on.

MR. LUCKMAN: By people who have studied the problem for months and months.

MR. ERNST: I would like to second the Rabbi's motion about those two reports.

MR. MATTHEWS: I think, if there is a minority report of this committee, then it ought to be stated because I think, as has been said here, if we are not unanimous that is a fact and I don't think we ought to represent that this committee is unanimous or lead the public to believe that the committee is unanimous on the fundamental questions we are considering, unless we are.

MRS. TILLY: This vote was not final, was it? I thought it was just a straw vote.

MR. WILSON: That is right. I wonder if we are not going

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too fast on this vote business. In the first place, with each of these phases we were voting on two things, as I understand it, rather than one. That is, we first voted on whether the Committee wished to take a definite, positive stand against discrimination and segregation. First we ought to record, it seems to me, that on that the Committee is unanimous, or is there any exception? The place where there was a division of opinion was as to the use of sanctions as a means of accomplishing what we are all in favor of, and there was a division of opinion on the practical mechanism that is being proposed, and only that, as I understand it.

So first, it seems to me, we ought to record that this Committee is completely opposed, in the Educational field, to discrimination and segregation, but that with respect to the application of sanctions there is a division of opinion.

DR. DICKEY: You are discussing No. 2, aren't you? I want to discuss what is meant by the words "discriminatory action" in No. 3 under certain situations, but I don't want to qualify this proposition by that.

MR. WILSON: Well, is that correct, because it seems to me that makes quite a difference when you go to the public on Morris' point and Mr. Matthews' point.

RABBI GITTELSOHN: At the risk of being repetitious, Mr.

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Chairman, may I suggest again that this can go on until tonight and tomorrow, and I don't think we can reach an intelligent decision now, and the best thing I feel now is to direct the Staff to draw up two statements dealing with the matter of sanctions on Education, and give us a chance later to make a decision on two specific statements, instead of pursuing it further now - and I make that as a motion now if you wish it.

MR. ROOSEVELT: I would like to make it three reports, the third being in the nature of a compromise, that we as a Committee recognize the difficulties involved in the immediate application of sanctions, and therefore recommend that the use of sanctions be postponed for a period of five years.

RABBI GITTELSOHN: I will accept that amendment for the purposes of giving the Staff a directive.

MR. WILSON: Is the motion as amended seconded?

MR. SHISHKIN: I second it.

MR. WILSON: Are there any further remarks on the motion? If not, will all in favor vote "aye"; contrary minded "no"? The motion is unanimously carried.

MR. MATTHEWS: As soon as these statements are prepared will they immediately be despatched to the members of the Committee so we can look them over before we come back to the next meeting of the Committee?

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MR. CARR: It was our plan when we considered it that we would send out any draft report which would be prepared, well in advance of the next meeting.

MR. ERNST: Before you get the whole thing you ought to send out those on which there are issues open.

MR. CARR: We will do so if that proves feasible. It may be that these tie in with the entire report in such a way that they all ought to be submitted at the same time.

Decision Paper No. 10.

MR. WILSON: That is right.

Dr. Dickey raised a question as to Item 3 under Education.

MR. CARR: Item 3 is a totally different problem which you haven't taken up at all; that is your Austin-Mahoney idea.

MR. ERNST: As I take it this is a statement that we are opposed to discriminatory action in these educational institutions and we are holding in abeyance, as far as the point reads, the sanctions to be imposed? In other words, is it a penal offense or withdrawal of payments? As Item 3 now reads it is just a nice hope.

DR. DICKEY: Yes. I think the real issue, which is not an issue but which has to be discussed, and which rarely gets discussed here, is what you mean by discriminatory action in this situation in the admission of students, and I want to talk about it reasonably fully and frankly, because it is

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something that I have had a tremendous amount of work to do on since I came on the job.

This college, among others, was involved in a controversy before I came on the job, and as a result I have tried to figure out what the problem is and where I stand on it. As you know the Act, which was referred to as the Austin-Mahoney Act, has been the subject of ~~apparently~~ a good bit of controversy in the State where it was offered, New York, largely over the issue, I believe, of the sectarian schools, the church schools, and I believe the Catholic Church was the one that was particularly concerned with it.

I am now going to cut a corner and then come back. I haven't any difficulty myself with the position, either as a matter of policy or as a matter of legislation if legislative sanction be advisable ~~I am not dealing with that but on the substantive question I have no difficulty either, as a matter of educational policy or legislative policy,~~ with outlawing discrimination in the selection of students if what is meant is discrimination based on bigotry or prejudice. If what is meant by "discrimination", as it seems to me to be so far as I have been able to understand the Mahoney Bill, is that it would prohibit an institution from seeking honest diversity on either race, social background, national origin

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background, or religion, I would think that it was unsound; I would think it was not discrimination and I would think that an institution should not be prohibited, either as a matter of policy or as a matter of law, from seeking, ~~as I describe~~, as a matter of honest educational policy, diversity with respect to its student body.

I have thought the thing out to the point where I accord similarly the right of an education ^{of institution} to seek an exclusive student body for purposes unrelated to bigotry and prejudice. Those are the church schools and they may be other schools, as a matter of fact.

Now that is a very difficult one to deal with but this problem is, in my opinion, a whole lot more difficult than those who have been running around ~~s~~ screaming about it, ^{seems to realize.} Let me illustrate that by the composition of this Committee. No one would charge President Truman with having done a discriminatory act because he constituted a committee on which there were representatives of many points of view and social and racial background. The purpose there, the motivation behind the ~~Act~~, was to get a composite point of view.

MR. ROOSEVELT: Diversity.

DR. DICKEY: Precisely - that was the principle of the composition.

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I am not naive enough to know that that principle cannot be misused and has not been misused, and I am not speaking of those situations, but I am talking about the very legitimate consideration which a man who is charged with the responsibility of an academic institution has got to think about if he frees himself from the question of how these things can be abused.

Now I will talk about our situation here to illustrate this thing specifically. You have heard of the Quota System. ~~As far as I can find out, and I can't speak for the past with any authority but I will tell you~~ ^{about} ~~to the present situation.~~ ~~As far as I can find out, and certainly as I know about the present situation,~~ ^{at Dartmouth,} there has been no quota [^] either absolutely as to number of students of any race or religion, and there has been no percentage of the members of any race or religion.

~~What there has been - and I don't like to argue this thing personally because it sounds as if that was what I was primarily concerned about, but that is the only way I can speak concretely about it and not appear to be ducking something - for example,~~

H This year we are going through the throes of the most difficult selections that the college has ever made in its almost 200 years of existence. .

We have selected that class, we don't know what it is yet

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in numbers or size, without any attention to race or religious information on the man's application blank, and I am not saying that publicly and I don't intend to unless there is a need for it beyond any need that I see at present. But I have not the slightest embarrassment in my own mind about the advisability of an educational institution such as this, where the living together I am sure can be a large part of a man's education, of having information concerning the person's racial or religious background if that is sufficiently important to him to identify him with a particular group or background. If a man says, "I haven't any preference", we don't ask him beyond that; it is not our business to pry, as a Gestapo, into that.

But if he has a sufficient interest in his identification, religiously, socially, racially, to say, "This is my identification", then I am interested in that. And I believe it quite proper for an educational institution honestly to apply the principle of diversification by looking at what is happening in its student body with respect to these different factors of diversification and then, if need be at any time, to take specific steps.

I would never, personally, as far as I understand the problem, establish a quota, either percentage-wise or absolute,

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because I think you then come very close to saying, "That is a desirable state of human affairs to which you ought to aspire."

But I would have no hesitation in saying, if our diversity were threatened as it is threatened in a number of ways other than in racial and religious ways, of saying, "No, we are going to preserve that."

Then you get into the really tough question of what principle do you apply in preserving that diversity; and that is tough. After talking with literally hundreds of people on the outside who had experience and views on this sort of thing, I find very little help from the so-called percentage in the population criteria. As a matter of fact it would have no relevance to us here as far as I know. We have never been below it with respect to any group, except the Negro who would be way below it for economic reasons; the economic situation of the Negro student not enabling him to go to college.

The only principle that I have been able to get hold of there, which seems to me to have some degree of validity, is the principle of not permitting a sudden change, ~~just the same~~ as we worked out such principles in the case of imports and exports during the war. In the composition of your student body, ~~and~~ if you are getting a gradual change that is what you want, possibly, ^{there should be no} ~~but not permitting, say the~~ jumping of 50

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per cent or 100 per cent over a period of two or three years in any one category.

Let me show the other factors that are involved in this principle of diversification, and also show you where the principle of discrimination because of bigotry and prejudice can operate in institutions such as this, ~~and which this Committee might think about, because I have had to think about them and face them and act upon them.~~

First as to the other opportunities of the principle of diversification of the student body. We seek something approaching a balance - we don't state that percentage-wise or absolutely - as between public and private school boys, and that is the most difficult one to maintain. All the pressure is the other way - the nice recommendations, the recommendations from people that you know tend to come for the private school boy. He has had the privileges and the opportunities, ~~and~~ institutions which are exceedingly well known to most of you too, I know, but I am not at liberty to give you their figures or experience, have lost their diversification as between public and private school boys, ~~and~~ they would give anything to get back to it, not because they are prejudiced but because they think they are losing something in the educational experience that the boy gets where they don't have that diversity. Once you lose it, it is frightfully difficult to

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get it back because you establish these channels of communication that affect these things.

~~The other thing is on economic status.~~ We have given great attention for twenty years to the geographical factor which complicates the thing in certain areas, particularly with respect to the New York area where you have a large percentage of Jewish applicants, which we have faced and talked out. But the geographic factor some schools haven't particularly emphasized. I don't think Harvard ever paid much attention to that. In comparatively recent years I understand that they have paid a great deal of attention to it.

The liberal arts college such as this, if it has any justification I think has its justification because it seeks to implant in men's minds attitudes which will bring them to bear on the public good regardless of how they make their living.

That is, as I see it, the simplest statement of our job. We believe that we can both enrich the educational experience of a man here on the campus and that we can project our influence into the nation more directly if we maintain that geographic balance. Well, maintaining that geographical balance goes right, sometimes, across the bows of your selection on the basis of intellect and character, a principle which, as far as I am concerned, is equally right if an institution wants

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to follow that.

Let me be very clear about that. If anyone running a private educational institution says, "We think we can do a better job, we select only on the basis of a man's marks, his college board examinations, and whether he is a thief or not a thief", I think they are entitled to do that; that is an honest basis of selection and a perfectly rational theory of education. But we find ourselves having to cut across that if we are going to maintain geographic distribution.

Now those are some of the factors that enter into this principle of diversity in its operation with us as things stand at present. As I say, I want to emphasize that we will take our class this year without knowing what we are getting on that, just to make sure that there is no influence of that sort operating. Then we will assert our right to look at our diversity over the years to keep it in line.

Some acts of discrimination ~~which~~ are discriminations that stem from prejudice and bigotry in the colleges - most private institutions would find it very difficult to examine their room assignment policies and if they examined them would wonder just where they came from. Our policy here at present - and it goes without saying that Negro boys on that side of the thing are more than welcome here; as a matter of fact

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our history of the Negro at Dartmouth is, I would guess, one of the best in the country; they have outstanding records; ~~but~~ in the case of the Negro boy he is offered the opportunity for a single room ~~and~~ ^{but} we do not enforce segregation. We know from experience that he usually prefers it, ~~and the other boy~~ the first semester or so ^{he} wants a single room, or several of them will come up and apply for rooms together. However, if those men want to live, a colored boy and a white boy, together, as they do here I don't know whether it would be fair to say frequently, but certainly enough to be not uncommon, that is with us a perfectly natural, desirable state of affairs.

When it comes to the question of the Jew and the Gentile - and again I don't want this information to be used other than for assisting the Committee in its deliberations to get at the realities of this problem - we make our room assignments on an alphabetical basis. If a boy complains, if a boy's parents complain, we will say, "All right, if we have other room assignments we will give them to you just as a hotel or anybody else would give them to you, but this institution is not going to vote your prejudices", and I think that is one of the most important principles to watch for, that a man has to vote his own prejudices. I don't think men come here without prejudices or go anywhere else without prejudices. If he wants another

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room, and we have it, we will be glad to give it to him, but we won't assume, as a matter of policy, that it is either a good thing or that men generally desire to live that way.

Another, ~~which is a~~ specific activity, which has a real bearing on your life in an undergraduate college, ~~another area~~ ^{on which} which we haven't mentioned, and I would be very happy to see this Committee take some action on it, is this matter of fraternities, ~~and~~ ^{That} that is not an easy thing if you are in an institution which has roots back and where men think they got where they are out of these fraternities, ~~but~~ I have taken the position (and again I speak of "I" just to give you concrete things to react to here) that the college is responsible not only for what it teaches in its classrooms, that we wouldn't permit the teaching of discrimination here if we knew it, ^{At} least we wouldn't hire a man to do it, ~~We~~ might get into another principle of academic freedom if a ~~man~~ ^{man} were here and had tenure and he began teaching that, ~~but~~ we would find a way to indicate that that wasn't admired, ~~but~~ ^{and} we certainly would not hire a man to teach discrimination, ~~and as I say~~ ^{with} ~~in respect to room assignments or anything else will not practice that.~~ I think a college also has a responsibility for the influences which it permits to exist on the campus, and one of those is the fraternities, ~~and~~ ^{That} that is something that

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has just got to be dealt with here by the institutions themselves, ~~or~~ possibly ^{with} ~~getting~~ some help from agencies such as this.

I have taken the position with our fraternities that what I want is the practical assurance that men in our chapters are free to take or to reject any man who is an eligible student at Dartmouth on the basis of preference, or, if you will, the prejudices of the boys in that chapter, ~~and that~~ we are not going for long to tolerate a situation in which some national fraternity and some bunch of guys back before the Civil War established a charter which imposes upon our men before they have ever thought their position out, standards of prejudice in the selection of their fraternal associates. Now we don't want to get into this side of the thing too deeply, although it is a very important part of the life in an educational institution, ~~that you are talking about here,~~ but some of the institutions are attacking it by insisting that these fraternities change their charters, and that may be ultimately what we will have to do. Maybe the committee has ideas as to how to get at that, but most of them whip you around the bush on that by saying, "We are a national fraternity, with all these Southern chapters and it is constitutionally impossible to get that changed." I have said, "Well, I am a lawyer and

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I know that constitutions have been changed by usage, and I am not particular fussy about it, ^I If you fellows are willing to give me the practical assurance that you have outgrown that restriction and interpret it in a different way, we will not cause any fuss about it."

About half of our fraternities on the campus today, either by reason of not having those restrictions in their charters or because by usage they have accepted this position, are not guilty of teaching discrimination to their men in the chapters. Unquestionably men in those chapters practice prejudice in the selection of their associates, individually, just as they do in life at all points. But we have the other half which are under the compulsion of their national charters.

There are two areas in which I think you have the type of discrimination based on prejudice or bigotry ^{to} ~~or whatever you~~ want to call it, which I am personally ^{opposed} ~~prepared~~, and ^{already} ~~not only prepared but~~ I have moved against ~~it~~. I am not prepared, ~~and again it is something I have thought my position out on,~~ to accept the view that the honest, diversified selection of a student body, either on the grounds of race or religion to make the thing specific, is discriminatory, ^{but it must be} ~~if~~ done for the purpose of getting diversity on the campus. ⁹ Now to make that very specific, just to get into an argument and trouble, I

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think that if our religious liberties in this country amount to anything - and they amounted to something to our forefathers - it is because religious points of view make a difference. There are a great many of us to whom they don't make much difference any more. Perhaps the Bishop and the Rabbi would say that that is the pity of it. I have never had a Catholic priest tell me that religion didn't make a difference as far as he was concerned, in the way his boys looked at things. And on an independent liberal arts campus one of the justifications for our existence is the insistent right to reexamine anything and not to accept ~~the~~ authority as the basis of truth. I think that we could change this institution, we could change any one of the private, independent liberal arts colleges that you could name, drastically, by gradually making it a school which was nominally a church school, which held any particular point of view, whether it be Episcopal, or Catholic, which still has the strongest body of principle and dogma, I suppose, in the religious field. And I would be unwilling to have that happen, even though we have a very large Catholic student body. We gave an honorary degree the week before last to the Catholic pastor who was here for 25 years, and there is no antagonism or that sort of thing. But I just wouldn't be prepared to accept the responsibility of running an

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independent liberal arts college if I could not preserve its religious diversification if it were threatened.

One could carry that back into the area of the social background, but I won't do that because it is not necessary to make the point.

~~Well~~, I wanted to make this statement both because I have not wanted to appear to my associates on this Committee to be ducking any issue that is up, and because I am satisfied for myself that we will not be doing the right thing - I doubt very much that there is ever any possibility of legislation such as the Mahoney legislation becoming immediately and generally prevalent, but that is not the point. This Committee and I have got to face the question - is it the right thing to support.

I started this statement with the preface that if discrimination can be defined for that purpose, the selection of men or their exclusion because I don't like Jews or I don't like Catholics or I don't like Episcopalians or Christian Scientists, or I don't like Mexicans, I haven't the slightest trouble with that standard as a matter of policy or as a matter of law. As a matter of law my reservation with respect to it is that I think legislation such as the Mahoney Bill - and now I am getting into another area and I trust you will pardon my making

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this statement because I have n't had a chance to do it in the Committee before, and I believe it is important - I believe the Mahoney Bill, even if it passes and is put on the books, is going to get into an incredible amount of difficulty in its administration, much more so, as far as I can see, than any fair ^{labor} practices act.

This business of selecting your students in a college is an awfully intimate business, and if you can't trust the good faith of the man who is selecting them what we had better do is organize pressure groups to kick him out, regardless of whether it is our college or somebody else's.

But the confidential relationship which exists between the admissions officer and ultimately the officer that is in charge of the admissions officer, and the school principal today on the two issues of character and intellect is a relationship which no seasoned educator that I have met would be willing to sacrifice for anything. In other words it is not just the marks that he is looking for, or the college board examinations, he is looking for the honest-to-God judgment of the school principal, the man who has had the boy under him, as to that boy's character and intellectual fitness.

What is the potential there in addition to what he has shown. Well, the one relationship here - I am now on another

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tangent entirely to give you a bit of background, because many of you will be supporting or opposing this legislation - the one relationship which we attempt to preserve with our lives, almost, is what has been told us by a principal about a boy. Our admissions office follows the absolute rule of taking the rap in the case of the son of an alumnus or any other boy. ^{Suppose} ~~if~~ he has had a good school record and the father comes up and just raises Ned and says, "Look at that school record he had", ~~we~~ We will have back there in the file something which would let us out completely, which will say that this boy isn't up to college work even though he has worked like a beaver and made the marks, ~~we~~ We take the rap on that. The moment we give that out that is a total loss to us for admissions purposes, it will sabotage us. That is a factor which you have got to weigh as to whether it is equal to the abuses which have taken place, and I could go on then, as ^{Morris} ~~Maury~~ certainly could, and I assume others have looked into this, and tell you where institutions have operated outrageous discriminatory policies on a basis that all of us would be willing to condemn.

Thank you for the opportunity of making the statement.

MR. ERNST: Where does that leave you with relation to any comment by this Committee on this phase of the subject?

DR. DICKEY: I have assumed right along that the committee

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would want to condemn these practices, and I would hope it would broaden out and hit a few of these things that go on on college campuses. But as to the admissions policy, I have assumed that the Mahoney legislation and others was going to be generally enforced as a matter of principle. If I had the writing of it to do I would point out some of these things which I have mentioned, especially emphasizing that there certainly is an intellectual difference between the principle of diversity and of discrimination because of prejudice. But I just don't want to argue that. That is one of the things in which I would be happy to have the report say that there was some difference of opinion, and that is all.

MRS. ALEXANDER: May I ask one question? You did not touch on the question of the diversity of your faculty, and I wanted to know if you didn't feel that it was as important to a student to see on the faculty capable men of any creed or race as it would be that they be in fraternities together?

DR. DICK^{EY}: I think it is extremely important. I have gone on record publicly to that effect and will say right here that of the three full professors that we have hired since I have come with the college, I believe two have been Jewish, if that is of any particular interest. On the Negro side of the thing, the one Negro that I know where we have had a vacancy

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that I would have liked to fill with him if we could have afforded him, is Ralph Bunche ~~of~~ of the State Department, to a position in our Government Department. Well, we couldn't afford Ralph Bunche.

MRS. ALEXANDER: I thought in such a statement it would be very important to have that.

DR. DICKEY: I think it is extremely important; it shouldn't compromise the issue of merit, and it needn't.

RABBI GITTELSON: I think Dr. Dickey's statement is one of the most complete and illuminating statements that this Committee has had from anybody on the committee or off of it. Speaking for myself I would certainly be prepared to agree in principle with the fact that an educational institution ought to have the right to have an honest diversity of its student body and faculty that Dr. Dickey has pleaded for here.

I am very much disturbed, however, as I know he is too, and I don't know that either of us knows the answer, as to just what standards you are going to set up or how you are going to distinguish between a legitimate desire for honest diversity which I am afraid motivates only a minority of our educational institutions, and a desire for bigotry or discrimination along either racial or religious lines, which I am afraid activates a substantial majority of those institutions,

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but which is so very easily disguised under the legitimate standards that Dr. Dickey has set forth. We are dealing here, not with a hypothetical situation, we are dealing with a practical situation where you have a tremendous danger and evil in higher education in America today. Now we cannot afford to say that because we agree on the institution's right to want diversity, therefore we will not tackle the problem of bigotry. If there is some way of tackling the problem of bigotry without disturbing the desire of Dr. Dickey, by all means let's find it. If there is no such way then we are going to have to do the best job we can to eliminate the bigotry at the least possible cost or damage to those institutions which, like this one, seek an honest diversity of their student body.

MR. ROOSEVELT: I think it is a question of fact, and I think the burden of proof really lies with the institution to prove its motives and its practices. I have one very simple example. Two years ago Columbia University Medical School had two Jewish students in the freshman class in the medical school. The average of the other student admittees was, I think, 87.5, whereas the Jewish applicants who were refused admission had an average of 93. Now there, the burden of proof being on the Medical School of Columbia would obviously

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not jell with the facts. Since a lawsuit was instituted against Columbia University, their admission of Jewish students has risen to 27 out of I think 130 members of the class, which shows that now they are going sincerely after the principle of diversity. But prior to that time I think that the facts proved conclusively, at least from my point of view and I looked into that case quite thoroughly, proved the existence of discrimination. I think the report, therefore, has to be worded in such a way as to emphasize the factual essence of the problem and putting the universities which are deriving tax benefits and so forth, putting the burden of proof on them to prove their policy of diversification.

DR. DICKEY: To prove that it is not prejudice.

MR. ROOSEVELT: That is right.

MR. SHISHKIN: Even so you have a tremendous set of troubles there, but in that example of Columbia, as far as the College was concerned they had a quota system which was flexible, it wasn't the same quota every year, but that particular year it was a 20 per cent quota for Jewish. I am talking about the College. The effect of it was, I mean what they did - they didn't regard any other qualification except their intelligence test, and the result of it was never made known to the student, so the student didn't know why he was

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rejected. But it was on that intelligence test that the final admission was based, and the result of that on the student body was that although it did maintain the balance and may have been a perfectly honest approach to diversification in a big city where there are all kinds of factors coming in, the result was that the average level all the way through of ability on the part of the Jewish students was far above the average level of everybody else, and that created tremendous antagonisms in the College all the way through because there were all these bright Jewish boys ^{who} ~~that~~ were way ahead of anybody ^{else} because they ^{were} picked out ^{of} the cream on the intelligence tests.

It seemed to me, just as a matter of personal observation, all the way through the four years of college, that the indirect effect of the antagonisms among the victims of this, both Jewish and non-Jewish, every day were accentuated because of the disparity in the level.

DR. DICKEY: I didn't mention a lot of arguments pro and con on this thing which men have made and which I reject or at least don't associate myself with them. It is better for a man to be in a situation where he hasn't built up a tension and all of that, and I think that is up to the man to choose for himself as to whether he would be better off or not in those

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situations. But the atmosphere of a campus is a whale of a problem and you can, I think, affect men's attitudes a lot.

MR. ERNST: Mr. Chairman, ~~coming back to the point that we are to advise him, Harry Truman, and~~ I agree with much of this. ^{As} a matter of fact I am in favor of this type of discrimination. In picking educational institutions for my children I have looked for those institutions in the lower grades at least where they discriminated very violently in favor of the small-town boy, ^{and} the public school boy, because my kids would normally have not met that group from the small villages of the country, and I thought they were enriched by so meeting them.

When it comes to the graduate schools I appraise the problem quite differently than I do in the lower or even the college school, and from my point of view I think you have to make the distinction. Most of the arguments that would apply even to a college seem to me not to apply to a lower school.

DR. DICKEY: They are quite different; your resident colleges make them quite different.

MR. ERNST: So I would like to see a distinction made, if we make a report, at that stage of education. I am in favor of discrimination, I am violently in favor of it, on all grounds except race, creed or color, and I am quite of the

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opinion that if there is enough attention drawn to radical, incisive discrimination on other grounds, there will be no need, in a country of our proportion and size and racial groupings, to be much worried about the discrimination on race, creed and color or on the overweighting of the groups. New York City is where you would have your worst problem.

At Williams, ^{which} where I attended, we discriminated against the public school boy for 25 years, against the small-town boy, we discriminated on all the wrong grounds. If we adopted in Williams an affirmative program of trying to get diversity by a rounded group, the Jew, the Negro, the Catholic, the race, creed and color problems would evaporate, I am quite convinced.

RABBI GITTELSOHN: On what grounds do you want to discriminate?

MR. ERNST: On the wealth and background of the family, and the private and public school, and I don't want to have my boy go to a school where the boys want predominantly to be bond salesmen, nor want predominantly to be farmers.

RABBI GITTELSOHN: In other words, what you want is balance, not discrimination. I think there is a danger in using the word "discrimination" in that sense.

MR. ERNST: If you call one discrimination I have got a

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right to call the other discrimination. I want them to get that diversity on all factors except race, creed and color, and it seems to me if they did enough of that discrimination, of getting diversity in all the other fields, this problem would get into a very different proportion, exactly as with the hotels in New York. There have been opened up, by suits or otherwise, a great many hotels and restaurants for one or two Negroes, but if all of them got together and said, "We will open the doors", there would be no problem.

RABBI GITTELSOHN: I think the problem is too simple; I would like to complicate it a little further. Even granting again in theory or principle that we want to have geographic balance, let us say, or geographic diversity, it seems to me you have got to reckon with the fact that the overwhelming preponderance of your Negro and Jewish applicants to higher education - and it is the Negro and the Jewish groups I think which are primarily concerned in terms of numbers, not importance, in this - the overwhelming preponderance of both of those groups in terms of those who can afford to apply for higher education, come from your large urban centers. So if you say you are going to achieve a balance, whether racial --

MR. ROOSEVELT (Interposing): If California applied geographically they would get the New York Negro and Jewish

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boys who wouldn't be able to get into Columbia, for instance. If you carried the geographic thing far enough, and if everybody did it at the same time, you would be all right.

MR. ERNST: It seems to me quite idle for this Committee to present to the President of the United States a discourse on the subject - there have been enough of them written - unless we are ready to propose at the same time what to do about it, and what is the sanction, and I am frightfully alarmed at the sanction of taking away tax exemptions - which was proposed on the property of Columbia University - for only one reason, and that is that it will never be done. It is like a man who sues for a hundred million dollars - he can't recover. If he sued for a reasonable sum he has a chance.

MR. ROOSEVELT: That doesn't jell with your previous remarks.

MR. ERNST: I think there are better sanctions to be applied than taking away the tax exemption. We have got on page 23 or 24 a provision that no tax deductions be allowed from gifts made to institutions which discriminate.

MR. TOBIAS: I am a little afraid of this selective process. I am sympathetic with much of what President Dickey says. You make the statement that you are in favor of any kind of discrimination except in the matter of race, creed or

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color. You apply sanctions to the South on the elementary level that would deprive them of federal aid if they drew any line of discrimination on account of race, creed or color. But it is perfectly plausible in a Southern university to proceed along just the lines that Dr. Dickey has mentioned and make a case that would have the effect of denying admission to any Negro student.

For instance, he spoke of offering a Negro student a single room to begin with on the assumption that probably he wouldn't be happy otherwise. I have heard that statement again and again --

DR. DICKEY (Interposing): I didn't make that statement.

MR. TOBIAS: I know.

RABBI GITTELSOHN: But your statement could be so misused by someone else.

MRS. ALEXANDER: Dr. Dickey you don't assign the Negro students alphabetically?

DR. DICKEY: That is right, but I didn't say that it was because he would be less happy.

MR. TOBIAS: That is just exactly the case that a Southern institution would make and would say, "We are not denying him this on account of race, but his background is such and his distance from the dominant group in this institution is such" --

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it doesn't make any difference how it has been enforced through the years, whether it was right or wrong, it is true that there is a great gap, a social gap, and then this economic gap - that would be unwise in such a selective process to encourage him to apply. So I see that danger. I realize also how these things work out. Of course the leap in figures that Mr. Roosevelt mentioned for Columbia is probably due to the threat of the Austin-Mahoney Bill.

MR. ROOSEVELT: I agree with you, I think it is.

MR. TOBIAS: They were going along pretty complacently. I know the head of one of the principal schools of Columbia who told me, when a question of discrimination arose, that involved a member of my family, in answer to a statement that I made to him that if what had happened was true, then he had people on his staff who were not telling the truth - he said to me, "Oh, we lie". He said, "I lie". He said, "I am pretty decent when it comes to Negro students, I don't have to deal with so many of them, but when it comes to Jews I lie; what else can I do in New York City."

So they were pretty complacent about it, there is no use talking about that. Then along comes this threat, it wasn't passed, but they thought they had better get into line before something actually did pass. So I am not for ruling it out

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as an altogether bad piece of proposed legislation.

MR. ERNST: What would you advise Mr. Truman, what position do you think the Committee ought to take?

MR. TOBIAS: I don't know, I am not so cocksure about some of these things as you are. (Laughter)

BISHOP SHERRILL: Mr. Chairman, what are we talking to? It is a most interesting subject, but what is the proposal?

MR. WILSON: Item 3.

BISHOP SHERRILL: That is a general proposal; we will never get anywhere on this.

MR. CARR: I think you have got a real problem here. The question is whether you are going to recommend any sort of legislation, state or federal, which would regulate private educational institutions in the admission of students or related matters.

MR. ERNST: The "federal" would only mean the District of Columbia, I take it, and the "states" would only mean state legislation?

MR. CARR: Yes.

MRS. ALEXANDER: Would you add "faculty" to that?

MR. CARR: I said "related matters". Whether you are going to have any legislation covering the admission of students, the treatment of students --

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MR. LUCKMAN (Interposing): Again we are faced with the basic problem whether in trying to give civil rights to some we are taking them away from others. I speak as a father, in this particular case, because I have just gone through the problem of getting my oldest boy lined up for a preparatory school, and the only thing I was sure about was that I wanted him to be in a school which did have an honest diversification of students, and I would not permit him to go to a school that did not have. I would not want my boy to be in a school where he was the only one of the entire group who was not Catholic or who was not Jewish or who was not colored, or whatever it might be. I want him to be in a school where all the other people are represented - I started to say "properly", but that is subject to debate - and he is going to such a school in the Fall, and I would be hopeful, four years from now, based on what Dr. Dickey said, that I might be able to put in an application for him to come in here. And I would not want to vote against those educators who are striving to get a balance of that in the educational picture.

DR. DICKEY: And there has got to be a prod or the abuse will go on.

RABBI GITTELSON: Mr. Chairman, I realize that this business of the rooming of Negro students is a side issue, and yet

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I think there is an immensely important issue there. May I throw out, both for the instruction of Dr. Dickey - and I do so humbly - and this Committee, an altogether different procedure followed by the United States Navy. At the College for Chaplains at William and Mary there was an inflexible rule that no two members of either of the three major religious groups could room together even if they wanted to. We had to room with those of other faiths, and I learned more about Catholicism and Presbyterianism, respectively, since those happened to be the two faiths of my roommates than any decade of study could ever have taught me.

BISHOP SHERRILL: Has that done you any good? (Laughter)

RABBI GITTELSOHN: If you mean am I ripe for conversion, no. (Laughter) For the Bishop's satisfaction I met a good many Episcopalians later and learned about that too.

Morris just asked me on the side what I propose. I am not quite sure except this. I think we have got to have something along the lines of the Austin-Mahoney Bill, and if we can do it and find a way to guarantee the legitimate educators' desire for diversity, believe me I am sincerely anxious to do so, but I don't think we can allow that desire for diversity to stymie us and prevent us from taking any legal measure to tackle a very, very difficult situation.

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MR. CARR: Mr. Chairman, I would like to propose as a time-saver that you perhaps vote on something very closely approaching what Rabbi Gittelson has just said, a recommendation of legislation that would follow the Austin-Mahoney proposal but try to incorporate the Dickey reservations, give the Draft Report Committee a chance to work it out and see what the Committee thinks about it at that stage, because I think if you try to go on discussing this particular proposal here that you really won't get anywhere.

MR. WILSON: We have been educated ourselves, I think, a great deal by this. I think Dr. Dickey's statement has opened our eyes to a phase of this, that is some of us, that it was a good thing we had.

MR. TOBIAS: I move the proposal.

(The motion was seconded.)

MR. WILSON: Are there any further remarks?

MR. ERNST: You mean to more or less commit us to the sanction of the Austin-Mahoney proposal?

MR. CARR: That you vote first on the proposition that I outlined. Maybe it will be defeated, but assuming that it is accepted the motion is merely that those who prepare the draft report try to word a recommendation that would reflect --

MR. ERNST (Interposing): Use the sanction of no tax

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exemption?

MR. CARR: No, that isn't in the Austin-Mahoney Bill.

MR. ROOSEVELT: Yes it is..

MR. CARR: It ^{uses} ~~follows~~ the cease-and-desist order technique.

MR. ERNST: Yes, with the implication of taking away the tax exemption. Can you leave out the sanctions?

MR. CARR: Yes, I would leave out the sanctions.

MR. ROOSEVELT: I think that particular sanction has a much better chance of being enacted than the other.

MR. CARR: Why not leave out all sanctions?

RABBI GITTELSOHN: Why not advise the Staff to draw it up just as they are going to try to make a compromise on the Austin-Mahoney-Dickey Bill? (Laughter)

DR. DICKEY: That is the only thing I don't want.

MR. WILSON: You are among your friends here.

RABBI GITTELSOHN: Why not also ask the staff to draw it up with and without sanctions? This is not a final commitment as I understand it; it is a directive to the Staff, and the final commitment will be made later.

MR. CARR: That is right.

BISHOP SHERRILL: My experience has been, with what Mr. Ernst said, that there is a great difference between the college and the undergraduate level. I am impressed with the fact

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that the Negro people are not having adequate surgical and medical attendance because they can't get adequate medical and surgical training.

MR. ERNST: May I suggest that the Bishop's suggestion be considered by the Staff, that distinction be drawn between the graduate schools and the other parts of the educational structure. We may very well agree in the upper brackets to the proposal I made, no discrimination except on the grounds of race, creed or color.

MR. WILSON: I take it that the vote is in favor of that? Is there any opposition?

MRS. ALEXANDER: I would only like to point out that you would not be admitted to Yale, Harvard or Columbia Medical School. Your chances of being admitted are slim unless you have come from one of the outstanding colleges, and if you had come from Howard University or Fisk your chances of getting in would be very slim. So therefore we have got to protect admission to those institutions so that we may have trained doctors.

BISHOP SHERRILL: I have great difficulty in meeting this whole problem by law and sanctions anyway. That is why I am very questioning, and I am not willing to say now that I would be for any legal approach to this.

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DR. DICKEY: I don't want to be recorded as opposed to this principle as I understood it as Mr. Carr was framing it, and I don't want to repeat that formula. I hold that these are entirely professional reservations as to the workability of any law of the sort that I have been able to imagine, but on the principle, I will commit my institution as a matter of firm promise as to the policy. Let me make sure - I am quite sensitive that I be not misunderstood on this. The reason I would have my personal reservations, which I don't think should be shared by the members of the Committee on Legislation, is the question of the relationship between the admissions officer and the schools. I am not willing yet to take a public position which would in any way jeopardize that relationship for us. I am just reserving my position on that. But it is unrelated to the substantive principle which you were discussing.

MR. WILSON: I take it that there is unanimous approval with the distinctions that have been made clear.

MR. MATTHEWS: Unanimous approval of what?

MR. WILSON: Of the proposal by Rabbi Gittelson as to the manner in which the staff would draw up the proposal.

MR. MATTHEWS: Just to draw up some statements which would be considered later?

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MR. WILSON: That is right - I should have made that clearer. *Shall we adjourn?*

Decision Papers Nos 11, 12 & 13.

MR. CARR: I believe I could show you how you could bring yourselves down to page 14 in just a minute or two.

MR. WILSON: We are just trying to clear up pages 12 and 13 before we adjourn for dinner.

MR. CARR: There are one or two questions that you ought to decide. If you are going to rule out Item 1 on page 10, that the Committee does not want to recommend a positive grant-in-aid program for education - not rule it out but rather modify it - should you not modify Items 1 under Housing and Health as well?

RABBI GITTELSON: Yes.

MR. CARR: And we would follow the same directions there?

MR. WILSON: Yes.

MR. CARR: I think that takes care of Education, because Item 4 would follow naturally from No. 3.

Under Housing, page 11, the only point that hasn't been discussed is restrictive covenants, and is there really much disagreement that the report should go after the restrictive covenant problem?

MR. WILSON: Would anyone disapprove of that?

MR. ERNST: In favor of going after it both by legislation

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and court action?

MR. CARR: Yes.

MR. WILSON: Does anyone disagree with that? What is the next point?

MR. CARR: Under Health, page 12, Items 3 and 4.

MR. LUCKMAN: I just read 6 for the first time, excuse me.

MR. CARR: Yes, 6 should be mentioned and it was put in as an afterthought on the chance that somebody might want to do that.

MR. TOBIAS: I don't think that is necessary.

MR. CARR: Items 3 and 4 under Health represent a somewhat ^{ingenious} ~~ingenious~~ proposal --

MR. SHISHKIN (Interposing): Is that on the ground that we shouldn't embarrass somebody? I am talking about Item 6.

MR. CARR: It is pretty much past history; it would be criticizing somebody for what they did in the past.

MR. SHISHKIN: I think we ought to praise the one and only FHA Commissioner that corrected it recently.

MR. LUCKMAN: I don't think we should have anything to do with a point like that.

MR. CARR: Items 3 and 4 under Health, page 12, represent somewhat ingenious proposals in that ^{the labor} fair ~~practice~~ employment ^{should} be extended to health; that we have a fair health practices

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statute which would provide for the use of the same approach in dealing with hospitals or medical associations or clinics where there is discrimination based exclusively on race, creed or color.

MR. ERNST: And with the same sanctions as the FEPC?

MR. CARR: Yes. I, myself, think it is a very sound notion.

MR. WILSON: Is there any objection?

MR. CARR: Now page 13 is a sort of clean-up, and would include any other public services not included under Health, Education and Employment practices, particularly recreational facilities. The only really new notion there is whether there ^{should} be established in the Bureau of the Budget a unit to review the administration of Government programs to see to it that all Government programs are complying with the non-discriminatory policy in the rendering of public services. That is a proposal that has been made in rather formal fashion by many of the witnesses who have appeared before the Committee, and the Budget Bureau would seem to be the logical place to call for that check-up on the spending of federal money.

MR. ERNST: I take it you would tie that in with No. 26 which is your successor body, so to speak. There you are providing for a permanent agency to do all the rest of the

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checking up.

MR. CARR: Except I think you have got to decide, when you come to the Civil Rights Commission, whether ~~that~~ *it is to* function ~~is~~ largely on an advisory basis or whether it is *to be* an administrative body.

MR. ERNST: I was just raising the question.

MR. ROOSEVELT: I don't think this comes up at any other point, but how about discrimination in ~~the~~ transportation by railroads?

MR. CARR: We have a specific proposal on that, Page 17.

MR. WILSON: Is there anything else on page 13?

MR. SHISHKIN: Is our only ground for suggesting a unit in the Bureau of the Budget, that it shouldn't be in the Civil Rights Commission?

MR. CARR: The Bureau of the Budget has, in a sense, the broad responsibility to check the fiscal practices of all agencies of government for compliance with established policy, whether it is public policy in the form of statutes or public policy laid down by the President. The Bureau of the Budget in checking the fiscal programs of all of the government agencies does have existing authority to see to it that they are complying with established public policy.

MR. SHISHKIN: For a while it sort of spilled over those

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limits to quite an extent, and as a matter of fact had a tendency of making public policy through the President or otherwise.

MR. ERNST: I take it you will tie that in both to the permanent Commission that we are going to recommend, and to the District of Columbia Act. We are establishing certain rights, aren't we, under the bill that relates to the District of Columbia?

MR. CARR: Yes.

MR. ERNST: And this Budget investigatory power will also apply within the District of Columbia?

MR. CARR: Yes.

MR. ERNST: That is all federal expenditures?

MR. CARR: I think so.

MR. ERNST: I am just raising these tie-in questions. We have got three techniques of supervision now.

MR. CARR: Page 16 covers the District of Columbia matters.

MR. WILSON: If there is nothing else to come before us now we will adjourn until 8 o'clock tonight.

(Whereupon, at 5:30 o'clock, p.m., the Committee adjourned to 8:00 p.m., of the same day.)

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EVENING SESSION

(8:00 p.m.)

MR. WILSON: Well, ladies and gentlemen, I think we had better get to this task, unless you want to be here until beyond 10 o'clock, and there may be some of you who will feel like resting about that time.

Decision Paper No. 14

Shall we turn to page 14 now?

There is no question about this one, the Armed Services. Surely we can pass that one easily. It is a very simple series of questions that is before you there.

DR. DICKEY: I think that third one would take care of the problem of war.

MR. WILSON: You mean start one.

DR. DICKEY: No. 3. (Laughter).

MR. ERNST: What does it mean?

DR. DICKEY: If any other nation attacks one of our soldiers, we will fight him.

MR. WILSON: This applies in China, remember, too. (Laughter).

DR. DICKEY: I think it is the most far-reaching proposal yet introduced in the Committee.

MR. ERNST: What does it do?

DR. DICKEY: An American soldier can go anywhere he wants to in the world without being subject to attack.

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MR. ROOSEVELT: If I understand No. 3 correctly, it is a superfluous recommendation.

MR. CARR: There was a bill introduced during the past war because a great many, in a number of instances colored soldiers, were attacked in the South, and there was no Federal statute under which prosecution could be ~~made~~ *undertaken*.

MR. ROOSEVELT: By civilians?

MR. CARR: Yes.

MR. ROOSEVELT: I thought there was a statute now which said that anyone who attacked any member of the Armed Services was subject to --

MR. CARR: We can check that again.

MR. WILSON: If there isn't one, shouldn't there be one?

MR. ROOSEVELT: Yes, because there are rules and regulations in the Armed Services against attack by a member of the Armed Services against another.

MR. CARR: That wouldn't cover the civilian.

MR. ROOSEVELT: I thought there was one about a civilian.

MR. WILSON: I don't think so. At the last time we looked it up, we were told there was none.

If there is not such a statute, are you in favor of it?

MR. SHISHKIN: Right.

MR. ROOSEVELT: Yes.

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MR. MATTHEWS: I think we should be very careful to see that it accomplishes what we intended to accomplish. For instance, the boy who worked for me before the war, a colored boy, as a chauffeur, came back and told me that down at a camp near Austin, Texas, the colored boys just about starved to death down there, they didn't get fair treatment in the matter of food or accommodations or anything else.

Now it is just outrageous that a condition like that could exist in the Army of this country.

MR. WILSON: Check.

MR. MATTHEWS: And if we are going to do something, we ought to do something that will accomplish results.

MR. WILSON: That goes back to the early part of it, to the discrimination. Don't we want to come right out point-blank that within the Armed Services there is to be no discrimination?

RABBI GITTELSON: Or segregation.

MR. WILSON: Yes.

MR. MATTHEWS: That is something this continuing Committee can accomplish by proper supervision, if they will look after it. That is the only way you will do it then.

MRS. ALEXANDER: Does this Committee have any reason to recommend the operation of a universal military training pro-

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gram? What does that have to do with civil rights?

MR. CARR: That there be no discrimination or segregation in any program that was set up.

MR. WILSON: That is, whatever is finally adopted, it seems to me that we are within our franchise if we recommend that there be no discrimination, no matter what is set up.

MR. CARR: And the Universal Training Commission has already recommended that.

MR. WILSON: That is right. This was the subject of long discussion within that Commission.

MR. MATTHEWS: What about West Point?

MR. WILSON: There you have got something. I want to see how far you are willing to go. Of course, you are recommending a controversial thing when you recommend that.

MR. CARR: No. 2(e) covers that.

MR. WILSON: "Admission of students to the service academies and other service schools."

MR. TOBIAS: The Navy is the place where they have trouble.

MR. CARR: Everything under No. 2 refers back to whatever you have done under No. 1.

MR. MATTHEWS: Are there any colored boys in West Point?

MR. TOBIAS: Yes.

MR. WILSON: Yes. Theoretically what we are recommending

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for the service schools has been accomplished, but I think it is only theoretical, but a very, very small number are accepted.

MR. CARR: Annapolis has never graduated a Negro.

MR. ROOSEVELT: Yes, they graduated two, but they did not seek to maintain their commissions; at least that is the story I was always told.

MR. MATTHEWS: Don't they have to, when they come out of Annapolis, serve for a certain time?

MR. ROOSEVELT: You can graduate without taking your commission. You graduate with a B.S. instead of a commission.

MRS. ALEXANDER: If that is so, they were advised to take a B.S.

MR. ROOSEVELT: I will agree with you there, I think the pressure was probably such.

RABBI GITTELSOHN: According to our discussion sheet 14, Annapolis has had 6 Midshipmen in attendance, but has graduated none.

MR. WILSON: I think that is graduated them as officers, don't you think so?

MR. ROOSEVELT: I think that is the answer. On the other hand, we did have, during the war, I won't say quite a few, but there was a handful, because as I knew it we only had one D.E.

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and one P.C., Patrol Craft, which were manned originally by white officers and colored enlisted men, and the object was to have the Chief Petty Officers and the other enlisted men move up to officer rank as they became qualified, and it was my understanding that those ships did ultimately end up under Negro officers, complete Negro officers, but I am not absolutely sure about that because I went out to the Pacific before the experiment reached its peak.

But I will add this, in all fairness to the statements that I am making, the Destroyer Escort that was manned by a Negro crew was held over in the shakedown area in Bermuda for three weeks for failure - three additional weeks, the normal training period was four weeks - for three additional weeks due to the failure to meet their standards in the required amount of time.

Now there are a lot of explanations for that, and a lot of reasons for it, and I don't think it is particularly relevant to go into it here. But I know that all the officers concerned were picked very carefully, and their entire objective was to develop and train Negro replacements, and it was my understanding that they did ultimately, and that those ships subsequently served very well.

MR. WILSON: If you are going to have that thing in

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regular routine, you have got to start with trained officers, haven't you?

MR. ROOSEVELT: Yes, sir, you really do.

MR. WILSON: That is what it seems to me that we ought to apply ourselves to, ~~that~~ you have to have trained officers for it.

RABBI GITTELSOHN: Are we agreed under No. 1 that it is going to be an immediate end to segregation?

MR. WILSON: Is it immediate and --

MR. MATTHEWS: It should be immediate.

MRS. TILLY: I think so.

MR. WILSON: Against discrimination or segregation, both.

RABBI GITTELSOHN: Yes.

MR. CARR: With the emphasis on (b).

MR. ROOSEVELT: I think it should be both, but I would like to see a clause somewhere, if it can be tactfully worked in, that an emphasis in recruiting should be made to get the higher type Negroes into the Service. We have failed in the Navy - and I am only talking for the Navy because I know nothing about the Army - it is my feeling that we have failed, in the Navy, because only the officers' mess attendant rank was held out to the enlisted men, and although in the last 30 years we have had Negroes go up to Chief Gunner's Mates, they

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have shifted; where they showed particular adaptability, the commanding officer has shifted their rank to seamen and permitted them under his personal command, and it was almost a personal thing where he got a particular liking for an enlisted man, and they have gone up.

I had a ship's cook 1st class who had been in the Navy for 25 years, a Negro, and in fact it is rather a funny story - I think this ought to be off the record.

(Discussion off the record.)

MR. ROOSEVELT: I think we could do a great deal to cure this prejudice immediately if we emphasized in the Navy, in the Armed Services generally, going after the top, the cream of the crop, giving them the complete and full assurance of a square deal, and that is why I am for going whole-hog on "immediate" and "segregation". I think that is the only way to do it. If you use any half-way measures, you will never do it in the Armed Services.

MR. WILSON: Are we agreed?

All right, we will pass those.

Are there any questions under No. 2 from (a) to (f)?

MRS. ALEXANDER: 2(e), Mr. Chairman, in my opinion does not go far enough to protect them merely by admission to the service schools. There has got to be some protection for

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them after they get in.

MR. CARR: "Admission to and treatment in".

MRS. ALEXANDER: Yes.

MR. SHISHKIN: Including VMI, you had better put in.

(Laughter). .

MR. ROOSEVELT: In all fairness, Mrs. Alexander, I don't think we ought to make pampered babies out of them, and I think you can carry this looking after them a little too far. There again, it is a question of handling the individual situation as it exists, and I don't think you can legislate that.

I think you ought to guard against permitting the kind of pressures that I know exist in the Naval Academy to force these boys to resign.

MRS. ALEXANDER: How are we going to do that?

MR. ROOSEVELT: I think it is again a question for our permanent Commission, through working in the Navy Department, to see that we get the kind of chiefs of these Academies who will carry that out.

Now Admiral Fiske is quite adamant about this ^{He is} a good fellow, ^{but} ~~and~~ one of his predecessors was terrible. That is a personnel thing that you can't administer by written word and you can't legislate.

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MR. WILSON: Your Visiting Committee for the Naval Academy would have a lot to do with it.

MR. ROOSEVELT: Very important.

MR. WILSON: I am going to be on it next year, so I will promise to put the heat on from my standpoint.

RABBI GITTELSOHN: That problem is solved.

MR. WILSON: I believe in it, and I certainly will do my share to do it if I happen to live that long.

I believe that is right, that that is where we have got to put the heat on with the people there, and the same thing at West Point.

Are you satisfied with No. 2 completely, or do you want to go further now on any of the recommendations?

All right, how about No. 3?

DR. DICKEY: I would like to ask one thing, Mr. Chairman. Have we got testimony in the record, written or oral, on this question of the discrimination in the Armed Forces?

MR. ERNST: Yes, memos on each of them.

DR. DICKEY: From the Army and Navy?

MR. ERNST: And Marines.

DR. DICKEY: I haven't read them.

RABBI GITTELSOHN: There was a staff memorandum on it.

MR. CARR: We got a confidential report from each of the

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Armed Services, and incorporated some of the statements.

DR. DICKEY: The reason I asked that is that we want to be quite clear that there is a record here on the basis of which these positions are taken.

MR. CARR: This may well be a point where you would want an appendix which would include some review of the existing conditions, that indicate the need for action.

DR. DICKEY: I would like to state here for the record, so I am quite clear as not having failed to state it,-having raised it originally,-with more assurance, my position is that I have no judgment beyond a prejudice concerning the issue of what would be the effect on the national defense of the immediate abolition of discrimination in the Armed Forces. My prejudice is to believe that it would make a stronger nation to do it, but I believe that the ultimate question is one which should be left with the Commander-in-Chief, and I would be quite clear that if the Commander-in-Chief in any particular emergency felt that the national defense interests of the nation were prejudiced by a full and immediate application of the principle which we believe in, concerning non-discrimination, that his judgment should prevail. I have no judgment on that beyond my own prejudice, which is in favor of immediate elimination of the prejudice.

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MR. ROOSEVELT: Dr. Dickey, I would like to address myself to that for a moment. I think if we rely on the Commander-in-Chief's judgment in making up this report or put emphasis on his judgment here, we are liable to fall into a pitfall, because ultimately, as Commander-in-Chief, he is going to rely on the opinion of his top military and naval commanders, and I saw this thing pretty firsthand during the war, and the argument always was, in the Navy, "Well, let us do it slowly, let us work into it." I saw that in the Air Forces in Africa. I saw all the bad reports that were written in the Air Forces about young Ben Davis' outfit. Whenever Ben Davis led them they were great; whenever he didn't, they were poor.

The same thing happened in the Navy in the two ships that I was talking about. Where they had good leadership, fine.

The reason, in my very considered judgment - and I did a lot of thinking about this - the reason was two-fold: (1) we tried to do it too slowly to work it in so that we would have the slow educational process which in time of war you just don't have time to do. You are teaching men how to operate too many other gadgets to teach them how to overcome their initial prejudices. The result was that you didn't get your top Negroes in the right spots, and I felt that the whole thing would have been an awful lot better if we had just

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completely eliminated the question of segregation and putting them into separate units, because still those Negroes hadn't gotten the rights for which they really thought they were fighting, and as a result they never did really pitch. If we had done away with the whole idea of segregation in the units, in the separate ships in the Navy, we would have overcome the thing overnight.

RABBI GITTELSON: The last thing in the world I want to do is pose as a military expert, but I would certainly, on the basis of my experience as a Chaplain, subscribe wholeheartedly and one hundred percent to what Mr. Roosevelt has just said.

I think that on this matter, as well as on some of the things that we discussed this afternoon, we ought to recognize that the famous James-Lange theory in psychology very definitely operates, namely, that the things you do and the actions that you experience affect your inner emotions quite as much as the opposite is true, and I saw a number of instances in my own experience as a Chaplain, both in the Navy and in the Marine Corps, where there was to begin with nothing more than a commanding officer who said, "There will be no discrimination in this outfit", and the result was by forcing the men to live together without discrimination - unfortunately, it didn't happen as often as it should have - you saw a very,

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very rapid improvement in their basic attitudes because they had to live together because the commanding officer said so.

MR. ROOSEVELT: And you saw basic improvement in the record of the Negro troops and the Negro sailors.

RABBI GITTELSOHN: Right.

MR. ROOSEVELT: That was the thing that struck me.

Again I don't want to talk of personal experiences, but I had the first D.E. that had a complete machine gun battery on one side made up of my Negro enlisted men; and in every target practice and in actual battle, those boys outdid the other boys, because no other commanding officer dared give them that responsibility, and they were terrific, ~~these guys~~.

That is my whole theory. If you give them the chance and put the burden on them, they are there.

That is too much personal experience, probably, for one evening.

MR. TOBIAS: I am glad that Mr. Roosevelt has made the statements that I might have made. I think they come with greater force from one who looks at it from the experience of the men in the fighting ranks.

I have a very deep conviction on this. I happened to be called by the President to serve on the President's Advisory Committee on Selective Service, and felt a responsibility for calling all these millions of men into the Service. I know

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how deeply colored young men have felt the stigma of segregation in the Armed Services. There is no experience that Negroes have had in this country that has so embittered them as that experience.

By the thousands, they chipped in their spare pennies and sent literally thousands and thousands of dollars to the NAACP, which was the only medium through which they could express just how they felt about the thing, and that kept up during the whole war.

There are some of these principles on which I would yield to a procedure of gradualism, but not this one. There was no discrimination in the requirements of the Selective Service Act, it applied to all alike. As a matter of fact, in all respects in which men are debtors to Government, there aren't any differentials anyhow; and when Government is the governing force with which we have to deal, then I see no reason for yielding an inch.

Segregation is wrong in practice wherever it exists, but when our Government holds up before its citizens the Constitution, with the Bill of Rights, saying to every man that he is a citizen and appealing to him for loyalty in peace and war on that basis, then I don't think we have any right to permit the pattern that has grown up in any section of the

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country to dominate the national policy.

Now I felt this afternoon, and I still feel, some sympathy with the progressive elements in the South that are trying to battle their way through to a solution of a problem that has grown up in a section of the country. I think that that is an entirely different thing to a situation where a section of the country seeks to impose its pattern upon the national government where it is obligated to practice equal justice and to guarantee to all their rights as American citizens.

So that either we are citizens or we are not, that is all. There isn't any two-way thing about that. Either you are a citizen of the United States or you are not, and the Government cannot deny that without at the same time proclaiming that there is a double standard of citizenship in America. That is the only way to be consistent about it.

So that I favor just the shortest possible statement of it, consonant with clarity or what is involved, such as we have in these items under No. 2.

MR. WILSON: Are we agreed?

RABBI GITTELSOHN: Yes.

MR. WILSON: Is there any exception?

Decision Paper No. 15

We will now take up page 15.

BISHOP SHERRILL: I think we might take up No. 2, which is

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recommended by Subcommittee 1, covering the District of Columbia.

MR. ROOSEVELT: Morris asks the question - did we all look at No. 4 on page 14?

MR. ERNST: I think I know what it means.

MR. ROOSEVELT: I know where I stand on it. Certainly if a young man can wear the uniform of the United States and he can become a Chief Gunner's Mate or anything else, he is entitled to go into any movie theater.

MR. WILSON: I think it is clear.

MR. CARR: No. 4 is related to page 15; the notion is that if the Committee wants to recommend that people should have access to places of public accommodation without regard to race, creed or color, then the problem is to implement it by every possible means.

One very definite Federal power is to insist that every member of the Armed Forces have that access.

MR. ERNST: That is a very different Federal power than page 15.

MR. CARR: It is a means of implementing it. No. 1 says "the enactment of State laws", and No. 2 says "of a similar law for the District of Columbia". And No. 4 back on page 14 would do the same thing for members of the Armed Services.

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MR. ERNST: I think No. 4 is wonderful, because it breaks down the Jim Crow process, if you can sustain it.

RABBI GITTELSON: It breaks it down on a spot where the States are very vulnerable.

MR. ROOSEVELT: Absolutely.

MR. WILSON: Does anybody have any questions on page 15?

MR. MATTHEWS: There can't be any question about page 15; that ought to be easily unanimous.

Decision Paper No. 16

MR. WILSON: How about page 16?

MR. ERNST: Do you intend to list up the ~~types~~ ^{rights}?

MR. CARR: Yes, and it can tie in with 16, as we can spell it out with 16 and then say the same thing should be done by the States, because, you see, No. 4 on page 16 is the same thing over again.

MR. SHISHKIN: You don't list them there, either.

MR. CARR: That is right, but at one place or the other we would spell it out in considerable detail, both as to what it means and how you can enforce it, various ways and means of enforcing it.

MR. MATTHEWS: How can you make that recommendation on the District of Columbia on page 16 challenging so it will really come home to the people of the country? There, if anyplace, there shouldn't be any question about it. You have

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got no ~~C~~onstitutional limitation, and that ought to be the model for the rest of the country to follow, and I think that there is an opportunity for this Committee to do something.

MR. CARR: The staff has certainly gained the impression that that is what the Committee wants done.

MR. MATTHEWS: That ought to be specific and definite and comprehensive and uncompromising.

RABBI GITTELSOHN: And should be prefaced by a very emphatic and eloquent introduction, pointing clearly to the fact that housecleaning begins at home.

MR. ERNST: With statements by Marshall and Eisenhower.

MR. WILSON: Are we agreed on the ground to be covered in reference to the items on page 16?

MR. ROOSEVELT: I think in Item 2 you still have a little of the problem that Dr. Dickey brought up about the emphasis on diversity as well as race, creed and color. I am just saying this to remind Mr. Carr --

MR. CARR: Whatever your solution is on that point, it would apply either way.

MR. ROOSEVELT: Right.

MR. ERNST: But the other sanctions, I take it, here would be some penal sanction, a fine or imprisonment.

MR. CARR: That would be one. There could be others, I

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think.

DR. DICKEY: How about that No. 6, is that our business? We have got to be awfully careful we don't get the whole District up in arms against the things we want.

MR. MATTHEWS: Why does that have to go in there?

MRS. ALEXANDER: As a practical matter, you will never get the Nos. 1 to 5, as long as the District is under the control of commissioners appointed by Congress. Isn't that the answer to it?

MR. MATTHEWS: That is when I think you would get it.

MRS. ALEXANDER: Well, Bilbo was --

MR. MATTHEWS: You will never get it if you have local self-rule in the District of Columbia.

MR. ERNST: Doesn't the testimony, or the staff papers, indicate that the reason for the denial of the franchise is the fact of the increasing Negro population, and isn't that how it comes into our report, if at all?

MR. TOBIAS: I think that is where it comes in, but I think it weakens it to put it in.

MR. CARR: I think it would be entirely appropriate to leave Nos. 6 and 7 out.

MR. MATTHEWS: I should think so.

MR. CARR: They involve political issues rather than civil

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rights issues.

MR. SHISHKIN: It is part of the issue there. I think this raises a question as to how all of this is going to be accomplished for the District of Columbia. It is all right for us to sit on a Committee and recommend things, but as far as the provisions which provide the safeguards for the District of Columbia from the Hill, the only way those can actually be carried out and kept there and implemented after being put on the books, is only by the granting of the vote to the District, since these apply to the District.

MR. TOBIAS: Our whole point --

MR. SHISHKIN: There isn't any concerted place where they will be heard.

BISHOP SHERRILL: I thought this was in the report of your Subcommittee for the reason that here were a group of people who for no good reason, as far as we could see, were disfranchised. I don't think it had anything to do with the Negro question at all.

MR. MATTHEWS: There is a theoretical reason for it, at least.

RABBI GITTELSOHN: We are dealing with the matter of the poll tax because we believe that one civil right is the right to vote in national elections.

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MRS. TILLY: We went way beyond the poll tax.

MR. MATTHEWS: Most of the people of the District of Columbia have voting residences elsewhere than in the District.

MR. ROOSEVELT: Not the majority.

MR. SHISHKIN: The last survey made indicates that the population of Washington --

MR. MATTHEWS: I am talking about the people on the Federal payroll from other States in the Union.

MR. SHISHKIN: The population now in the District of Columbia comprises about 1,600,000. Of course, a large part live outside the District, a lot of these people that vote outside spill over, but if you take the population of the District of Columbia proper, those within the square, the majority of those don't vote anywhere else; I mean the majority of those eligible to vote don't vote anywhere else.

DR. DICKEY: By the same token, the same majority do not admit that their tax liability is in the District of Columbia. I read that in the Washington Post last week. They claim residence elsewhere when they come to claiming their tax exemption.

MR. SHISHKIN: This is very tricky, because the majority of those eligible for taxation in the District of Columbia are in that category, but it doesn't gee with the voting

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population, because a lot of them under the District tax law don't come under the purview of the tax law at all, so while the former would be correct on the voting question, the latter would be correct on the tax question.

MR. CARR: It is a faulty tax law, isn't it, rather than conscious evasion on the part of the taxpayer?

MR. SHISHKIN: Both.

MR. ERNST: I would like to see it included, particularly if you can tie it in in some way with the theory that one of the reasons they haven't the vote is because there is a large Negro population. In other words, unless it is tied to this Negro question, it seems to me it is going to seem rather extraneous.

MR. CARR: I think you can handle Nos. 6 and 7 either way you want to. I don't think, if you decide to leave them in, that they are out of place in any sense in a report on civil rights, because the matter of representation and certainly the right to vote --

MR. TOBIAS: I think it is in place to include voting for the District of Columbia somewhere, but the force of our whole argument on this is that the District of Columbia is a national city under control of Congress, and that there are no Constitutional questions involved; that Congress can be

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held accountable for this change of policy, and you have got an opportunity for people all over the country to help bring the pressure on to get the change made. I don't think it necessarily has to wait until the District gets the franchise. I think it is important that the District get the franchise, but I don't think it has to wait for that.

MR. MATTHEWS: Yes.

MR. ROOSEVELT: In fact, it might be even better to let it wait for a while, to use it as a laboratory.

MR. MATTHEWS: I think it would be.

MR. WILSON: Do you agree to cut it out, cut Nos. 6 and 7 out?

RABBI GITTELSOHN: What will be the response of the population of the District if we cut them out? The one burning issue to them, unfortunately, is not 1 through 5, but 6 and 7.

MR. CARR: That is not true of the Negro population. Nos. 1 to 5 cover the burning issue with them.

RABBI GITTELSOHN: That is true.

MR. CARR: Next to the Armed Services, I think they feel more deeply about the District of Columbia than almost anything else.

RABBI GITTELSOHN: Wouldn't you agree that the vast majority of the population of the District also feel very

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keenly on Nos. 6 and 7? They deem those to be the heart of their civil rights problem. Certainly every taxi driver I have gotten into a discussion with in Washington does.

MR. TOBIAS: I don't think we can avoid bringing it into our report somewhere on the whole question of civil rights; but I think for what we have in mind here, it weakens this case, because I can hold my Congressman responsible for this, we can watch the vote there just as we do on other issues, to see how it goes.

MR. SHISHKIN: I still fail to see how anything up to No. 5 will be really effectual without Nos. 6 and 7, because if there is a member of Congress elected from the District of Columbia under No. 7 and has representation there, he will be accountable to the people of the District of Columbia and he will safeguard all the rights that are provided here as their representative. But if every question of that kind goes to the District of Columbia Committee as it does now, with the balance of the Southern vote, and so forth, having to pass on all of this, without a direct representation --

MR. TOBIAS: The balance is the other way now.

MR. ERNST: What is your judgment, Mr. Chairman, on the political wisdom of keeping them in or leaving them out?

MR. WILSON: I would take them out, myself. I am afraid

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we are trying to go too far, carrying water on too many shoulders, and I am afraid we weaken - I am inclined to go along with Dr. Tobias on it - I am afraid we weaken the thing we are trying to get.

MRS. TILLY: Could that be tied up on page 3 with elections and the right to vote?

MR. CARR: Yes, it could properly go in there.

MR. WILSON: If you don't tie it up with this particular part, but tie it up with the voting question, I would be much more in favor of it.

MR. CARR: How would that be?

MR. SHISHKIN: Fine.

MR. ROOSEVELT: Good.

MR. WILSON: Is there any exception?

Decision Paper No. 17

All right, we will pass on to page 17, Interstate Transportation.

MRS. TILLY: Is this necessary ~~now~~ since the Supreme Court decision?

MR. CARR: Oh, yes, in the sense that the Supreme Court decision merely outlaws State laws; it does not touch voluntarily established segregation, which depends upon the carriers themselves, and the Supreme Court decision provides no sanction except your right to go into court and argue that

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any State law is unconstitutional.

MR. SHISHKIN: And it said "in each case", in the decision.

MRS. TILLY: Mr. Talmadge's promise to us was that he would stop all interstate buses at the State line and build a station right across the State line, and everyone would get off and have to buy them a new ticket through Georgia, so we wouldn't have interstate transportation. That was one of his campaign promises.

MR. ERNST: When you are referring to the Federal administrative action, you are referring to the Interstate Commerce Commission?

MR. CARR: Yes. We quote from the statute in the discussion paper.

MR. WILSON: Are we agreed on that? Is there any objection?

Decision Paper No. 18
We will go now to page 18.

MRS. TILLY: This was to be tied up with (c) from page 7, wasn't it?

MR. TOBIAS: That was to be brought over.

RABBI GITTELSON: I wonder if Mr. Ernst would feel able and willing to tell us a little bit more about the type of work he mentioned earlier today that he is presently engaged

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in, on setting up standards for this, so that we might be better able to judge whether we want to do anything.

MR. ERNST: I say I am opposed to this Committee going into this field, because whereas there is a deprivation of a civil right, it is on the ground of a political belief rather than race, creed or color or the other problems with which we have been concerned, and in the final list that Mr. Carr has added of miscellaneous subjects not touched, there are others that seem to me much closer to religious or racial discrimination.

I have been working with a group of people that have been sitting with Clark to work out the rules and regulations under the law of the loyalty oath. I believe one of the great dangers is the underground movement of the Fascists and Communists in America. I am not at all persuaded to minimize it because there are too few; it doesn't take too many to run a union or even a big corporation.

We have worked out, with Tom Clark, what seems to satisfy the civil liberties union on various levels - right to hearings, right to cross-examine, right to stenographic minutes, and the whole procedure.

There are several points ^{at which,} of ~~protection~~, frankly, ~~that~~ I wouldn't know how to suggest that we ^{provide} ~~get~~ the protection. For

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example, you find in the State Department an employee copying mail and sending it over to Communist headquarters, so that the Secretary of State, at the next day's session with the Russian delegation, finds that they have the information. Now as a matter of decent, due process, you would fire that person immediately and give the person a trial, ^{you} wouldn't let the person stay at the mail desk, you would give her a trial and give all your evidence and let her answer it. Say we found this letter addressed here, and it went by mistake and that is how we picked it up. There is a strong temptation to find out more about how many other people of the State Department are doing it, and where it went after it left that recipient, and how did it get to 13th Street, and how did 13th Street get it to Mr. Molotov in Lake Success the next morning.

I have seen enough instances that I am persuaded that that happens. It doesn't happen often. It needn't happen often, for my money.

It is an expensive process to screen the employees of the American Government, and you can't do that job at \$12 per employee. I think the figure is \$60 a head for screening. I think that it is a real subject to be carefully watched for the protection of rights, and particularly the rights of organizations which by indirection or direction are going to be condemned by association.

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This man is a member of this committee, sending something abroad, and Clark has already indicated that rules will definitely provide that the person will have to be a heavy financier or an active officer or driving force of the organization, and I am very well satisfied that he is going to have nothing to do with mere guilt by association because you happen to get on a sucker list or join, And somebody ought to watch it, I am not saying that it isn't something that some committee ought to watch. The association problem is a terrible problem.

The Civil Liberties Union, among others, was declared by Earl Browder, under oath, to be a stooge for the Communist Party, he testified ^{to} it in Washington. At that time the President of the Civil Liberties Union was at least a "fellow traveler". Elizabeth Gurley Flynn was on the Board of Directors.

Let's assume that the charge came up. The question arises whether the organization as such should be given hearings. I have taken the position that if so, at least the Department ought to have the right to subpoena records, because otherwise it wouldn't even be a fair matching of wits.

I am deeply concerned in this thing. I am a "Red baiter". I think they ought to be baited. I think they are sneaks and

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an underground, and a great peril to the American public. I think they have tainted thousands of decent people in our democracy because they are an underground movement.

When I argue with the Government in Washington about making public the names of the thousands of Communist members, the point is taken that we oughtn't to make them public, we ought to let them on the ballot. As a matter of fact, I represent the Communist Party at times in steps toward forcing them on the ballot. If I had my way I would try to force them on the ballot so they would stand up and be counted publicly.

It is the crypto-Communists that are the great problem, people who make believe they aren't. I know of no other way of procedure than disclosure, scrutiny, examination, trial and hearing with due process. And as deeply as I am concerned in it, I think it is far afield from this issue here, and that it will becloud the rest of our report unless you can tie it up with race or religion or some one of the other subjects and get away from a political belief.

MR. ROOSEVELT: I agree with everything that you say on the Communist thing. We get to the other extreme, though, of the spectrum, and there you do run into the hate organizations which are perhaps the nuclei for the Fascist groups.

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I, for one, am a great believer that the Communist issue is an immediate danger only because it tends to weaken the liberal movement for the great fight that the liberal movement has ultimately against the Fascist danger, which is the long-range danger, and ~~I think if we are going to go into any loyalty problem, we should tend really and with very valid grounds as a race, creed and color organization, or primarily preoccupied with that.~~

The present hate organizations on the right are basing their entire attack on race, creed and color. I mean the Columbians, - ~~What was it?~~ It was a racial and a creed proposition and a color-bias organization - the KKK, and so on down the line. It is not just expounding Fascism; it is laying the very groundwork that Hitler used. He didn't come out and advocate Fascism or Nazism. He came out and advocated anti-Jewism and anti-laborism, and so forth, at the beginning, and then he moved into the other things.

So I think we have a very serious thing here just to throw out the loyalty problem. I think the emphasis might be switched from the Communist problem over to the other extreme.

BISHOP SHERRILL: This Committee is interested in protecting civil rights. What kind of a statement could you

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make in this regard?

MR. ERNST: It seems to me the only statement we could make, in the absence of seeing the rules and regulations, is to suggest protective measures and suggest that they be applied to all - left, right, everybody. Beyond that I don't see how it will fit in.

BISHOP SHERRILL: I think we have got a very weak statement to make which might be interpreted as being sympathetic to disloyal groups in protecting their civil rights.

DR. DICKEY: I don't hold that view at all; and furthermore, I think that the statement which Mr. Ernst made should be answered in this Committee, and decidedly answered.

I think that there is nothing purer in this country than the right to be free from political persecution. As a matter of fact, if you want to talk about Americanism, there has been persecution in this country and prejudice on religious and racial grounds from the very time that the Pilgrims landed here. And the one thing that is in the stream of pure Americanism is that a person is entitled to political freedom, and the protection of that political freedom and the holding of those political beliefs.

I emphatically disagree with any limitation of this Committee's jurisdiction, which relates to civil rights and has

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not been defined by the Committee to be restricted to racial, religious or national origin definition, however important I think those types of prejudice are.

Every fellow that speaks on this side of the issue has to make a 20-minute speech for the other fellow's 10 concerning his abhorrence of the Communists, and I am just going to state that I could make a 25-minute speech and --

MR. ROOSEVELT: Outdo us all.

DR. DICKEY: At least a few of you, and pass it up.

I spent 11 years, off and on, in the State Department, and I know the operation of that organization pretty well, and I don't think I have ever given any reason to have my fundamental loyalty called in question. At the same time, I saw things taking place in that Department in running down people and asking for their resignations which were disgraceful and which I, as an American citizen, want to have no part whatsoever in, which were a deprivation of civil rights in the purest sense, insofar as I know civil rights. And I am unwilling to believe that if the President of the United States sets up a Committee on Civil Rights ^{he} ~~is~~ bars from the consideration of that Committee any reference to this type of activity on the part of his Government, because we shouldn't lose sight of the fact that originally the whole protection

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of civil rights in this country was a problem of protection against governmental action, and that is what we are up against today in this field.

Now beyond that statement concerning the definition of our jurisdiction, which I feel very strongly about, I would only say with respect to Bishop Sherrill's point and Morris Ernst's, that I don't think we are in a position to go into the detail of this question. All I would urge is that the Committee indicate its awareness of an extremely critical question in the area of private civil rights in this country in respect to this matter of loyalties, political loyalties, and that it indicate that it is not satisfied that the matter is presently sufficiently safeguarded, and that it will require future attention either by the permanent Committee which we are going to recommend, I hope, or by some other continuing agency.

Now to say that many thoughtful people are dissatisfied with the present situation is to state a truism, and I think Morris Ernst would agree with that, and the mere fact that the Civil Liberties Committee is working on it and that I am on a couple of Foundation Boards which have been asked for grants to look into this question, is of itself proof that things are not shipshape on this front.

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I would consider it a major misfortune for this Committee to indicate that civil rights are solely those of race, color, national origin and religious creed.

RABBI GITTELSON: I would like to subscribe to that statement, Mr. Chairman.

MR. ROOSEVELT: I agree.

RABBI GITTELSON: It does not minimize at all our concern with discrimination on those other bases to say that political discrimination also enters into the picture. It is not the civil rights of the Communists or the Fascists we are concerned with; it is the civil rights of legitimate, liberal-thinking Americans who, in a period of intense reaction into which we are ^{drifting,} ~~all well settled~~, that kind of protection of civil rights is very, very basically needed.

I think the political climate of Washington today is such that anybody who ever had an original thought is doing one of two things: either looking over his shoulder to see who is following him, or trying to get out of government as fast as he can. And that goes to the basic roots of civil rights by way of protecting people against political persecution.

The easiest thing in the world is to tar anyone who deviates from a reactionary norm with the label of Communist,

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and while I agree with Morris that we are not the body to set up the specific machinery or mechanics of protecting that, I also feel with John Dickey that you simply cannot ignore it, and you must at the very least point to the great danger involved there and urge that proper safeguards be set up.

MR. ERNST: May I ask both Dr. Dickey and Rabbi Gittelson, would they be content, when we list up, as I think we will have to, a long list of subjects which would be the groundwork for this new continuing Committee, to add a close supervision of the loyalty oath practices? Would that satisfy you, or do you think we ought to go further?

DR. DICKEY: I think --

MR. SHISHKIN: I think before we get into the discussion of that aspect of it --

MR. ERNST: As I understand the position of these two people, is that what you would like?

DR. DICKEY: Yes, I would like to have that, and a statement that this is an extremely important sector of the civil rights problem today.

MR. ERNST: To the point of condemning the practice of the loyalty --

DR. DICKEY: Not of condemning it, but to have it examined at the present point, and the administration of it with the

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greatest care.

Now let me cite evidence which was offered before this Committee. Clark appeared before this Committee, and if you want my frank opinion, Clark was singularly naive with respect to the operation of this problem in the Federal Government. He said that no Cabinet Officer wanted to persecute any individual down the line. Of course no Cabinet Officer wants to persecute any individual down the line, but the fact is that the Cabinet Officer has to delegate this authority to an Assistant Secretary, and the Assistant Secretary delegates it to an administrative assistant, and that administrative assistant is so scared by this responsibility that is imposed upon him by the Cabinet Officer that he chases any dissident individual up a dark alley, or some of them do, and I can name names if need be, and simply asks for their resignation on unspecified grounds.

MR. ERNST: You can't argue with me on it. I haven't been at the conferences in Washington with Clark, but James Lawrence Fly and people like that have been down there working out the very protective regulations that I think would satisfy this Committee.

MR. CARR: Can't this Committee perhaps agree --

MR. SHISHKIN: Before we get into the phases as to what

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we will do, instead. I would like to make a comment on this and hear some of the other members of the Committee on it.

It seems to me that we have a very difficult problem here. We have several specific points which we have to consider.

In the first place, we have to consider that our responsibility is to the President. We have to consider that the loyalty order was the President's order, and therefore, in any recommendation made to the President, one phase; and our recommendation being made public, another phase - they are two separate considerations.

But we have to recognize this, it seems to me, as far as my general approach to this is concerned - and I am not going to make any exculpatory speeches, ~~as you didn't~~ - but in a general approach to this I think it has to be recognized at this stage as a practical consideration on the part of this Committee and its responsibility that we, in a democracy, do have to devise some special techniques that may not have been valid a hundred years ago or fifty years ago or twenty years ago, in order to meet the kind of problem with which we are confronted, - and this is an answer to part of a pressure for that technique of the kind of a Communist penetration that we have had in the Government, and which there has been evidence of, and we are all familiar with that and other kinds of penetration

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that we have had, but at the same time to also respond - and I think we have a very heavy responsibility on this score, ~~the~~ ~~(?)~~ that was created artificially. The loyalty order was drawn up very hurriedly in its final stage, and it was drawn up and issued to anticipate; it was a political move, in a sense. The result is that the order itself is extremely defective in establishing safeguards to the individuals that might be affected.

MR. ERNST: Totally defective.

MR. SHISHKIN: We are now informed through our good friend here that steps are being taken in the administration of the order to correct some of these defects, by providing rules and regulations under it.

Well, for one thing, I would like to have had, on the part of this Committee, a kind of a contact with the Department of Justice in this work to inform the Committee as to what are the general areas of recommendation, so that the order itself could have been corrected eventually.

MR. CARR: We sent a letter to the Attorney General on that point, which has never been answered.

MR. SHISHKIN: That is unfortunate. There are some specific considerations that even without that we could do on our own.

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I think Morris has cited a couple of instances which exaggerate the problem to some extent; I mean I would go along, for example, with a number of specific recommendations that he is probably making which would deal with the kind of an illustration that he used - I mean Acheson to Molotov by way of an underground channel overnight, which involved administrative actions of direct national security. There are many areas today in which we are operating in which that question is directly concerned, but when we match this kind of a thing to the administration of Federal responsibilities in the areas that have absolutely no relationship whatsoever to that immediate area of concern with the direct execution of the public policy dealing with our international relations or dealing with our military installation or directly related to national defense, of course we open, in many Departments and agencies, throwing the doors wide open to the kind of irresponsibility under the administrative directive of some person.

Now I would like to have access to information which would enable this Committee to make tangible recommendations, specific recommendations, in which the application of this order could provide proper safeguards; in which the order could be modified in order to make assurance for the opportunity for the use of counsel; of the right to appeal, which

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is denied as the order is now drawn, except perhaps by rules and regulations that I haven't seen yet, and those seem to me important. And I think as a final step in that, and a direct outgrowth of that, an indication on the part of the Committee that we have a responsibility here for the right of a citizen against political persecution as such, and that there is a continuing responsibility on the part of the Committee that we recommend for that to indicate that this is not a hysteria thing, it is not an immediate thing, it is not our being on the verge of a war; this is a continuing responsibility which we must exercise over a period of time.

And that kind of a recommendation, I think, if it is left out by us, would weaken greatly the status of this Committee and its force and effectiveness as a whole. I think that just that one omission will be a glaring one.

RABBI GITTELSON: Along the lines of Boris' concern that we make specific recommendations, there are such recommendations actually spelled out on page 18-A in our discussion sheets, for one thing. We can add others, if they are desired, on a further consideration of the work that Morris Ernst has told us about.

So that can be done, and I agree with Boris that it should be done.

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As far as his comment about our being a Presidential Committee is concerned, and the fact that the Loyalty Order was likewise issued by the President, I could see where we would be going out on the end of a limb were we to say the Loyalty Order should not have been issued, but I don't think anybody proposes to say that. We propose to go along with the President's Loyalty Order, but to hold up a warning finger and say, "Unless it is administered carefully, we are going to violate the civil rights of a substantial number of our citizens on political grounds."

I think possibly, Mr. Chairman, the reason I feel as vehemently as I do on this point, which probably accounts for most of our personal attitudes, is on a basis of intimate personal experience. I have seen in the United States Navy an officer not only suspect but put under official investigation by Naval Intelligence during the war for no reason other than that he once committed the indiscretion of writing to a labor union for certain labor union literature. That can happen in the Navy during the war, and in the present political climate of the country it can happen in civilian life, too, and I think we have a very definite obligation to defend the civil rights of the liberal, non-Fascist, non-Communist American.

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MR. ROOSEVELT: I have one question - really it is more of a question than anything else.

I asked the question of Mr. John Edgar Hoover about a week ago as to whether the rules as drawn up, as Morris says they will be, if you got in another administration where the administration of the existing President's order might be viewed in a different light, whether an entirely different set of rules violating all the principles of which Dr. Dickey talks, ~~about political freedom~~, whether those rules wouldn't be perfectly easily put into effect; and his answer was, "Unfortunately, yes", and I said, "Well, John, don't you think we ought to change the order, then", and he said, rather sweetly, "I think it might be a good thing to do it now." And I think that is indicative of the fact that perhaps we shouldn't worry too much about the fact that the President did issue this order and we are a Presidential Committee. I think we ought to point out the troubles with it, and try to get an amendment or a revision, complete revision of the order, rather than worrying about the specific rules under this order.

MR. SHISHKIN: I asked that question of Tom Clark in our Committee meeting at the White House when he appeared before the Committee, as to what would happen if his benevolent presence was no longer there and with the possibility of having

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another change in administration, ~~and as utilizing this order for that,~~ and he said they didn't have an answer for it.

MR. ERNST: My position on that at first was that we ought not to have a Presidential order at all; that this is important enough, if it is important at all, to have legislation.

The more our group surveyed it, the more we felt we would get something worse under Congressional action. We were afraid ~~so far~~ to recommend legislation.

My only point is not as to the need of scrutiny in the violations that occur, but as to whether it is wise for this Committee to get into it; and if so, on what level. My recommendation would be that if the Committee touched on it at all, it touch on it solely on the ground that there will be equal protection under the law, so to speak, so as to make sure they don't only look at the Communists, but also at the people on the Fascist front. That would be our entrance to it. It is a much more difficult entrance, much more difficult to prove.

MR. CARR: That is a pretty narrow entrance, isn't it?

DR. DICKEY: I am getting very annoyed, myself, with having my name recorded down there because I am a member of the Committee on Civil Rights and because I am not a Bishop. Anyone that espouses civil rights in this country today, short of

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being a Bishop, is suspected of being a Communist.

This thing has gotten to a frightful position, as far as I am concerned, and I think 25 years from now, if we are here, we will look back on this and regard it as something comparable to the Mitchell Palmer era in America.

MR. ERNST: Yes, but I think nobody around the table has been called a Communist more often than I have. ~~My appointment was held up in the State Legislature because I was a member of the Communist Party, so to speak.~~ The question is, what is the device we are going to use against an underground penetration? It is not easy.

As Boris said, we will have to devise some totally new techniques; and frankly what I have been talking about, ~~the~~ disclosure, is the only answer I can see.

DR. DICKEY: I don't really quarrel with this Loyalty Order, and I don't think this Committee can go into the details of the subject, but I think that the definition of "civil rights" with which this Committee is concerned should be made explicitly to include the political rights of the citizen. We should be clear that it covers that.

MR. ERNST: If it is the function of the Committee, I will go along, if you believe it is wise of the Committee to take it on to the full extent of specific recommendations, or

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a mere caveat that it is a dangerous move; but my own position is that while it isn't the best we can do, it is a ~~hell of~~ ^{devilish} a problem that the world is facing for the first time. If you read the Canadian Reports, one of the most exciting detective stories ever published, -you can get it from Canada for a dollar, -you will see exactly what we are up against.

DR. DICKEY: I agree with that, and I have worked on throwing some of these birds out.

MR. TOBIAS: Nobody seems to be aware of the danger that we are up against from these confessed disloyal Americans. Yet you have got to witness Frank Graham's loyalty being questioned by Rankin. That is the situation you are up against.

DR. DICKEY: That is right. He couldn't get a job today in the Federal Government, I will bet you a dollar. He couldn't be employed, I will say furthermore that I bet you without any question, by the Atomic Energy Commission, in view of the checks that are being made.

RABBI GITTELSOHN: May I go a little farther and say that if he weren't already, fortunately, the President of a university, he probably wouldn't get a teaching job in a university, because his name has been mentioned in this manner.

DR. DICKEY: As long as that situation exists and gets worse, the chances of getting at things like lynching and

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other things diminish.

MR. CARR: I would merely like to add to the discussion, as one who has seen the correspondence that has come over the Committee's collective desk, so to speak, that if the Committee fails to recognize that there is such a thing as civil rights of government employees, and that those civil rights are in danger, you are going to be subject to a good deal of criticism. Maybe you are willing to risk that.

MR. ERNST: I am not arguing against that. I am arguing against the opportuneness of this Committee directing itself to it.

RABBI GITTELSON: Mr. Chairman, in order to crystallize the discussion and try to bring it to a head, may I move that the staff be directed to include, in some manner, shape or form, the following two points in re the President's Loyalty Order:

1. That it be directed against the extremes of the Right as well as the Left; and
2. That every caution be taken to safeguard the civil rights of non-Communist and non-Fascist Americans.

Let the staff work out the specific terms of spelling that out, but I would like to have both those points included.

MR. ROOSEVELT: The political civil rights.

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RABBI GITTELSON: Yes.

MR. ERNST: Probably by the time you work it out, you will have the regulations.

BISHOP SHERRILL: I agree with Dr. Dickey that that is a problem of ours; but I think this field is so complex, that we haven't all the evidence, that you make a misstep here, - and we could spend hours and days just working on this, - it could be a very critical misstep for our whole report; and it would steal the entire show, if we made a misstep, away from everything else we were trying to do.

I would rather see Dr. Dickey's suggestion that we point out the seriousness of the situation, and that the watching of it be referred to the permanent Commission that we hope is to be appointed.

MR. ERNST: That is all right by me.

BISHOP SHERRILL: That we are not blind to the fact, we know it, but I just don't see how we can go into all the details of this.

MR. ROOSEVELT: Maybe after they get this written up we may strike out any direct reference to the President's order, because in that way we don't highlight that particular thing.

MR. TOBIAS: That is why I like Rabbi Gittelson's two-

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point statement, I think it covers the ground.

MR. ROOSEVELT: His statement of "in re the President's Order", I think when we get it written we may leave out any mention of it.

DR. DICKEY: There is one point I would like to add in support of Bishop Sherrill's point, and I am sorry if I have given a false impression. This isn't just the President's Loyalty Order. As a matter of fact, that is a very small aspect of it. I am in complete agreement with you that they had to do something. This is an attitude, - and this Committee is concerned with attitudes, - that is ~~permeating~~ ^{pervading} this country, the Rankins and the others - one needn't say more - but it is broader than the President's Loyalty Order, and it is not a technical approach which the Civil Liberties and your group are properly concerned in dealing with. This is a broad attitude of civil rights which I would like to see concern expressed about, and a firm charge left with the continuing agency to see to it that American citizens have that freedom. And the points which Rabbi Gittelson embraced in his motion seem to me pertinent but not all-embracing.

RABBI GITTELSON: I agree with you that it is an all-embracing problem. That is why I purposely used the phrase "the political climate of Washington" several times, and I am

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using the President's Order only as a peg to hang the thing on. I will quite agree that in the end we may take the scaffold out after the building is built.

DR. DICKEY: I second the motion.

MR. WILSON: Are there any further remarks?

MR. SHISHKIN: I was wondering about the differentiation that was made in the staff memorandum between the substantive and the procedural aspects of this. It seemed to me that the Cushman recommendations on this were extremely sound on the question of safeguards, and I thought that if there is a statement made in general, without reference necessarily to the Loyalty Order itself, but those points that were singled out here, to emphasize those, that those are the safeguards that are necessary, that it would go well into our memorandum. I think those things are important, and I am constantly appalled on the other side by the naivete that John Dickey has mentioned.

While this whole thing is going on, there are people not covered by this - appointments made to the staff of the U.N. aren't subject to this, for example. Some of them were weird. One member of the Cabinet has appointed, since this, a special assistant, who has access to all the Cabinet stuff, who is -- I mean to my mind his affiliations are such that it just shouldn't

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be permitted. So it seems to me that the clarification of our view on this, pointing to the problem and accepting it as a problem, and at the same time recommending specific safeguards, will be a very real contribution that we can make.

MR. ERNST: I might suggest that the office consider, when they draw up the statement, that they not overlook the fact, that democracy and civil rights and political rights are under a new kind of attack, because up to now we have never had organizations with increasing power operating under cover. We had the Black Hand, and that kind of stuff, under cover, but for the first time in history we have got to develop some new techniques as to what to do with sneaks and cowards and people who don't stand up. I think if that is in there - that has been the position of the Civil Liberties Union, that this is the new danger, and there are no new techniques worth anything yet.

MR. WILSON: Are you ready for the question?

Will all who favor the motion, which has been duly seconded, if I remember correctly, vote "aye"; contrary minded "no".

It is unanimously carried.

Decision Paper No. 19
We will now go to page 19.

MR. ERNST: This certainly falls in our province, peace-time sedition acts. It is not much used, if you please, but

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certainly a peril and a threat, in my opinion, more clearly than the loyalty oath. It is from these procedures that the loyalty oath stems.

RABBI GITTELSON: Do we have any material on this?

MR. ERNST: I am bitterly opposed to outlawing the Communist Party, I would never sign any report that recommended outlawing the Communist Party, because if anything, I would like to force them on the ballot. The danger isn't what people think it is when they want to outlaw the Party.

MR. WILSON: On what ground would you like to keep them, Rabbi?

RABBI GITTELSON: I want to know who they are, I don't want to make martyrs of them.

MR. CARR: Nos. 1 and 2 are quite different proposals. No. 2 certainly doesn't depend upon No. 1.

MR. ERNST: I will move Nos. 1(a) and (b), Mr. Chairman.

MR. WILSON: Is there any objection to 1(a) and (b)?

DR. DICKEY: Do we know what is the nature of the revision or repeal which you have in mind, Morris?

MR. ERNST: I take the repeal. I see no reason in a peacetime society for a sedition act.

MR. CARR: This has been recommended again and again by experts. The Commission on the Freedom of the Press recommended

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repeal of the Sedition Act.

MR. WILSON: So it is really repeal we are voting for?

MR. CARR: In peacetime only.

MR. WILSON: That is right.

MR. ROOSEVELT: Let me get this clear. Is it your position that the Loyalty Oath affects or makes obsolete the Sedition laws?

MR. ERNST: No, no. I said they stem from the same, and if we are going to be worried about the Loyalty Oath as we should be, or somebody should be, then we ought to come out clearly for the repeal of the peacetime Sedition Act.

MR. CARR: That it is more of the same thing, and even worse; that the peacetime Sedition Law is an even more dangerous thing to have floating around for possible use against individuals than the Loyalty Order.

MR. ERNST: Yes. I would have raised the question as to whether this fitted into the work of the Committee. Having taken the position we have, and I voted for it, on the Loyalty Oath, I would do the same on this.

MR. ROOSEVELT: What do you do with somebody that openly advocates overthrow by force of the Federal Government?

MR. ERNST: I wouldn't worry about it unless it were an overt act, and then I would get them.

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MR. CARR: Using other criminal statutes?

MR. ERNST: Yes.

MR. ROOSEVELT: What other measures - "I advocate the overthrow of the Government by force; join me".

MR. ERNST: I would wait, in peacetime, for some overt act and not send a man to jail for a mere expression of opinion.

MR. ROOSEVELT: In ten years will you and I be able to sit down in your cellar on 14th Street and be able to build ourselves our own atomic bomb and leave it in the suitcase?

MR. ERNST: No, but in order to protect the right of free speech generally, I wouldn't put people in jail for words they utter.

MR. ROOSEVELT: Supposing they carry it to organizations?

MR. ERNST: I want an overt act.

MR. ROOSEVELT: I can't go along with that. I don't see quite how you jump from the previous page to repeal of the Sedition Laws. Maybe I am too slow, but I don't follow that.

MR. CARR: I think the argument of those who made the same recommendation is that the record is bad, that any use that has ever been made of criminal anarchy laws or sedition laws is bad; that they are used to suppress freedom of speech, and almost never used to accomplish protection of society by

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getting at really dangerous people.

MRS. ALEXANDER: Mr. Chairman, I note on page 19-A a statement that whether existing legislation effective only in wartime requires revision has not been studied, but might be explored by a permanent Commission. If it hasn't been studied -

MR. CARR: That is wartime. This is peacetime.

MRS. ALEXANDER: This is peacetime sedition?

MR. SHISHKIN: Peacetime.

MR. ERNST: We could, if you want to, put this in with the Loyalty observations and refer both with a caveat for attention and care.

MR. ROOSEVELT: I would go along with revision of peacetime sedition laws to guarantee all the freedoms and civil rights which we have been talking about in the Loyalty Order, but I think just to say that there should be repeal of the sedition laws, and thereby to have the interpretation that there is no such thing as peacetime sedition, is almost a preposterous statement in a community which lives under a government of order and law.

MR. ERNST: These laws do not require any action by the people.

MR. ROOSEVELT: I will go along with revision, but I won't go along with repeal.

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MR. ERNST: I would like to see what the revision is.

MR. CARR: One of my staff whispers that from 1798^{to 1940} there was no peacetime sedition act, ~~until 1940~~.

RABBI GITTELSOHN: When was the Act of 1798 repealed?

WECHSLER
MRS. ~~WECHSLER~~: I am not sure of the exact date, but between the date of the repeal and 1940 there was no peacetime sedition act.

MR. CARR: I am not sure that Mr. Roosevelt doesn't have a point. Is it really necessary for this Committee to recommend outright repeal, to state flatly that there cannot be such a thing as a peacetime sedition act that has any validity?

MR. ROOSEVELT: That is the danger. I would say there should be a very careful reexamination of the present peacetime sedition laws, and the recommendations and revisions which might repeal many of the existing provisions which might inflict hardship on freedom of speech, and so forth. But in these days I just think it is terrible to say, even though we are at peace, that you can't have sedition and can't be punished for it.

MR. ERNST: If you leave them on the books, they are a constant threat and peril.

MR. ROOSEVELT: Not if they are properly revised.

MR. ERNST: I would prefer that the Committee feel that

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it wasn't within its province.

RABBI GITTELSOHN: We felt a moment ago, on the Loyalty Order, that we would draw up some kind of statement using the Loyalty Order as a scaffold, so to speak, and that later we might take the scaffold out and have a broad statement with or without specific references to the Loyalty Order. Might that broad statement not also serve for this field, without specific mention of this? What we are concerned with is protection of the citizen against abuses along both of these lines, and possibly one statement will take care of both.

MR. WILSON: You are afraid to leave it as it is?

MR. CARR: There has been a little argument as to whether it should be revision or repeal.

MR. ERNST: Have you got in mind a revision?

MR. CARR: No.

MR. ERNST: Nobody else here has, either, I imagine.

MR. CARR: Can't this Committee take a perfectly honest, valid position by pointing to the danger and requesting careful consideration and further study, without flatly advocating the repeal of all peacetime sedition laws?

DR. DICKEY: I think that is reasonable.

MR. ERNST: It could be. I think it doesn't help the total report of the Committee to touch it at all.

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MR. MATTHEWS: I think you are right.

MR. ERNST: Any observation on this will be picked up in the headlines, and they will ask you what do you mean by "revision"; and if they ask any member of the Committee, there isn't any member, I imagine, that could say what they meant.

DR. DICKEY: Refer them to you.

MR. ERNST: I am not for the revision.

MR. CARR: Isn't repeal a form of revision?

RABBI GITTELSOHN: Mr. Chairman, if that is a consensus of opinion, let's decide right now to leave it out and not touch it at all. I am sure none of us wants to weaken the Committee's position.

MR. WILSON: You mean not to put it in the report?

RABBI GITTELSOHN: Yes.

MR. WILSON: I would rather do that than, from what I have heard, urge its repeal.

BISHOP SHERRILL: I am afraid of peppering everything with a shotgun and getting nothing done, and the papers hitting one thing - Loyalty Order or Sedition - making that a headline, and as a result we would throw all our efforts with relation to Negroes, Jews and everything else, out of public attention, and this is the one thing that editorials are written on and I don't think either of them are worth it,

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in the light of the major task before us.

MR. ERNST: I would have no objection if the report said "We have not talked on the following subjects", and Bob has a list that could fit it in.

MRS. ALEXANDER: We ^{can't} ~~couldn't~~ cover the whole waterfront.

MR. WILSON: Unless there is objection, we will not recommend its repeal.

RABBI GITTELSOHN: Does that mean we are going to avoid No. 2, also, on this page?

MR. ERNST: Is anybody in favor of getting into that?

MR. ROOSEVELT: I think that No. 2(a) will be covered in the structure that you build in page 18, and so will 2(b).

DR. DICKEY: And the other is on detail.

RABBI GITTELSOHN: No. 2(c) comes under the same heading.

MR. WILSON: Unless there is objection, we will stand adjourned until tomorrow morning at 9:00 o'clock.

(Whereupon, at 10:10 o'clock p.m., the Committee adjourned until 9:00 o'clock a.m., Tuesday, July 1, 1947.)

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