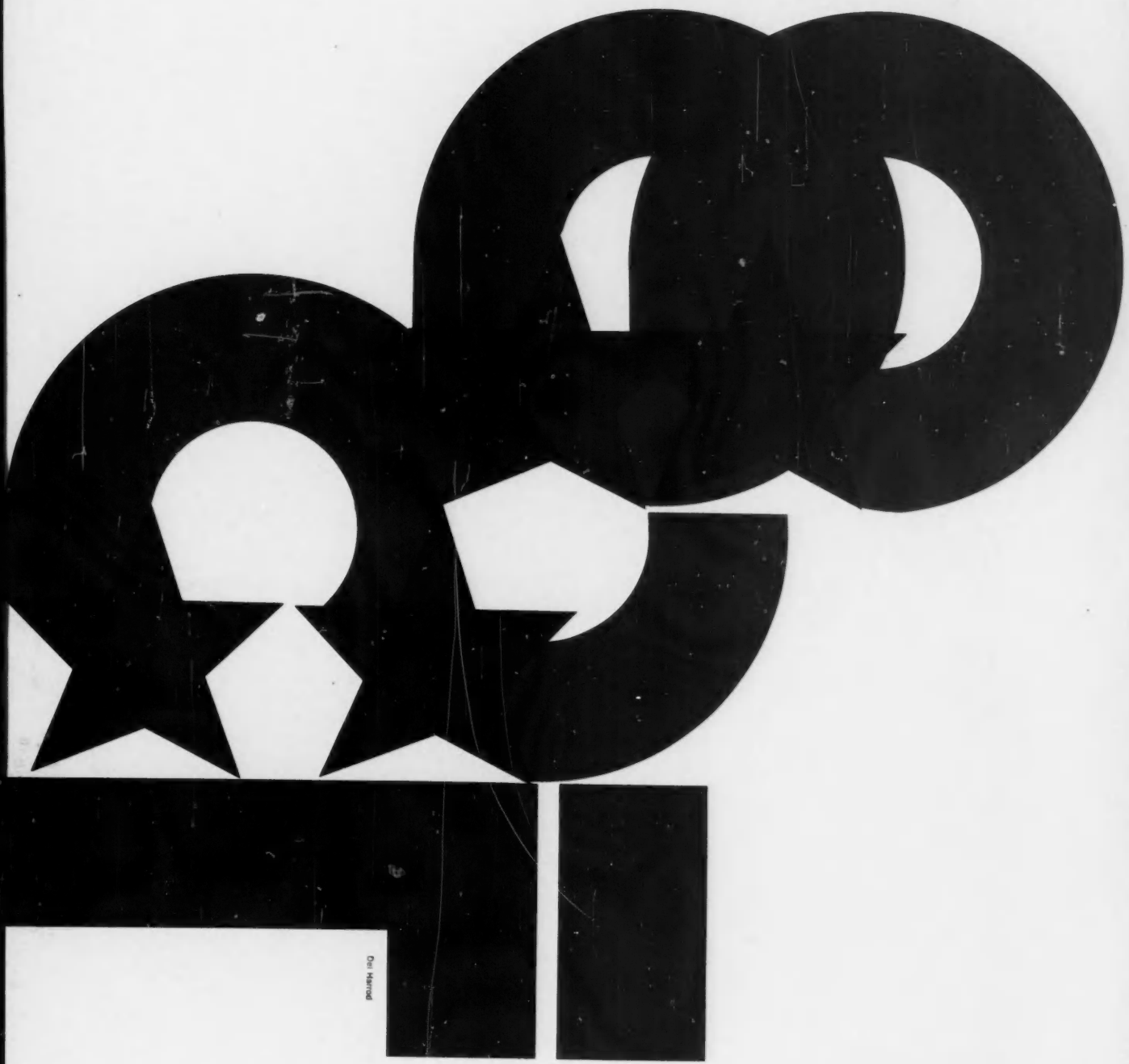
SUMMER 1976

civil rights digest



A BICENTENNIAL ISSUE

IN THIS ISSUE . . . we take note of the bicentennial celebration of the Declaration of Independence. Birthdays have a way of coming up whether one wants them or not, and bicentennials are no different. This country has achieved a great deal, considering its flawed foundations, but much that has given us hope has happened all too recently.

This year marks only the 12th anniversay of the act outlawing segregation in public accommodations, and only the 11th anniversary of the law ensuring blacks the right to vote. Only 23 years ago, school segregation was constitutional and only in the last decade has the drive for equal employment gained real victories. These are sobering realities.

Much remains to be accomplished. Our political democracy is weakened by economic inequality, and this problem will be much harder to solve than any of the others we have so far surmounted. The individual achievements of women and minority men have yet to be matched by progress across the board; statistics on earnings, employment, and particularly the distribution of wealth confront us like stone walls.

For this reason, we celebrate the bicentennial in this issue in somewhat guarded fashion. While our authors do not heap blame, neither do they sing praises. Rather, we try in this issue to do what we attempted in the last issue and the issue before that—to point to our progress and our problems and, with any luck, to some solutions. At the same time, we have taken advantage of the occasion to include some broad views of the past and future, particularly in the articles by Howard Meyer, Paul Hencke, and Martin Kilson, as well as two examinations of the present, by Moses Lukaczer and Shirley Hill Witt. We hope this mixture suits the temper of the times by examining where we've been without losing sight of how far we have yet to go.

For more copies of the *Digest* or inclusion on our free mailing list, please write to the Editor, *Civil Rights Digest,* U. S. Commission on Civil Rights, Washington, D.C. 20425.

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The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 to:

Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;

Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;

Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and

Submit reports, findings, and recommendations to the President and Congress.

In Memoriam: Robert S. Rankin

Dr. Robert S. Rankin, a long time member of the U.S. Commission on Civil Rights, died June 4. We asked Howard Glickstein, former staff director and general counsel of the Commission, to reflect on Dr. Rankin's contributions to the Commission and to the struggle for human rights.

Whether conduct is "courageous" or "principled" often depends upon the time, place, and circumstances in which it occurs. In 1976, it would not be an act of courage for a black person to roam freely through a bus terminal in Montgomery, Alabama. In 1961, it was. In 1976, no deep moral principle would be furthered by a black student sitting down at a lunch counter in Greensboro, North Carolina. Quite the contrary was true in 1960. Rapid change frequently alters our perceptions of the significance of particular conduct. As we mourn the death of Robert Rankin, we should not lose sight of the great courage displayed by this North Carolina college professor in accepting an appointment to the U.S. Commission on Civil Rights in 1959.

Dr. Rankin was not appointed to the Commission as an advocate of a particular point of view. He was a distinguished political scientist, an authority on constitutional history, and a man of impeccable integrity. As a man firmly committed to the principle of equal justice under law, he must have known that the positions he would be compelled to take as a member of the Commission would not be popular with the vast majority of people in his part of the country. He accepted this responsibility, however, knowing that it would entail many sacrifices for himself and his family.

And Dr. Rankin struggled to find just solutions to the problems that came before the Commission, problems that frequently required the balancing of many opposing interests. His views were consistent and fair, and he was not carried away by the fashions of the moment. He tried to get to the heart of issues. At Commission hearings he often asked questions that seemed somewhat folksy and, to lawyers, somewhat irrelevant, but it soon became clear that his questions revealed what was really at stake. Earl Warren illuminated controversies before the Supreme Court by simply asking whether positions were fair. Dr. Rankin had the same disarming way of reaching to the core of an issue in search of a just solution.

To the deliberations of the Commission, Dr. Rankin brought the knowledge of a scholar, the finesse of a master of the political process, and the decency of a man with deep humanitarian instincts. He devoted great time and attention to Commission reports and had a profound impact on all the questions which came before the Commission during his years of service. He was respected and admired by his colleagues and regarded as a friend and counsellor by the Commission staff.

When the history of the civil rights movement is written, the heroes will not only be Northerners going South. The heroes also will include brave Southerners like Robert Rankin who remained in their communities and fought, struggled, and sacrificed to give meaning to the promise of equality found in our Constitution.

HONOR ITS PROMISES

THE FALL AND RISE OF THE 14TH AMENDMENT

By Howard N. Meyer

Having celebrated on July 4, 1976, the proclamation of certain self-evident truths 200 years ago, we should now clear our heads, straighten out our thinking, and begin to plan for the real bicentennial. Some years ago, the concept that 1976 was this Nation's 200th birthday took hold with irresistible force. A few initial dissenters correctly urged that we did not attain nationhood until the former colonies surrendered their sovereignty in 1789 to the "United States of America" founded at that time. They were ignored and disappeared, these dissenters, but their point was not merely pedantic.

With the good and bad of the recent revels over with, it is now time to consider the 200th anniversary of the Constitution produced by the Philadelphia convention of 1787, the document that produced a Nation. An appropriate point of reference is furnished by the echoes of the numerous published and spoken readings from the unanimous July 4, 1776, declaration of the Continental Congress of the United Colonies, explaining their rejection of British rule and saying something more.

The leaders of the revolution did not merely reject King George's rule. They took the affirmative step of asserting the equality of all persons and their inalienable rights to life, liberty, and pursuit of happiness. They insisted that the powers of government are "just" only when derived from the consent of the governed, and they added that the right always existed to alter or abolish a form of government destructive of such principles.

Those "self-evident truths" proclaimed during the first American Revolution were not embodied in the first American Constitution. This was quickly recognized and became part of the struggle over ratification that produced the first ten amendments, the Bill of Rights. But these gave only partial and imperfect recognition to the principles proclaimed in the 1776 Declaration.

It is passed over as a truism that the human equality declared in 1776 was ignored by the framers of 1787. We are less conscious of the fact that the powers of government were wielded primarily by the States and that the original Federal charter did not require "consent of the governed" at the State level, nor secure it well on the national. Too few realize that, complementing these infirmities, even the great guarantees of the Bill of Rights—the embodiment of the principle of protection of life, liberty, and the pursuit of happiness—were safeguards only against the actions of the Washington government, and were not in the least a shield of protection against State and local officials.

With such imperfections, the 1789 Constitution, even as made more attractive by the 1791 Bill of

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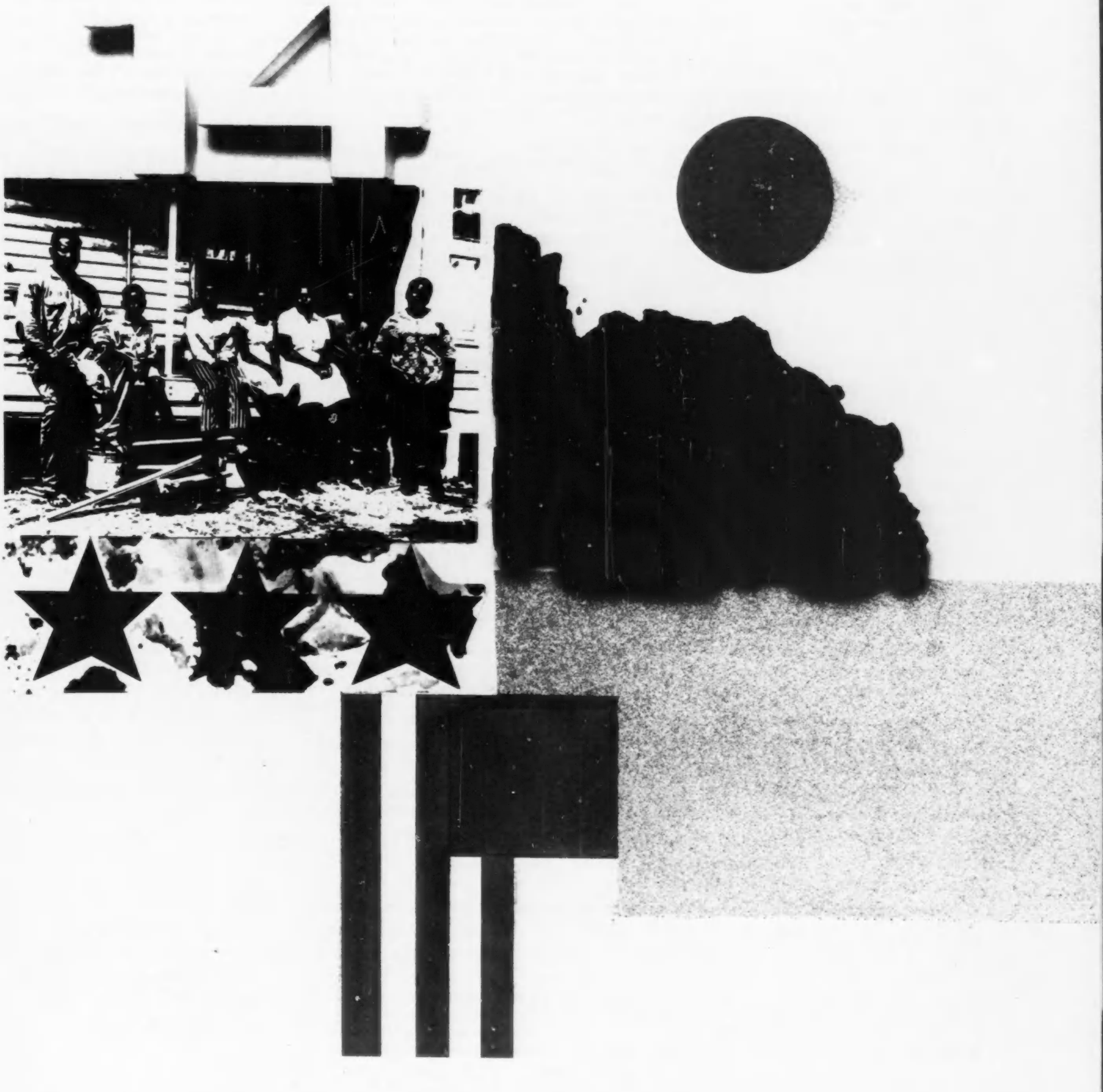
Howard N. Meyer, a New York attorney and formerly special assistant to the U.S. Attorney General, is the author of the book, The Amendment That Refused to Die.



THE DECLARATION OF INDEPENDENCE

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it, and institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. . . .

We therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these Colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be Free and Independent States; that they are absolved from all allegiance to the British Crown, and that all political connections between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Indpendent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

THE CONSTITUTION

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the purpose or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE XIV

Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Rights, hardly qualified for the rating given on its first centennial by British statesman William E. Gladstone: "the most wonderful work ever struck off at a given time by the brain and purpose of man." It failed for the first 70 years in its declared purpose: "to form a more perfect union, establish justice, ensure Domestic Tranquility. . . ." By 1861 the Union had all but foundered. "Domestic Tranquility" dissolved after three decades of struggle. "Justice" was denied to whites and blacks if either spoke out on slavery or any of its aspects.

The Second Revolution

The Civil War, consequence of the first Constitution's failure, has been called the "second American Revolution." The phrase means different things to different people, but it certainly is acceptable from the point of view of constitutional history. The revolution consisted of the response to the rebellion of the slave States. It was measured in the shift from the initial position that sought to restore the "union as it was" to the understanding that the government built and based on the 1787 compromise with slavery had to be "altered and abolished."

The decision was not made overnight, nor was it made during the War alone. The frontlines were neither at the barricades nor on the battlefields but in the halls of Congress. Envisioned in place of the 1789–1861 form of government was a reconstructed Union. This revolutionary change was brought about through a second American Constitution. It was not necessary to tear up and rewrite the first; in a few dozen words the 14th amendment incorporated the slogans of the first American revolution into the radically altered second Constitution.

The ideal of equality expressed in 1776 became a practical right—the guarantee of "equal protection of the laws." The inalienable rights to life and liberty (and the pursuit of happiness, translated to "property") were protected in the 1791 Bill of Rights only against wrongful deprivation by the national or Federal government. Now the Federal Congress, Federal courts, Federal marshals—and the U.S. Army if need be—were pledged against actions by States or cities or counties taken "without due process of law."

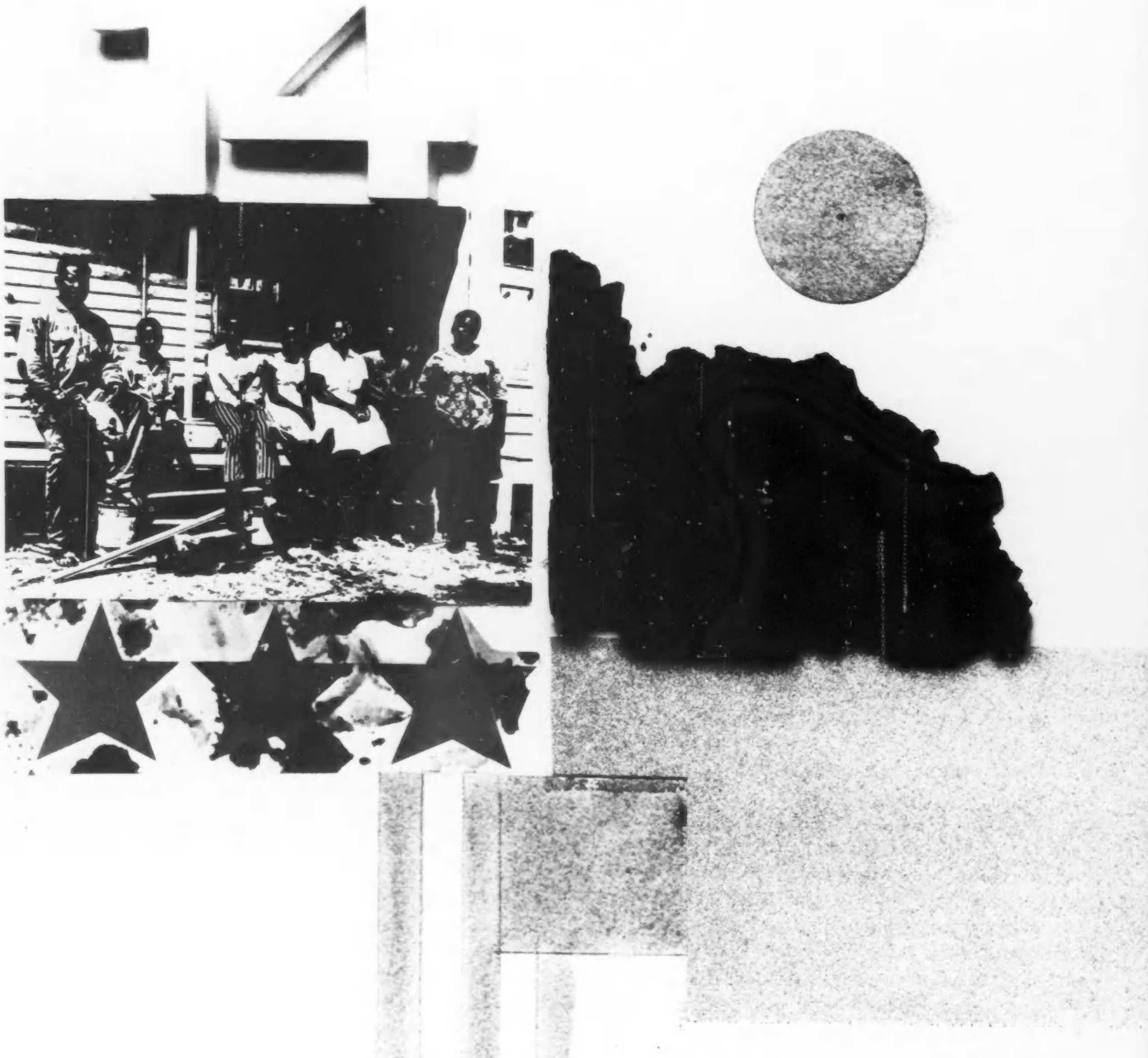
Other "inalieneable rights," not identified by name, nevertheless were clearly recognized in the Declaration. These clearly pertained to the signers' insistence that government must derive "their just powers from the consent of the governed." Omitted from the first Constitution, they were listed in large part in the Bill of Rights—in the first, fourth, and fifth through eighth amendments. However as drawn there (e.g., "*Congress* shall make no law . . .") they furnished no national guarantee of protection against violation by the States, localities, or mobs.

These "Great Rights"—from freedom of speech to immunity from cruel and unusual punishment—had collectively come to be known as the "privileges or immunities" of citizens of the United States. And so, to round out incorporation of the principles of 1776, the new Constitution of 1868 (the year the 14th amendment was ratified) included an assurance that all Americans had previously lacked: "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

To make their meaning crystal clear, the framers of the 14th, the uncelebrated "Founding Fathers" of the second American Constitution, added what they thought would finally eradicate the greatest shortcoming of the first: its capacity to produce such a ruling as the Dred Scott decision. That decision had denied citizenship to and imposed class status upon all Americans of African ancestry. "All persons" they wrote, "ALL PERSONS," born in the United States are citizens of the United States and of the State wherein they reside.

Crystal clear? The framers of the 14th amendment must have thought so, as they put the finishing touches on what they believed to be the measure needed to eliminate the flaws from the Constitution—those omissions that marked its divergence from the Declaration of Independence.

Their intentions were disregarded and their purpose frustrated by a series of Supreme Court decisions that began with the so-called *Slaughterhouse Cases* of 1873—only 5 years after the amendment's ratification—and that continued for many decades. The cumulative effect of these decisions was that the Congress that took us into World War I, half a century after ratification of the 14th, did not have one black representative, though thousands of blacks went out to fight and die ("consent of the governed?"); that segregation, second-class citizenship, and third-class education were the lot of one-tenth of a Nation "created equal"; that the States could deny freedom of speech and jury trial, permit the third degree and other barbarisms, even unto officially condoned and instigated lynching ("certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness"). By the early 1920s, the Constitution as administered by the Supreme Court and the Declaration of 1776 were quite out of alignment once more.



It was not the fault of the Founding Fathers of 1868 that the words they wrote failed to accomplish their objectives. This was freely acknowledged by a fierce opponent of the 14th and what it stood for, William C. Royall, a confederate veteran who had come as a reverse capetbagger to practice law and prosper with professional distinction in New York. Of the *Slaughterhouse* case decision that has served to this day to prevent the "privileges or immunities" branch of the 14th from shielding American citizens against State violations of the Bill of Rights, Royall wrote in 1879:

> Ninety-nine out of every hundred educated men, upon reading this section over, would at first say that it forbade a State to make or enforce a law which abridged any privilege or immunity whatever of one who was a citizen of the United States. . . .

In delicate accord with Royall's statement, a member of the Supreme Court majority still engaged in dismantling 14th amendment guarantees wrote 30 years later:

> Undoubtedly it [the *Slaughterhouse* decision] gave much less effect to the 14th amendment than some of the public men active in framing it intended, and disappointed many others.

How then, in the face of such adversity, was the 14th amendment revived, and to what extent have we honored the promises of the Declaration of Independence as embodied in that amendment? As a people, how can we redeem the pledge of 1868 that our Congress and courts would operate under a Constitution that made meaningful the self-evident truths of 1776 that were somewhat mindlessly celebrated in the Bicentennial Barbecue? These are questions that must be examined in the years preceding the 200th anniversary of a convention whose product had such imperfections that it took a Second American Revolution to correct them.

The Constitution Enforced

It has been a long and patient effort that has revived that constitutional expression of the 1776 Declaration. The betrayal of the second American Constitution made necessary what was in effect a third American Revolution. It has continued for most of this century; its object, a return to the Constitution. It was begun by blacks and quickly joined by other citizens determined to secure the right of Americans of all colors and all ancestries,

immigrants and native born.

The opening salvo fired in this struggle came from a 1906 assembly of black intellectuals meeting in symbolic remembrance of Harpers Ferry. They demanded more than the right to vote, the right to work, and the end of segregation and discrimination. The spokesman who drafted their resolves said:

> Step by step the defenders of the rights of American citizens have retreated. The battle we wage is not for ourselves alone but for all true Americans. We want the laws enforced against rich as well as poor; against Capitalist as well as laborer; against white as well as black. . . . We want justice even for criminals and outlaws. We want the Constitution of the country enforced.

This declaration of 1906, whose 70th anniversary has been noted by none, was written and delivered by W. E. B. DuBois, American and black. Born in 1868, year of the ratification of the 14th amendment, he lived to the eve of the 1963 March on Washington a high point in the people's movement to restore the equal protection guarantee.

DuBois, a poet and historian, social scientist and agitator, is perhaps better known than many of the Americans who played a role in the revitalization of the 14th amendment. There is not space to give credit to them all. One who went down fighting even before DuBois launched the 20th century movement should be remembered, since his effort bore striking, if belated fruit; yet he is not even mentioned in a recent massive history of school segregation cases.

Albion W. Tourgee, carpetbagger extraordinary, was a Union Captain in the Civil War who finished law school after leaving the Army an invalid. To mitigate his medical problems, he moved to a warmer climate and resettled in North Carolina. There he won distinction as leader of blacks and whites who had been loyal to the Union, and ultimately as a lawmaker and a fearless judge. Hounded out of the State after the overthrow of Reconstruction, he told the the truth about that much-distorted period in his then-successful and now nearly forgotten novels, notably *A Fool's Errand* and *Bricks Without Straw*.

But this was not all. Tourgee kept in touch with the flickering, never-to-be-abandoned freedom movement and was delighted to be called upon to advise and then participate in the effort to resist Louisiana's Jim Crow law. His culminating effort was to argue in the Supreme Court for Homer Plessy. He lost. But the brief he wrote reverberated not only in the magnificent dissent of the first Justice Harlan. As the Court of the 1950s was debating whether to reverse *Plessy v. Ferguson*, Justice Robert H. Jackson wrote privately to a friend:

> I have gone to [Tourgee's] old brief filed here, and there is no argument made today that he would not make to the Court. . . . Tourgee's brief was filed April 6, 1896, and now, just 54 years after, the question is again being argued whether his position will be adopted, and what was a defeat for him in '96 be a post mortem victory.

The victory of 1954 cannot be isolated from the past. Nor can the struggle to reinstate equal protection be isolated from the parallel effort to breathe life into those provisions of the 14th amendment designed to secure the other rights promised by the Declaration of Independence. While the injustice of segregation is as inimical to the perpetrator as it is to the victim, it is also true that the guarantees of the 14th other than equal protection are totally race-, color-, and ethnic-neutral.

Turning the Tide

At the beginning of the 20th century, civil liberties and fair procedure in criminal prosecution were as little protected against tyranny and terror in the States as they had been under slavery. The struggle that ensued after the Third Revolution was as much directed at the damage done by the *Slaughter-house* cases to civil liberties as it was to the setbacks to civil rights. Judicial stubborness precluded overruling of the 1873 obliteration of the "privileges or immunities" protection from the 14th. But gradually, step by step, almost as much was won under the curiously elastic label of the "due process" clause.

An early effort that began the turning of the tide can be credited to another obscure hero, Moorfield Storey, who became a colleague of Dubois when the NAACP was founded in 1909. That organization came into being when whites of conscience, spurred by the shameful race riots in Springfield, Illinois (where Lincoln had practiced law 50 years before), decided to try to call a halt to disregard of the 14th and its companion post-Civil War amendments to the Constitution. They joined forces with the blacks who had met at Harpers Ferry 3 years before in a united effort.

Storey, a prominent and successful Boston attorney, had begun his career in the 1860s as a secretary to

Charles Sumner, the Senator most dedicated and stubborn in the cause of ending slavery and safeguarding civil rights. But his professional life, culminating in the 1890s in election to the presidency of the American Bar Association, did not overtly indicate intention to follow Sumner's footsteps. Storey's indignation was not aroused until, in the aftermath of the Spanish-American War, the U. S. military repressed Asian guerillas in the Philippines who were battling for their own right to self-determination and independence. Storey became a leader of the Anti-Imperialist League, which included many of the surviving abolitionists. They were opposed to what they saw as our aggression in the Philippines, and in many ways were predecessors to the more recent opposition to the U. S. role in Vietnam.

From writing his group's 1900 platform, which declared, "RESOLVED, that in declaring the principles of the Declaration of Independence apply to all men, this congress means to include the Negro race in America as well as the Filipinos," it was logical and inevitable that Storey should join a movement to enforce the Declaration's constitutional counterpart, the 14th amendment. His work was not confined to his role as first president—elected by acclamation—of the NAACP or to public relations efforts. He gave of his talents and utilized his professional prestige in pioneer struggles in the Supreme Court for the organization. In a case that became one of the first great landmarks in the return to the Constitution, *Moore v. Dempsey*, Storey helped to establish for the first time that a citizen's rights under the 14th amendment included a Federal guarantee that a State court criminal trial should not be an idle ceremony, the outcome of which has been determined in advance.

The case of Frank Moore involved an Arkansas courtroom that was dominated by the presence of a lynch mob in nearby streets. The purpose of the mob was to coerce judge and jury into a "guilty" verdict. The court to which Storey, with a local black lawyer, brought the case said that if "the whole proceeding is a mask," the verdict could not be permitted to stand. This result was almost diametrically opposed to that reached only a few years before on the appeal of Leo Frank. Frank was Jewish, a victim of mob hysteria and police connivance that followed the unsolved death of a young girl in a Georgia factory where he had worked as manager. Moore was black and one of a number of sharecroppers who had united in an effort to improve their conditions.

A number of circumstances combined to induce the Court to more or less reverse itself in the few years that intervened between the Frank and Moore case. For one thing, Frank was lynched after his sentence had been reduced to imprisonment by a Georgia governor convinced of his innocence. This outrage broadened the still youthful movement against lynching, a crime that was itself a violation of the 14th amendment—the taking of life without due process of law. For another, there had intervened a World War, supposedly to "make the world safe for democracy," fought for slogans that made the disregard of our own Constitution embarrassing Storey's talent and the public concern that the growing NAACP was able to mobilize played a role as well.

The decision in Moore's case effectively restored the protection of life and liberty by "due process" of law in the strict sense that was intended by the framers of the 14th—a fair trial by an impartial tribunal, unaffected by coercion or corruption. But the catalog of specific protections of the Bill of Rights—such as freedom of speech and assembly, jury trial, right of counsel, immunity against double jeopardy—remained vulnerable to violation by any State. And many States could not have been said to operate with the "consent of the governed" while the exclusion of blacks and poor from the polls continued, in violation of the 15th amendment as well as the 14th.

Postwar Progress

The shattering impact of World War I, after which the Moore case arose, had other side effects that aided in the restoration of the national protection of the Bill of Rights. Wartime repression of dissent was widespread in 1917-19 and spilled over into the immediate postwar years in response to the Russian Revolution and concern about supposed revolutionaries here. Freedom of speech and press and assembly were impaired and violated more seriously than at any time since the abolitionist era. It had been to prevent such recurrences that the 14th amendment had been drawn, not merely to make emancipation meaningful by "equal protection of the laws," but to make freedom national in scope by forbidding abridgment of "privileges or immunities" of citizens of the United States.

The pervading impairment of freedom surviving from the *Slaughterhouse* case was reflected in the Court's division over the wartime State prosecution of Joseph Gilbert, leader of the Minnesota farmers' rights group, the Nonpartisan League. He had been

jailed for denouncing the war as designed to "pull England's chestnuts out of the fire." Louis Dembitz Brandeis (whose appointment to the Supreme Court had been resisted because he had worked for social justice and economic reform, and because he was the first Jew to be named to the Court) denounced the violation of Gilbert's "rights, privileges, and immunities . . . guaranteed protection by the Federal Constitution." He was a lone dissenter on this point. Within 2 years the Court was to declare in a *dictum*, words unnecessary to its decision, that "neither the 14th amendment nor any other provision of the Constitution of the United States imposes upon the States any restrictions about 'freedom of speech.' "

The liberty thus denied was soon to return under another label. The Court in the early 1920s became aware of the national reaction to the injustices and repression of rights of Americans that had occurred. As the war hysteria abated, and progressives and civil libertarians increased in number and joined the fight for constitutional rights first led by Storey, DuBois, and their colleagues (many in the newly-organized American Civil Liberties Union), a new turning point was reached.

The "due process" clause of the 14th (used in Moore's case for the first time in its proper sense) had been misapplied for 30 years to interfere with social legislation and economic reform by State action. That the mere regulation of private business for the common good should have been thought an interference with liberty or property without "due process of law" was a distortion and violation of common sense; yet it had, at least, one historic affirmative side effect. It opened the way for a long case-by-case effort, successful in most material respects, to bring the specific guarantees of the Bill of Rights under Federal protection, not as "privileges or immunities," as contemplated by the framers, but under the unanticipated label, "due process of law."

It was in the case of Benjamin Gitlow, doctrinaire advocate of revolutionary ideas, that the Court finally relented. Though not persuaded to give Gitlow his freedom after his conviction for "criminal anarchy" by the State of New York (he was freed later by Governor "Al" Smith), the Court responded to the mounting tide for freedom of expression and against lawless enforcement of the law. It agreed with the able advocacy of Gitlow's attorney, Walter H. Pollak, by conceding:

> We may and do assume that freedom of speech and of the press—which are protected by the first amendment from abridgment by Congress—are among the fundamental personal rights and "liberties" protected by the Due Process clause of the 14th amendment from impairment by the States.

This breakthrough opened the way to 45 years of decisions that added to the specific guarantees of the Bill of Rights held to be protected by the 14th amendment.

Never, during all the years of the Third Revolution's return to the Constitution, did there develop much of a gap between the Court's revival of equal protection guarantees and its restoration of the protection of the Bill of Rights against State violation. In each case the pace was slow to begin with. On each path retreats and partial defeats occurred along the way. The roads would intersect, and a gain made was much an advance in the one effort as the other; actually, they were all parts of the same effort.

The Scottsboro Cases

All of these features were manifested in aspects of the so-called *Scottsboro* cases of the 1930s. These came to the Court soon after completion of the investigations of the Hoover-appointed Wickersham Commission into the failures of the national criminal justice system. Outstanding in the Commission's conclusions, and highly influential in the last decades of the revival of the 14th, was the warning:

> Respect for law, which is the fundamental prerequisite of law observance, hardly can be expected of people in general if the officers charged with enforcement of the law do not set the example of obedience to its precepts.

The two appearances of the Scottsboro cases before the Court marked the real watershed, the turn to the homestretch, in the revival of the 14th amendment. In the first case, presented to the Court by Gitlow's eminent counsel, Walter H. Pollak, the Court ruled that the right of counsel—secured, in Federal courts, by the sixth amendment—was protected in State trials in capital cases at least. After the second round of trials, the Court enforced an essential element of equal protection by striking at the practice of exclusion of blacks from State court juries.

The right of counsel still had a barrier to surmount. When it was next before the Court, in 1942, the weakness of the "due process" label for

enforcement of what should have been objectively fixed "privileges or immunities" was apparent. Instead of simply looking at the Bill of Rights to determine the validity of the State's action, the Court persisted in using a subjective test, allowing the justices to determine for themselves whether a particular right was "implicit in a system of ordered liberty" or was such that its denial was shocking. This step backwards was overruled 20 years later in the case recounted in the best selling book, *Gideon's Trumpet.* (Clarence Gideon was a white man and the right he won was for the benefit of all Americans. I last saw the paperback edition of the book, however, under the classification "Black Studies" in one of New York's largest bookstores. And perhaps this was not such a great mistake.)

The victory in the *Scottsboro* jury case set a principle that helped begin to dismantle the segregated society of the former slave States. It had been preceded by Storey's victory in a case outlawing ordinances requiring residential segregation; that was weakened by a later decision refusing to outlaw private agreements, or "restrictive covenants," having the same effect. Ultimately these, too, were outlawed. Shortly after the second Scottsboro case came the decision outlawing the exclusion of blacks from State law schools; this decision was followed by a series of victories that led to *Brown v. Board of Education,* which sounded the death knell for segregation as a denial of equal protection.

The decisions of the Warren Court, therefore, should be seen not as the product of a sudden, self-motivated "judicial activism," or as a rewriting of the Constitution, or, as even as some of its friends have said, the "giving of new rights" to blacks, the poor, and the oppressed. Viewed in the perspective of 14th amendment history, these decisions restored, bit by bit, rights the Court had taken away for decades after 1873. And even the Warren Court had not, any more than any of its predecessors, recognized the rights of women as "persons" entitled to equal protection of the laws. The first faltering step in that direction was taken by the present Court in the *Reed* case, almost as if to blunt the thrust of the movement to remedy many decades of injustice through ratification of the Equal Rights Amendment.

Centennials and Oversights

In a Nation sensitive to centennials, little note was taken in 1968 of the 100th anniversary of the ratification of the 14th amendment. So much of the 14th had been so meaningless for so long that this may be understandable. But this curious oversight took place at the very time when the United Nations was celebrating "Human Rights Year," an occasion for which no moment in our history was as relevant as the incorporation of the Declaration of Independence into the Constitution by the 1868 ratification.

One speaker in 1968, in an address to a bar association, did say what should have been said and what should be remembered now as we approach the bicentennial of a Constitution that would be such a defective document without the 14th. The late Kenneth Keating, then judge of New York State's highest court and later Ambassador to India and Israel, spoke to all America in chiding his colleagues:

> All of our difficulties, it is sometimes alleged, can be traced to a few Supreme Court decisions or to Federal intervention in the affairs of the States or to too much toleration of individual freedom.
>
> I would venture to state that just the opposite is the case. That our difficulties are not caused by the recent Supreme Court decisions, but by the fact that those decisions and the principles which they embody did not come decades earlier.
>
> For many years America tolerated social injustices, racial injustice, and fundamental defects in the area of criminal law. And on no profession does the responsibility for that injustice rest heavier than upon the legal profession, whose members, for the most part, stood by with muted tongues while constitutional amendments were ignored and while citizens were oppressed.

A Constitution for the third century needs no improvement in the 14th amendment. All that is required is that we honor its promises and be vigilant, lest, by reason of the very evil that arose out of its long nullification, it should once more be undermined. It is our task to see to it that the decisions, the product of the third revolution that Judge Keating said should have come "decades earlier," did not come too late. And in this connection we must be mindful of the fact that special privileges, however unlawfully gained, are not easily relinquished; that the mere restoration of rights too long withheld will not be enough to solve our difficulties.

A Tricentennial Portrait

MINORITIES AND WOMEN 100 YEARS LATER

By Paul Gerard

Here is a portrait of the United States 100 years from now:

A nation of 325 million—mostly white, mostly middle aged, largely middle class—its politics, morals, and institutions dominated by people of Anglo-Saxon and, increasingly, of Spanish heritage.

The matrix for that society is being shaped now. Leading intellectuals see its outlines in current demographic, cultural, and socioeconomic trends. Some of what they see is heartening. Some of it is bleak.

While the country is likely to be prosperous a century hence—and its wealth more evenly distributed among all peoples—class tensions and racial discrimination will persist. In some noteworthy ways, they could intensify.

Consider economic stratification, for example. It is generally expected to be more pronounced in 2076 than it is at the present time.

"It is difficult to perceive a society 100 years out that will be much different than today's, unless we bring the earnings of blacks, women, and other minorities abreast of those of white males," says Dr. Harrington J. Bryce, director of research for the Washington-based Joint Center for Political Studies and a former Brookings Institution fellow. He adds:

"Money causes class distinction and stratification, and I foresee more stratification, more class awareness in the years ahead. There will be coalitions of like whites and like blacks at all levels."

In summary, the forecast is this:

- Women will fare better. They will be more than token participants in every occupation, profession, and political office.
- The Spanish-surnamed will reach a status unknown to them in the prior history of the country. They will constitute a bloc with far-reaching political, economic, and social influence.
- The Native American will still be on the reservation. In the past few years, Indians have succeeded in calling new attention to their plight. As a result, many observers think that by 2076 the Indian community will finally attain its ultimate political objective: acceptance

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as a unique subsection of the broader national culture. Predictions concerning their standard of living and the possibilities for self-determination are more guarded.

• Black citizens also face a less promising future. In the next 100 years they will continue to experience the dual pressures of discrimination and disassimilation.

"The passage of 100 years won't significantly improve the life chances of black people," asserts Dr. Jacquelyn Jackson, associate professor of medical sociology at Duke University. "And black Americans who do move into the upper income levels will put even greater distance between themselves and their less affluent fellow blacks. This will be true of our society in general. There will be sharper classification by income, education, and background—and it will manifest itself in many ways, including choice of neighborhood."

She predicts that there will be large enclaves of higher income blacks residing apart from higher income whites (in their living enclaves) but she agrees with Dr. Bryce that the two groups will tend to think with one mind on political issues.

The most dramatic change anticipated by Dr. Jackson and by most other social and political analysts is the emergence of the Spanish surnamed as the largest minority.

The flight of Cuban refugees to south Florida, the continuing high rate of immigration from Mexico and other Latin areas—these factors underscore the point: The Spanish heritage component of our total population is expanding, in much the same way that, decades ago, European immigrants changed the Anglo-Saxon character of the United States.

The opportunities available to minorities over the next 100 years will be directly tied not only to their level of education, skill, and experience, but also to changing labor-market demands.

The reason why education is stressed so much by women and ethnic minorities seeking parity with the dominant white males is simple: Education tends to increase economic well-being, independence, and access to the society's higher social plateaus.

Unless educational equality is enforced, none of these groups—women of all backgrounds, blacks, the Spanish surnamed, or the American Indian—will ever achieve full economic or social equality.

Few commentators are willing to peer very far into the future without first examining both the past and the present. Today's America, these sociologists and political critics suggest, will profoundly affect the form of tomorrow's America. Unless one starts from that premise, they argue, it is futile to speculate about the life setting for the grandchildren and great grandchildren of today's teenagers. "After all," one scholar remarked, "today's 15-year old is not likely to be around in 2076. And it's that distant year we're talking about."

With this unavoidable qualification in mind, let's look at the probable future for minorities—extrapolating from current realities.

Progress for Women

"In assessing the role of women in 2076 it is absolutely essential to look at where we are now," says Carmen Maymi, director of the Women's Bureau of the U. S. Department of Labor.

And she is encouraged by what she sees and what it portends for the next century.

Recent statistics are one factor supporting optimism. They show that 40 million women—a record number—are in today's civilian work force. The representation is cross-sectional. Ages of the female participants range from 16 to 70, encompassing all races and backgrounds. They include the married, the single, the widowed, and the divorced or separated. They live in central cities, in the suburbs, and on farms.

Between 1920 and 1974 the percentage of female workers rose from only one out of five to almost two out of five, and during that same period the profile of the average woman at work for pay changed drastically—from that of an average 28-year-old single factory employee or clerk in 1920 to that of a 35-year-old married woman in a variety of occupations by 1974.

Ms. Maymi feels that it is reasonable to expect important new breakthroughs for women in the next 100 years. "I know that real fruit will be harvested in 15 years, and therefore I expect great gains after a century has elapsed. Things will be much improved."

How? As she sees it, there will be more working mothers and a big increase in the number of working wives—both because of changes in the economy and changes in our lifestyle. The declining birth rate and shrinkage in the size of families are two major reasons why more women are applying at offices and factories, she notes.

"I think the future will bring new options in the 40-hour work week," Ms. Maymi continues. "There will be more shared-work and more pliable working hours. The rigidities of 1976 will be long past. More fathers will fill home-

keeping roles and community roles—again, because of relaxed employer demands on their time."

She also projects an increase in part-time work, which will permit more women to seek paid employment.

"I envision more freedom of choice for women. Even now women are moving into occupations previously controlled by and open only to men. It works the other way also—more men are moving into jobs long thought to be a woman's province. By 2076 there will almost be integration of the occupations by sex status."

There have always been myths about the female worker—that she was unreliable, not capable as a supervisor, that she didn't need the money, that she couldn't combine her domestic and work roles.

But that is pure nonsense, claim Department of Labor analysts who say, "women work for the same reasons that men do." They work because their talents and skills are needed in the economy because of the nearly 20 million additional jobs developed in the new or expanding industries of the 1970s. By 1976, these new jobs had provided employment opportunities for more than 10 million women and almost 7 million men.

Basic necessity is the major reason why more women work, and social workers and economists predict that this trend will broaden over the years between now and the U. S. tricentennial.

One social worker estimates that there will be more families headed solely by women in 2076—by the widowed, the divorced, the separated, and those who simply choose to remain single. Women now head 7 million of the nation's 55 million families—and in many cases they are the only wage earners in these units.

In addition, more than 20 million married women are in the labor force because their incomes—combined with the wages of their husbands—barely bring them to the $5,000 to $7,000 subsistence level. People want a higher standard of living and it requires two incomes to make it—not just for the blue collared, black or Spanish-surnamed lower income groups, but for even the "Anglo" white middle class as well.

For people to manage a home, two cars, and the increasingly high costs of food, clothing, and education, the more wage earners in the family, the better the chances for achieving that living standard.

Indications are that desires will grow, costs will be higher and the value of women as workers will be greater, too, in the years upcoming. By 2076 the average American woman, as Ms. Maymi predicts, will not only want to work because of available opportunities and the flexibility of hours—she will have to work.

"There is every reason to believe that the present trend of a rising number of women in the labor force will persist," says Fran Henry, executive secretary of the Citizens Advisory Council on the Status of Women.

She explains: "Forty percent of the women currently in the work force have young children and there is nothing to suggest that this will change, except possibly to increase.

"As women move out of the home—and they are—the value of their role and talent will become increasingly desired, expected, and accepted."

Ms. Henry doesn't take ratification of the Equal Rights Amendment for granted. Nevertheless, she feels that equality will be the "norm" within 100 years.

Much will change. It was once a "joke" to consider a woman as a Supreme Court Justice. No longer. And this year presidential candidates of both parties have repeatedly said that they would appoint women to key government positions if elected.

So, it is not unreasonable to project that in the next 100 years one or more women will rise to the high court, particularly as women become more militant in politics, hold more elective offices, and campaign more conspicuously both for male and female office-seekers. They represent a potentially crucial and obviously effective voting bloc. Through their numbers, they have the ability to pull political strings and to set the pace for government.

Ms. Henry remarks that "on the international level, women will play a larger role in decisive decision-making. They will be in more leadership positions by the time another 100 years have passed." The old, trite axiom, "the hand that rocks the cradle rules the world" will be literal fact. What is necessary to make this happen, to assure its certainty, is the further awakening of men and women to the political force of women.

"Bringing more men into the 'movement' is important, too," Ms. Henry suggests. "Women haven't yet recognized their full potential, but by 2076 they will have. There will be far more female college graduates and many more women prepared to fill jobs on all levels. There is plenty of hope."

Uncertainty for Blacks

There isn't hopelessness in the black community over prospects for the next 100 years, but there is immense uncertainty about the remainder of this decade.

As Dr. Jackson asserts, the critical question is whether or not there will be a curtailment of legislative enforcement and whether

political leadership will advance the breakthroughs made by blacks in the "Great Society" of the 1960s.

Some political theoreticians, including James E. Conyers and Walter L. Wallace, authors of *Black Elected Officials: A Study of Black Americans Holding Government Office*, fear a "second Reconstruction." This would—as it did 100 years ago—rid the U.S. Congress and State assemblies of black political representation.

"One needs only to recall that just after the Civil War blacks seemed to be moving ahead, but then came the end of Reconstruction and we lost almost everything," writes Dr. Bryce in "Economics Progress of Blacks After 200 Years," a National Urban League publication.

Dr. Bryce declares: "Nothing is more disappointing than to find that after 200 years of trying to catch up, there are forces which continue to cause us to fall behind all over again. We do not want to see our progress wiped out. Hence, two important questions come to mind: Could the gains we have already won be lost? What must we do if we want to make further progress?"

All analysts agree that the answer for blacks in the coming 100 years is what it was in the 100 years preceding where we are now; education, equalization of earning power, equal opportunity to share in the Nation's prosperty, and a stronger political voice.

Blacks have come a long way. Black elected officials now number 3,503. President Eddie N. Williams of the Joint Center for Political Studies predicts that there will be 15,000 black elected officials by the 2000. Yet, he gravely observes, this "astronomical" increase still will represent only 3 percent of the total number of elected officials in America.

He comments: "While there are many areas in which blacks will score gains, there will be losses. What happens when you lose a Tom Bradley (mayor of Los Angeles)? It is extremely unlikely—in fact improbable and inconceivable—that he would be replaced by another black."

There are few optimists among today's black politicians, urbanologists, economists, or sociologists when one inquires if racial equity will be commonplace by 2076. As Dr. Jackson of Duke University grimly expresses it: Blacks will still be black in 2076. Race will still be crucial. People who are black will have the same problems—they will still be handicapped by the color of their skin.

"I have no reason to anticipate a disappearance of racial prejudice and discrimination. In years ahead prejudice will be somewhat less virulent, but it will continue to manifest itself in subtle forms.

"Persons who are black will not be discriminated against because they are black per se, but because they don't meet the qualifications. The question in the future, as now, will concern individual achievements, not the race as a whole."

She points out that stratification will continue to develop within the race—that the common identity of blackness is no longer enough to unite black people. In her opinion it will be even less possible in the future because of economic and social variables.

The only real hope, agree most black scholars, is a coalition of the ethnics.

Vernon Jordan, executive director of the National Urban League, pointed out on NBC's "Meet The Press": ". . . we live in a multiracial society and we best make up our minds, as someone has said, whether we are going to live together as men and women or die apart as fools."

A Latin Ambience?

Sociologists pondering the future believe that the rapidly enlarging numbers of Spanish speaking and Spanish surnamed people will constitute a kind of "swing" faction in California, Texas, Illinois, Pennsylvania, and several other key States. One political expert foresees a "large, better educated, and highly sophisticated" bloc which will use its numerical strength to command and demand a rearrangement of the group's status.

As the impact of Hispanics spreads, the U.S. increasingly will exhibit a "latin" ambience—road signs in Spanish as well as English, a proliferation of stores and restaurants with a Spanish motif, more bilingual programming on radio and television, and an accelerated emphasis on the teaching of Spanish as a "companion" language.

But once again, as with other minorities, government officials and social analysts assess present gains before hazarding any forecast. Unlike blacks who can clearly see the gains they have made politically, socially, and economically, the Spanish surnamed are just beginning to coalesce. All indications are that their present rate of rapid growth in numbers and influence will continue.

An Uphill Fight

In contrast with other U.S. minorities seeking to enter the mainstream, the Indian community as a whole does not. Native Americans often prefer to remain apart as a means of preserving their identity.

Says Mrs. Mary Natani of the outreach and community services program of the Women's Bureau,

"The trend is to rejuvenate the Indian culture. There is a revival of religion and all other aspects of our background."

Mrs. Natani, a Winnebago, adds that "more and more Indians are fighting for separation and indicate they will not let go of our important heritage. Assimilation? We don't want it.

"I've been out here 15 years, but I still cling to my Indian church group and to my language and customs. I attended a religious conference recently and watched the various religious and ethnic groups go off into their caucuses. There was no place for me in any of them."

Passage in 1975 of the Indian Self-Determination and Educational Assistance Act has inspired hope that Indians will gain more control over their reservations. The law enacted to provide Indians with more control over their own destinies. It makes them able to contract for business and to promote projects for themselves. This is their future, says Mrs. Natani.

She adds: "Indians are sick and tired of people trying to tell them what to do. What they want to achieve is more respect for our culture and to be as a distinct culture accepted by the larger culture."

While self-determination has gained legitimacy in the eyes of majority Americans as a result of the Indians' struggle, the Indian future is complicated by two unanswered questions. First, how will they fare in the battle over natural resources, particularly water and coal? The drive to make America self-sufficient with regard to energy will bring this problem to a head.

Second, is the Federal government prepared to commit the necessary resources to overcome the poverty, disease, and illiteracy which cripple the future of many Native Americans? A struggle has been launched in the courts to ensure that Indians receive the services they are entitled to under the law and by treaty. Several members of Congress have taken a special interest in the problems of Native Americans.

But as a relatively small minority, Indians face an uphill battle in the political arena as they compete for the government's attention. Beyond that, they must fight to make sure that any commitment, once made, serves the real interests of Indian people and not those of a self-perpetuating Federal bureaucracy.

The Next Century

During the next 100 years, progress for women, blacks, the Spanish-surnamed, American Indians, and all other minority groups—including the poor and the elderly—will depend upon how willing they are to coalesce with each other, the experts say.

All agree that additional national legislation is not necessary. But, they stress that enforcement of existing law is essential to the progress of all minorities.

Whatever the social, political, and economic achievements we'll observe in 2076 for our Nation's minorities, it is certain that change for all is inevitable. The question then will be: has the change been sufficient?

Whither Integration?

A PUBLIC COMMITMENT REMAINS ESSENTIAL

By Martin Kilson

Writing at the turn of the twentieth century, W. E. B. DuBois argued in his penetrating essays, *The Souls of Black Folks*, that the color line was and would remain the distinguishing feature of American civilization, for only in the United States could color or race be cause for gravely qualifying the status of any group. More acutely than any other figure in Negro life, DuBois recognized that ultra-stigmatization drastically modified American citizenship for Negroes, rendering millions upon millions of them vulnerable in every sphere of their existence: work, schooling, play, voting, associational life, et cetera. Indeed, part of the condition of life as a Negro was that life itself was subject to violation anywhere, at any time, at the hands of anyone, through rigged judicial process, lynching, riot, police brutality. Existence for the Negro, as DuBois correctly perceived it, was by definition dangerous.

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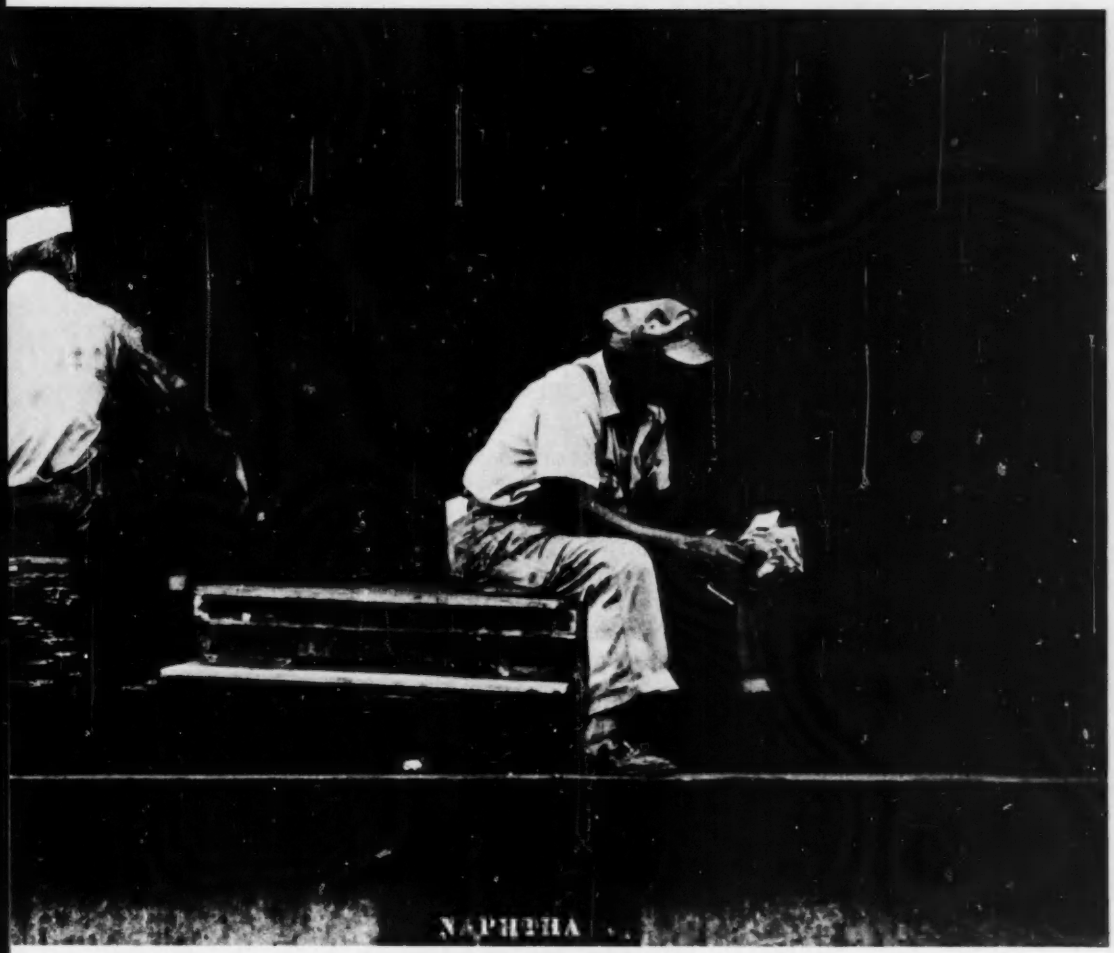

Negroes were not, of course, the only group to carry the burden of stigmatization. Others did too—among them Jews, Japanese, Chinese, Germans, Mormons, and Catholics, with this last group risking double jeopardy as Italians, Irish, and Poles. But for all these other groups, given the usual pace of upward mobility and time—usually two generations—the social burden associated with being Italian (wop), Jew (kike), or Chinese (chink) would dissolve, as it has in fact tended to do, more thoroughly than that associated with being Negro (nigger). The consequence of this has been immense. It has meant that the capability for achieving power of these other ethnic groups, especially white groups, is not stymied; they are able to undergo the general process by which social gains are transformed into a true stake in society, and only when this has happened can the burden of pain be laid down and the stigma erased.

The denial of the Negro's quest to convert social gains into social power has been, then, the distinguishing feature of the extreme stigma attached to blacks in white America. The Negro's bid for social power has been seen by whites, until recently, as illegitimate; for the ultra-stigmatization of blacks demands that whites view blacks' quest for

social power in unnatural and demonic terms. The uniqueness of the Negro's status in this connection is shown by the fact that other ethnic groups had only to contend against the white Protestant majority for a secure place in American life, while at one time or another virtually all white groups—Italians, Poles, Irish, Germans—were united in denying the legitimacy of Negro aspirations. No other group, it seems fair to say, has had to contend against such forces in its claim for reasonable parity in the status of American citizenship. The crowning and crushing blow was left to the Negro's own hands: his self-denigration, often shading off into self-hatred.

Social change for an ethnic group, especially for a racial caste group such as the Negro has been for the better part of American history, depends as much upon unplanned as upon planned processes. Officially stated national ideals have their place—and it is better to have them than not—but they are dubious guides to significant social change. What value they do have is only in connection with other more palpable events, trends, and forces in society. Urbanization and the growth of an industrial economy, for example, have done more to change the map of social life in America than have all the noble declarations uttered by officials at Fourth of July celebrations. Fortunately for the Negro, he was able to take some advantage of those liberating dynamics of modernization, the growth of urban life and the rise of industry.

A Summary of Gains

Historically, Negroes were slow to seize the opportunities provided by city dwelling. By 1910 only one-fifth of the Negro population was urban, as compared to one-half of the white population. This stemmed from the fact that only 10 percent of all Negroes lived outside the South in 1910, and as late as 1940 fewer than 25 percent had left the South. Their mass exodus from the South did not occur until World War II and the postwar era. By 1970 some 52 percent of the Negro population lived in the North.

The occupational map of Negro life changed along with the geographical one. The predominance of farm laborers and domestic workers among Negroes in the prewar period soon gave way, in the postwar years, to a preponderance of unskilled and semi-skilled factory workers. By the 1960s slightly more than half of the employed Negro population worked at blue-collar jobs, and by 1970 some 37 percent of black workers had achieved trade union membership—a ratio of unionization greater than the 25 percent of white workers. City dwelling proved particularly favorable to the growth of the black middle classes. Whereas before World War II fewer than 3 percent of the employed Negro population held white-collar jobs, by the early 1960s such jobs were held by some 15.3 percent of employed Negro males; and the figure jumped to 22.9 percent a scant decade later, compared with 41.7 percent white-collar jobs for employed white males. At the managerial and higher administrative levels of white-collar work, however, Negro representation has remained small. By the early 1970s Negroes made up only 2 percent of managers in private businesses, 4.5 percent of those in health administration, and 3.7 percent of school administrators. The most impressive figures occur where the Federal Government has provided opportunities for white-collar employment of blacks. Since 1962, when significant Federal Government initiatives began, there has been enormous progress in Federal employment of blacks: 15 percent of some 300,000 Federal jobs were held by blacks in 1972, and 8.9 percent of those jobs were in the top civil service grades.

Along with changes in the geographical and occupational structure of Negro life, advances in education also have been made by Negroes as a group. The median years of schooling for nonwhites (of which Negroes make up the largest single segment) 25 years of age and older was 6.9 in 1950, 8.2 in 1960, and 10.3 in 1972, compared with 9.7, 10.9, and 12.3 for whites during the same years. Particularly striking over the past two decades has been the increased enrollment of blacks in institutions of higher education: by 1973 nearly 20 percent of 18- and 19-year-old blacks were in college, as compared to roughly 35 percent of whites in the same age group.

Both the better jobs available to Negroes and their lengthening years in school have enabled them to begin to bridge the gap in income between themselves and whites. In 1948 the median income for nonwhite families in America stood at $3,071—only 53 percent of the median income for white families, which then stood at $5,762. A slow rise in Negro family income vis-à-vis white family income began in the 1950s, reaching 63 percent of white family income by the middle 1960s and then peaking at 64 percent in 1970. As might be expected, unionized Negro workers closed the income gap between blacks and whites more readily than did nonunionized

Negro workers. In 1970 the unionized group also had a higher median income differential over non-unionized Negro workers ($7,732 to $5,906), which compared favorably with the median income differential of unionized white workers and nonunionized whites ($9,285 to $9,478). Moreover, for those Negro families in which husband and wife remain together (about two-thirds have done so) and in which the wife is employed, the family income has advanced steadily from 57 percent of white family income in 1959 to 74 percent in 1971. Further progress is apparent among Negro husband-and-wife families under 35 years old; in these families income was 82 percent of similarly situated white families and, where both Negro husband and wife worked, 90 percent of the average income of white families in which husband and wife worked.

The foregoing summary of Negro gains in jobs, education, and income indicates how closely the sociological characteristics of blacks have begun to resemble those of whites. To some extent, these changes are in themselves a form of racial integration; for social structure is in part an independent variable, acting alone to effect freedom of choice and action. Indeed, the notion of *social structure as freedom* is a basic feature of the classical (Lockean) version of American liberalism. It is, as Richard Hofstadter remarks in *The Age of Reform*, implicit in virtually every major movement of social reform in the United States since the late nineteenth century. Thus, historically, as different sections of white Americans reduced their disabilities—whether the disabilities were owing simply to social conditions, as with poor whites in the South and rural areas, or to social and ethnic circumstances, as with white immigrants in cities—it is taken for granted that constraints upon one's status or freedom dissolve.

A Special Relationship

For Negroes, however, another mode of freedom—a second-class one—has obtained. This is why Negroes need to resort to the National Association for the Advancement of Colored People, the National Urban League, the Montgomery Boycott Movement, the Southern Christian Leadership Conference, anti-white militancy, black ghetto riots, and other means of influence outside the usual paths of party and electoral politics. These traditional paths were, of course, legally, indeed often coercively, denied Negroes in the South from the 1880s to the 1960s; and outside the South during the same period a combination of de facto segregation and depressed social conditions kept party and electoral politics out of reach of the vast majority of Negroes. Thus, the realization of parity in citizenship for Negroes required a special relationship to government and public policy that no other ethnic group ever even contemplated—namely, the extensive support of the Federal Government, finally forthcoming in the 1960s, that directly set out to equalize conditions between blacks and whites.

For the first time since Reconstruction, the Kennedy and Johnson administrations of 1961-68 made Negroes an explicit constituency of the Federal Government. In his famous speech at Howard University in June 1965, Lyndon Johnson put the case straight out. "Thus," he said on that occasion, "it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates. This is the next and more profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equality but human ability, not just equality as a right and a theory *but equality as a fact and equality as a result.*" The way to achieve this result, it was then decided, was through job-skill training programs, aid to dependent children, education grants for minority students, loans to minority businessmen, programs for preschool education. Negroes as a group thus became during these years, a special constituency of the government.

Although Negroes were not by any means the first such special constituency in American political history, many whites nonetheless considered the blacks' position unprecedented and hence illegitimate. Why? Ideally, such political fostering of special constituencies in American politics is essentially conceived in universalistic as opposed to particularistic terms. Government can foster a social class, a business, an interest group, a functional group, or even an entire region, but fostering a racial, religious, or ethnic group *as such* is considered, to put it gently, bad form. Neither ethnicity nor religion is a foreign element in American political life, but wherever such groups have been treated as a special constituency by government it has generally been done under another, more universalistic guise. Hence Irish Catholic workers, or trade union leaders, or ward leaders, but not Catholic *as such*, can be fostered by government; German dairy farmers, again, can be so fostered, but not Germans *as such*.

Exceptions to this rule have cropped up in the annals of American politics. But these exceptions have invariably been a function of circumstance—

of the pressure of possibilities and necessity. hence the fostering of Nativists—as anti-Catholic Protestants were then called—by State governments and Congressmen who needed their votes in the 1840s and 1850s, a time when Catholics were politically unorganized and thus too weak to fight this exception to the rule. More recently, we have witnessed the fostering of Catholics, Jews, and other white "ethnics" by the Committee to Re-Elect President Richard Nixon in 1972, when the Republican party's quest for a "new majority" was being put into effect.

If, then, one agrees that the government's fostering of Negroes is required in order to achieve parity between blacks and whites, the problem is to find, or fashion circumstances that will make the special-constituency status of Negroes a legitimate exception to the rule. But this problem soon divides itself into other problems, and the first of these is to determine how the white majority in America truly feels about the fuller integration of blacks into American society.

White Attitudes

According to most indicators, between World War II and the 1970s white attitudes toward blacks changed markedly for the better. True, the change was uneven, often precarious, and usually forthcoming only grudgingly. Yet there has been change. For example, by 1970 only 30 percent of whites, nationwide, opposed the principle of school integration, and only 40 percent of whites in the South opposed it. Most whites also favored the principle of integration in public accommodations, housing, jobs, et cetera. The problem, however, is getting whites to translate agreement on *integration in principle* into *integration in fact.* This is difficult indeed, for most whites refuse to admit that the historical treatment of blacks in terms of racial caste has significantly constrained their access to equality in American life. A Harris poll taken in December 1972 showed that only 40 percent of whites agreed that Negroes were discriminated against in regard to "getting full equality," 38 percent in regard to "the way treated as human beings," 40 percent in regard to "getting skilled labor jobs," 29 percent in regard to "getting quality education in public schools," 40 percent in regard to "getting white-collar jobs," 22 percent in regards to "wages paid," and 51 percent in regard to "getting decent housing"—the last being the only issue on which a majority of white Americans considered blacks distinctly disadvantaged because of race.

The general preference of most whites for including Negroes more fully in American life is also qualified by other crosscutting tendencies besides hesitancy to consider racism an actual constraint upon blacks. For one thing, in presidential elections since 1960—save the 1964 election—the white popular vote has favored the Republican party, the party least likely to initiate public policy innovations beneficial to the needs of Negro Americans. Negroes, on the other hand, have voted overwhelmingly for the Democrats in this period—by no less than 71 percent and by as much as 87 percent. This racial polarization in voting patterns, which has bedeviled efforts to sustain public policy advances for Negroes since 1968, was reinforced in the early 1970s by a conservative trend in white ideological perceptions. Some two-thirds of American voters designated themselves "conservative" in this period, although a Harris poll in January 1976 showed a decline in the "conservative" designation to 43 percent. Furthermore, a study of 600 Jewish voters in New York's 1973 Democratic mayoralty primary, conducted by the Harvard political scientist William Schneider, found the conservative trend rampant among a group that has historically been liberal in racial matters and looked favorably upon the public policy innovations. For example, some 62 percent of the Jewish supporters of the conservative candidate, Mario Biaggi, believed the city government was doing too much for blacks and minorities; 84 percent supported the militant demonstrations by whites against low-income public housing in the middle-class Forest Hills district; and 90 percent supported the boycotts by Catholic and Jewish parents and pupils of schools slated for integration in the Canarsie school district. Moreover, although 65 percent of the Jews in Schneider's survey were characterized as "liberal" (persons who said they favored more rather than less government activity), some 52 percent of these "liberals" supported the demonstrations against public housing and 51 percent backed the school boycotts.

Clearly, then, there remains a profound discrepancy between, on the one hand, the postwar open-mindedness of a majority of whites toward the principle of integrating blacks into American life and, on the other hand, the transformation of this favorable outlook on racial matters into concrete changes in housing, schools, and jobs. This discrepancy plays havoc with all efforts of Federal public policy to sustain racial change in these basic spheres of American life. Moreover, the precarious

position of public policy in racial matters since 1968 is reinforced by a widespread alienation of voters toward government, with only 15 percent of the population currently believing that the Federal Government "does the best job." To alienation is joined apathy: recent reports have it that more than 50 percent of American voters will stay home for the 1976 presidential election.

All of this, in turn, has fostered further development and cohesion in the neoconservative movement that has arisen in intellectual circles in recent years and has strengthened the new mood of distrust toward government, especially the role of government in public policy innovation. Deriving force and focus from Robert Nisbet's *The Twilight of Authority* and from the writings of Irving Kristol, James Q. Wilson, Nathan Glazer, and Michael Novak, among others, this movement's message is clear, and clearly traditional in its major premises. The good life for Americans, it holds, is to be found in greater recourse to localism, voluntarism, and the restoration of old-fashioned values—familial, sexual, religious, economic, political, and (last but certainly not least) ethnic. In part as a reaction to the excesses that characterized social changes in the 1960s, the neoconservatives are more potent on the attack than in putting forth a positive vision of a better society. But they have been astonishingly successful in getting their message across, and the implications of their success do not bode well for the realization of racial integration.

Yet, on the sanguine side, Negroes over the past two decades made serious political advances along with real economic and educational gains. Increases in the number of registered voters, actual voting, candidacies, and elected officials among Negroes have been nothing less than astonishing. For example, the registration of voting age Negroes in the South increased from 5 percent in 1940 to 43 percent in 1964 and stands at 65 percent today. The character of Negro political leadership has likewise changed—from the civil rights leaders of the 1950s and early 1960s, whose influence has been largely moral, to a sizable class of elected black officials, whose influence rests upon institutionalized authority. These latter numbered less than 100 in 1960 but stand at roughly 4,000 today, constituting about 1 percent of all elected officials in America. And of course the total number of Negroes in politics is much larger than this (perhaps five times larger), for one must include in their ranks the thousands of Negroes recently appointed to political office. At the top of the list of appointed black politicians have been the first two Negro members of a Federal cabinet—Dr. Robert Weaver, Secretary of Housing and Urban Development under President Johnson, and William Coleman, Secretary of Transportation under President Ford. It need hardly be added that these political advances have been made possible by the increasingly favorable attitude of whites in the postwar era toward including blacks in American life. White attitudes now favor even the election of a Negro vice-president and president—at least in polls some 76 percent of white voters have responded positively to this issue.

The euphoria over these heady gains, however, has now receded—as has much of the anti-white, pro-black militancy that energized the millions of Negroes who helped to bring these advances about. In a word, the war is now over and the long, drab peace, with its concern about nuts-and-bolts American politics, has returned, but with this difference: the presence of Negroes at all levels of politics has now been institutionalized.

Exploiting Opportunities

The question now is: To what use will these political gains be put? In the era in which we now live Negro political success will require highly imaginative leadership, for the substance of success will itself require a new phase of public policy innovation. No small task, this, since the national mood of the moment is at best skeptical and at worst implacably opposed to greater policy intervention in racial matters. Nonetheless, there are opportunities that might be favorably exploited by blacks and their new political leadership.

Taking the long view, however, the issue at the top of the political agenda for blacks is that of deploying black votes more carefully between the Democratic and Republican parties. The United States appears to be in an era of keenly contested presidential elections, tight races whose outcome figures to be close, with neither party likely to hold the White House for more than two consecutive terms. In this situation blacks cannot afford to nestle too comfortably in the embrace of one party (the Democratic) to the exclusion of the other (the Republican). The reason for this should be sufficiently clear: blacks have depended, and will continue to depend for a good while longer, upon government for the maintenance and extension of what gains they have made thus far in achieving parity with whites.

Negro voting must be intelligently diversified not


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THE TIME IS NOW
BE BACK
RIGHT
BE ONE
BE YOURS

only between the two major political parties but between black and white candidates. Throughout most of the 1960s a highly unified Negro voting block made much good sense; that was when large numbers of Negro candidacies first occurred and when the ability of Negro politicians to win office was still in doubt. But this situation no longer obtains, and other more varied uses for the vote are now in order. Opportunities here are plentiful. Nearly 70 congressional districts, for example, have a Negro voting-age population that comprises at least 25 percent of the total voting population. In such districts blacks would be remiss not to educate white politicians to their special needs. In some such districts this is already well under way. A prominent instance is that of Congressman Peter Rodino, the fourth-term incumbent from New Jersey's Eleventh Congressional District. A liberal best known for his leadership in the congressional hearings on the impeachment of Richard Nixon, Rodino has a constituency that includes the city of Newark, and 37 percent of his voters are black.

An important part of the task of informing white voters of the needs of blacks must be performed by those black politicians who have been able to win elections, through style and skill, in districts where the black vote is only minimal. The number of such Negro politicians is increasing, aided in part by the migration of blacks of all social classes to white suburbs and to smaller towns on the metropolitan fringe. (Four million Negroes now live in such suburbs and towns, as opposed to two million 20 years ago.) Senator Edward Brooke was the first Negro politician who owed his office to predominantly white voters, but there are others. In 1970 in California—the home State of Richard Nixon and Ronald Reagan—Wilson Riles, a Negro, was elected to the important office of superintendent of public instruction, defeating Max Rafferty, the conservative incumbent who ran a campaign emphasizing law and order. In 1973 Thomas Bradley, a Negro lawyer and former policeman, defeated another conservative incumbent, Samuel Yorty, for the mayoralty of Los Angeles, a city whose Negro population is 12 percent. Moreover, California and Colorado both have Negro lieutenant-governors, both elected in 1974, the same year Wilson Riles was reelected California's superintendent of public instruction by a landslide.

New Cultural Patterns

Integration, in the wider sense in which I have been discussing it here, is measurable by more than indicators of social change. Cultural phenomena weigh heavily as well. Many of the important cultural tendencies that are pertinent for racial integration had their origins in the counter-culture and new styles of life that developed in the 1960s. New cultural patterns and images related to racial matters—particularly in the spheres of cross-ethnic marriage, popular culture, and the mass media—are now available to young Americans, enabling fundamental change in the character of American society.

The growth of cross-ethnic marriages, including interracial marriages, has been extraordinary. Until the 1960s, most ethnic and religious groups could still boast extremely high rates of endogamous marriage among their members. Jews, for example, in the early 1960s recorded endogamous marriages in the 90 percent range. Since 1965, however, between 30 and 46 percent of all Jewish marriages have been to gentiles—one of the highest rates of exogamous marriage recorded today, and this despite the efforts of Jewish organizations to reverse the trend. A similar situation exists among other groups. In 1974, to cite another instance, nearly 40 percent of Japanese-American men married white American women. This is ironic when one considers the enormous press that ethnic pride and anti-melting-pot feelings have received in America in recent years.

More to the point of racial integration, among Negroes between 1960 and 1970 there were 64,789 black-white marriages—a 26 percent increase over the previous decade. Moreover, in the decade 1950-60 there were for the first time slightly more white male-black female marriages—25,913 of them, a margin of 417 over black male-white female marriages. Although marriages of this character declined in 1960-70, doubtless owing to the rise of virulent black militancy and the polarization of

racial feeling that it brought in its wake, such marriages, and interracial marriages in general, are expected to increase markedly in the current decade. Experts agree that white male-black female marriages are an important index of fundamental change in the historical pattern of racial-caste labeling in America, and hence of the ultra-stigmatization under which Negroes have lived.

Less easy to generalize about, but more persuasive, has been the increased presence of the Negro in popular culture, and in a new and different perspective. Rock music, for example, is the first successful mode of mass music—played and listened to by millions of white kids of all classes and ethnic groups and in all regions of the country—to contain a distinctly Negro cultural motif, albeit of lower-class Negro origin. Fundamental to what might be termed the *Negroness* of rock music is an expansive sense of abandon toward sensuality and sexual behavior, and, for better or worse, the sensual perception of white youth is increasingly shaped by this. Furthermore, although some white practitioners of rock music employ "white-rock" styles, most of them use "black-rock" styles—assimilating Negro speech modes and voice-tonal aesthetics with surprising degrees of authenticity. No other generation of white popular musical artists, however much their music was earlier shaped by Negro forms, has shown the same degree of deference to Negroness. This new and unprecedented cultural diffusion between blacks and whites at least supports racial-caste dissolution; for if more white—the young in particular—consider the Negro and his ethnicity an increasingly valid source of their own style, they might also begin to consider the Negro a legitimate member of American society.

In the media—television, textbooks, magazines, the press, movies—the old degrading image of the Negro as a superstitious, maniacally smiling, lazy coon that for so long dominated the view of the Negro in popular culture is just about dead. Television in particular has helped to effect this change. Millions of white families now see on their TV screens richly variegated portrayals of blacks in American life. For example, it would have been inconceivable to the early viewers of television after World War II that a generation later Negro models would be seen on television advertising products for highly personal use, such as cosmetics. It would of course be foolish to infer from this turnabout in the popular projection of the Negro that a radical change has occurred in the character of American race relations; yet it would be equally foolish to conclude that it is of no consequence whatever, save in the marketing of products in a capitalist economy. Indeed it is precisely because capitalism has endorsed this dramatic change in the popular image of blacks that I would expect its impact to be significant. Few things in American civilization succeed as thoroughly as capitalist-linked success, and however much one may bemoan this feature of our culture, it is a powerful institutionalizing force.

Over a generation ago, Gunnar Myrdal argued that the resolution of the "American Dilemma"—the nonfreedom of racial caste in a society whose primary premise was freedom itself—would occur when the American creed of equal opportunity for all individuals was extended to blacks and whites alike. Thus far the resolution of that dilemma, while well under way, has remained only partial. And it will continue to be so, Myrdal believes, until whites face up to the moral cowardice that lies at the heart of it.

Certainly the split personality, aided and abetted by moral confusion, that the average white displays in the process of extending the American creed is a continuing obstacle to racial integration. For example, in the area of sports—where Negroes now have a preponderant role after their fitful entry in the late 1940s and early 1950s—one finds much moral ambivalence in racial matters. Consider the city of Boston, where Irish youth cheer on the Celtics' Jojo White or Charlie Scott at the Boston Garden, or Jim Rice of the Red Sox at Fenway Park, but the next day shout "dirty nigger" at black children being bused into formerly white schools. Fortunately, most Negro leaders today are quite capable of open-mindedness toward this kind of ambivalence in the racial perceptions of the average white, who might be willing to change in one sphere of cultural and social life but in other spheres remains constrained by past habits and current anxieties.

The Neoconservative Attack

Another and less sympathetic response by Negro leaders is warranted, however, in regard to the neoconservative white intellectuals and publicists whose current arguments regarding racial integration amount to adding insult to injury. These neoconservatives would have us believe that the American creed would have shed its white-only status quite of its own accord—without the pressure of the civil rights movement, the general cultural shifts of the 1960s, and the public policy initiatives of the Kennedy and Johnson administrations. The latter in

particular come in for the loudest criticism from the neoconservatives. They condemn any role for government in racial integration beyond that of night watchman. Such transgression, they claim, can only produce bureaucratic excesses and profound distortions of the traditional American values of individual achievement—values that white ethnic groups like Jews, Irish, Slavs, and Italians presumably have assimilated. Nathan Glazer's book *Affirmative Discrimination* propounds this thesis; it is sharply critical of affirmative action in hiring policies for blacks, women, and Spanish-speaking citizens.

This neoconservative attack on racial integration—and it is, in the final analysis, nothing less—is riddled through with unexamined assumptions. For one thing, the white ethnics' experience with upward mobility did not entail any special deference to individualism, insofar as individualism led them to reject assistance from government. Jews, Italians, Irish, Slavs, Greeks, and other white ethnic groups exploited every conceivable opportunity, including extensive corruption, to bring government—the public purse and public authority—into the balance, providing capital for construction firms and new technological industries, city and State colleges and technical institutes, educational grants and loans, among other government benefits. Furthermore, for Irish Americans the evidence is pretty clear that the rise of their middle classes from the late 19th century onward depended more heavily upon public jobs and government resources than did that of any other ethnic group.

The neoconservatives' argument that government's role in racial integration has generated unprecedented bureaucratic excesses is scarcely more credible. Certainly there has been much mismanagement in HEW, EEOC, and other Federal agencies concerned with racial integration, but for American political processes this is pretty much par for the course. There was no less bureaucratic disorder in the past when government was used in aiding claimant sectors of society, whether claimant capitalists in Grant's era, claimant white ethnic working classes from the 1890s onward, claimant farmers in Wilson's era and in the post-World War II era of parity prices and soil banks, or claimant Negroes of the Kennedy-Johnson era. The neoconservatives' criticisms of government support for racial integration strangely ignore the fact that American political culture, in its extraordinary innovativeness, has usually been able to legitimize the bureaucratic excesses attending government's role in social mobility. It is curious that the neoconservatives display a loss of faith in government and public policy precisely when these are being employed in behalf of Negroes.

It is equally curious that the neoconservatives, despite their claim to realism, have paid little attention to what underlies the fears of white ethnics in regard to Federal support of racial integration: the economics of scarcity under which the United States has been living since the end of the Vietnam War. In particular, much of the bad feeling that has of late accompanied the affirmative action program is not racial or sexual but economic. In testimony before the House Special Subcommittee on Education, Norman Hill and Bayard Rustin made precisely this point:

> We believe that there is a direct relationship between the economic failures of the past 5 years and the problems which the affirmative action program has encountered. It seems painfully obvious that an affirmative action program cannot achieve its objectives peacefully and democratically if it must function within the context of scarcity. And we are particularly dismayed by the notion that opportunities can be expanded for some groups at a time when the job market is shrinking for all. You simply cannot elevate significant numbers of blacks or women into better-paying, higher-skilled, and more satisfying jobs if those jobs don't exist.

Which brings us back again to the need for innovative public policy—a policy that will give all who have been held down a chance for a leg up without knocking down those who have already attained significant upward mobility.

Reviving a Dream

Finally, it has to be understood that integration is not a matter of interest exclusively to Negroes. The best of our leaders, black and white, have always understood it in a wider context—as a necessity for the Nation at large. "I have a dream" announced Martin Luther King, Jr., before he was brought down, and that dream, as he elaborated upon it, was not for Negroes alone but for every American. It was a dream of a society without hunger and without meanness, a society in which everyone could live his life to the best of his God-given limitations. That dream has seemed to fade in recent years. Ironically, in this, our bicentennial year, it has not been called forth as one might have expected it to have been. It remains the best dream we have, and the truest American vision.

ASSESSING PROGRESS

EMPLOYMENT AMONG AMERICANS OF SPANISH ORIGIN

By Moses Lukaczer

Two hundred years ago, Puerto Rico and the Southwest—sources of the two major Hispanic groups in the United States—did not belong to this country. Mexicans living in the Southwest were not for the most part among the Texans who declared independence from Mexico in 1835, nor did they vote to join the United States in 1848. Instead, they became Americans as a result of losing a war. The land they had settled two and three hundred years earlier—Texas, California, Arizona, New Mexico, Nevada, Utah, and part of Colorado—was ceded out from under them to the government in Washington. As a result, they suffered at least in part the same fate as other minorities defeated or enslaved by the United States; they have been forced to fight for first-class status.

Similarly, the inhabitants of Puerto Rico became the pawns of 19th century history. They too became a part of the U.S. without their consent after the Spanish American War of 1898. Unlike the Afro Americans brought here in slave ships, however, Mexican Americans and Puerto Ricans were able to retain their families and their culture. Neverthless, the integration of Americans of Spanish origin into the political and economic structure of the United States has been a continuing struggle. One measure of that struggle's success is the current employment status of Mexican Americans and Puerto Ricans living on the mainland, as well as that of other Latin groups.

In its recent report *Twenty Years After Brown: Equality of Economic Opportunity,* the Commission on Civil Rights emphasizes that although minority groups have made economic gains in the last 20 years, their nature, extent, and rate have been marginal. The Commission adds that the time has come, in its judgment, for the Federal Government to act in a systematic fashion to achieve a meaningful economic parity among all racial and ethnic groups and men and women. What this effort requires, the Commission says, is concentration on developing (a) specific operating goals consistent with the overall national commitment, (b) a timetable for their implementation, and (c) monitoring procedures for determining where the program stands in relation to goals at particular points in time.

It is not widely admitted, perhaps, how intractable and slow progress toward such parity is likely to be. Part of the difficulty stems from lack of agreement on the specific nature of a meaningful economic parity and on the appropriate measures for achieving it. Part stems from engineering the long term changes which are the preconditions for success and part stems from the length of time these changes will take to work themselves out, leaving in the interim the relatively prosaic task of monitoring progress.

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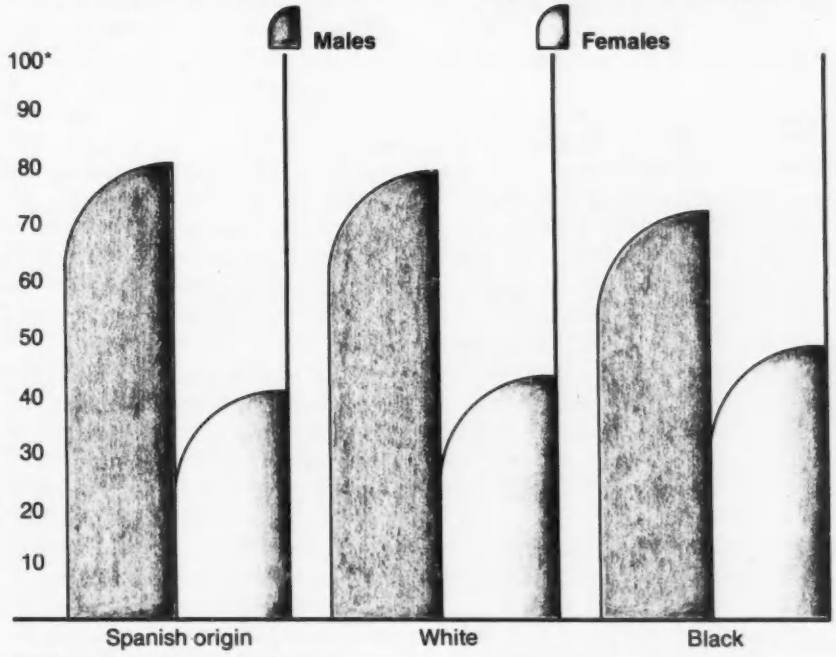
Table 1.
Civilian labor force participation rates of persons of Spanish origin 16 years of age and over, whites, and blacks, by sex, annual average, 1973



*Based on total percent of those eligible to work.

Source: "Employment and Unemployment Among Americans of Spanish Origin," by Roberta V. McKay, *Monthly Labor Review*, April 1974, Table 3, p. 14.

In order to construct an indicator of equality of employment for Americans of Spanish origin in relation to nonminority whites and males, the current situation must be examined in detail. Where appropriate, comparisons with nonminority whites and with other minority groups are needed based on the most recent information available. Factors affecting employment, both those that are obvious and others not immediately apparent must also be considered. Economic equality involves, of course, aspects other than employment, but employment is clearly a benchmark—both its volume and kind are significant.

The discussion here, where possible, is carried on in terms of four subgroups of Spanish Americans—those who identified themselves by origin or descent as Mexican, Puerto Rican, or Cuban, and a residual subgroup of Spanish Americans of Central or South American origin. Discussion in these terms has the virtue of emphasizing that all Spanish Americans cannot be subsumed under a single quality or quantity because their experience has been different.

The terms used here—Spanish origin, Spanish American, etc.—are adopted from the Census Bureau, which collects data under various headings at different times and different areas.

The concept of Spanish heritage used in many 1970 Census reports is based on such characteristics as mother tongue, surname, and place of birth or of parent's birth. The concept of Spanish origin or descent used in the *Current Population Survey* ethnic supplemental series relies on the respondent's self-identification of ethnicity in terms of seven Hispanic categories that include Mexican-Americans, Puerto Rican, and Cuban, among others. Population counts based on these definitions vary widely because of differing terms and collection methods and other technical factors.

Employment is partly a function of participation in the labor force. The degree of participation is usually represented by the ratio of the employed, plus the number of employed seeking work, to the noninstitutional population. Something should be said first, therefore, about participation in this sense.

The overall rate at which American men of Spanish origin, age 16 and over, participate in the labor force in relation to their population is 81.5 percent (annual average, 1973). This rate is higher than the rate for nonminority white men, 79.5 percent, and is also significantly higher than the rate for black men which was 73.3 percent in 1973. (Data for whites and for blacks include, unless otherwise indicated, white and black people of Spanish background.)

Information for subgroups within the Spanish origin group is only available for an earlier period, March 1972. Within the Spanish American group the participation rate for Cuban men age 16 and over is highest—83.8 percent. In fact, their rate is higher than the rate for comparably-aged white and Negro men, which is 79.6 percent and 74.0 percent, respectively. The participation rate for men of Mexican origin is 82.1 percent. Although lower than the participation rate for men of Cuban descent, it, too, is higher than the participation rate for white men and Negro men. The participation rate for men of Puerto Rican origin, 73.0 percent, is the lowest among the subgroups of Spanish origin and below the rate for white men and Negro men as well. This position is the result in part of health problems; one fourth of all men of Puerto Rican origin under 65 and outside the labor force are disabled.

With respect to Spanish American women, 16 years of age and over, the situation differs in a number of respects from that described for men. The overall participation rate for women of Spanish origin is 40.9 percent of their population (annual average, 1973). This rate is significantly lower than the overall rate both for white women at that date, 44.1 percent, and Negro women, 49.3 percent.

Within the group of women of Spanish origin, Cuban women aged 16 and over were most likely to participate at the rate of 54.0 percent (as of March 1972). As is true of Cuban men, this rate is higher than that of white women and Negro women—respectively, 43.1 and 48.2 percent. Women of Mexican origin age 16 and over have a participation rate of 36.7 percent, which is below the rate for women of Cuban origin as well as the rate for white and Negro women, and above the rate for women of Puerto Rican origin. As is true of men of Puerto Rican

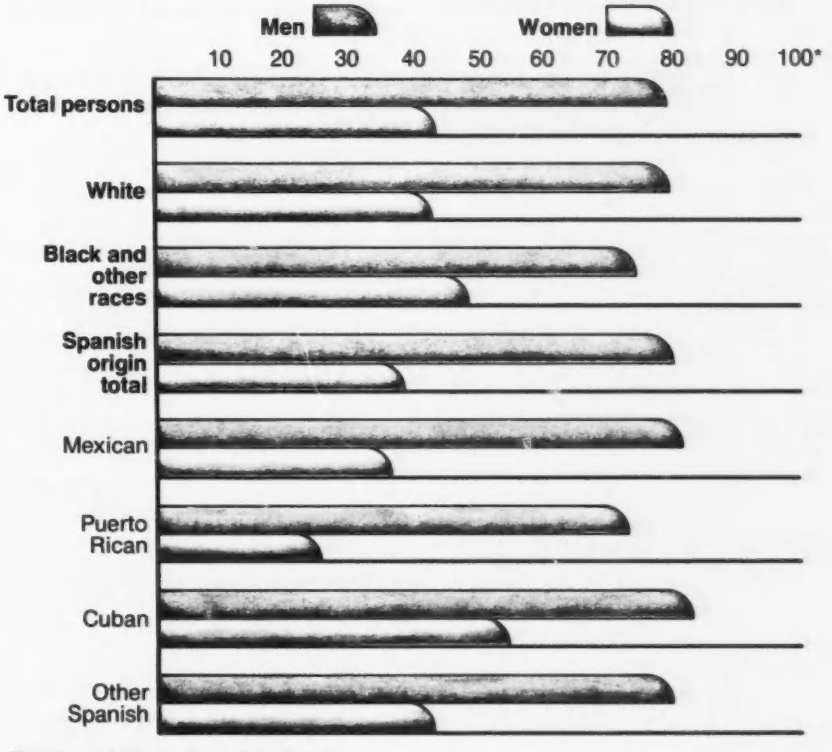
origin, women of Puerto Rican origin worked least often, at the rate of 25.3 percent of their population—a rate lower than that for all groups including white women and Negro women.

In identifying the above differences in participation, it is not intended to suggest that they constitute something in the nature of a crisis, but merely that they are helpful in understanding the employment situation of Spanish Americans. The differences already described among women in work force participation are worth examining further in order to forestall drawing incorrect or inadequate conclusions about their significance, for it can be shown that they do not really mean what they might be taken to mean at first glance, at least for women of Puerto Rican extraction.

Labor force activity of women is influenced by size of family, presence of preschool and school-age children, and social attitudes toward wives and mothers seeking jobs outside the home, among other factors.

For this part of the analysis, only information for an earlier date, April 1970, is available. This information is based upon the looser concept of Spanish heritage rather than the more precise Spanish descent or origin. These data show the participation rate of women of Puerto Rican heritage, age 16 and over, to be 29.9 percent—the lowest among Spanish American subgroups. However, when women with children under 6 are considered separately, the participation rate of women of Puerto Rican heritage

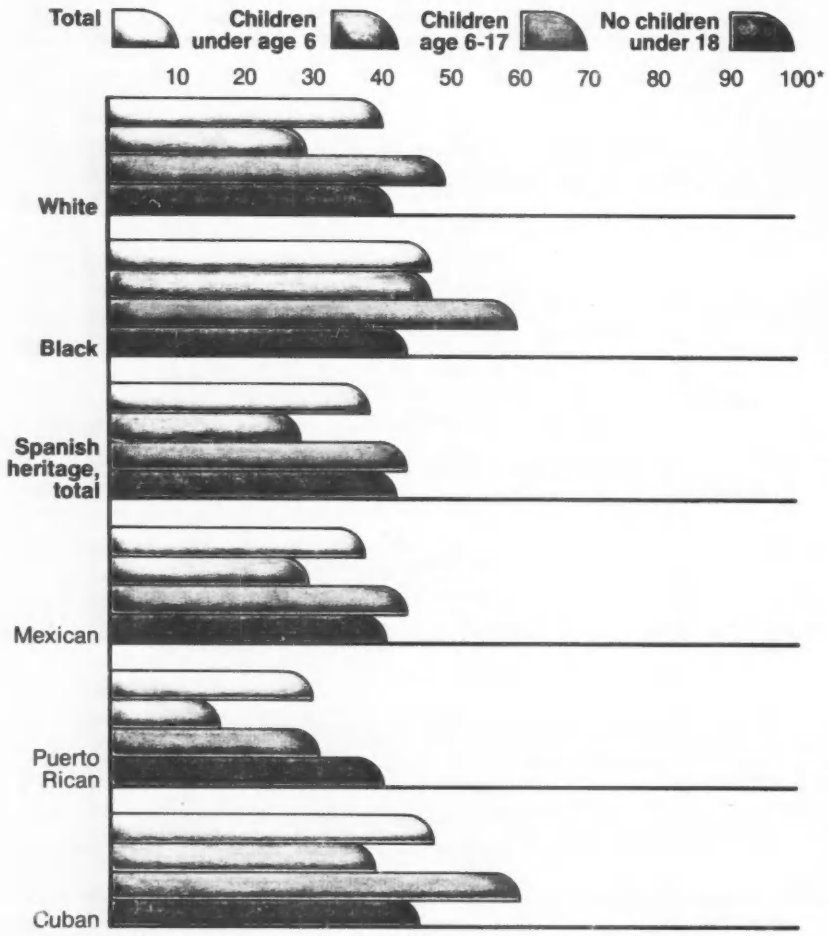
Table 2.
Labor force participation of persons, 16 years of age and over by sex, race, and Spanish origin, March 1972 (Percent)



*Based on total percent of those eligible to work.

Source: "The Economic Situation of Spanish Americans" by P. M. Ryscavage and E. F. Mellor, *Monthly Labor Review*, April 1973, p. 5.

Table 3.
Labor force participation rates for women age 16 and over in April 1970, by race, ethnic group, and number of children



*Based on total percent of those eligible to work.

Source: "The Economic Situation of Spanish Americans" by P. M. Ryscavage and E. F. Mellor, *Monthly Labor Review*, April 1973, p. 5

is reduced to 16.6 percent, implying a response of the rate to their presence. Among white women in the same situation, work force participation also declines from an overall rate of 40.6 percent to 28.4 percent, a figure that reflects the response of this class of women to the same phenomenon. With respect to Negro women, however, there is no decline. In fact, a slight increase occurs, from 47.5 to 47.6 percent.

As children grow older, participation in the labor force of women of Puerto Rican heritage increases, though not as much as among white women. With children ranging from age 6-17, women of Puerto Rican heritage increase their participation to 30.5 percent, compared to 49.0 percent for white women and 59.8 percent for Negro women. In the absence of children under 18, participation of women of Puerto Rican heritage rises still further to 39.9 percent which, it is of great interest to note, compares very favorably to the participation rate for similarly-situated white women, 41.5 percent.

Although the participation rate of women of Puerto Rican heritage remains the lowest among all women of Spanish American heritage, the differential between the respective rates narrows considerably. For example, the overall participation rate of women of Puerto Rican heritage is 7.9 percentage points below the comparable rate for women of Mexican heritage and 17.2 points below the rate for women of Cuban heritage. When women have no children below age 18 home, the differential narrows to 2.0 percentage points for Mexican American women and 5.2

percentage points for women of Cuban origin.

What is true of women of Puerto Rican heritage is likewise true of women of Mexican heritage with respect to their rate of participation where there are no children under 18; this rate is close to the rate for white women similarly situated, namely, 40.1 percent for Mexican American women and 41.5 percent for whites. Although the participation rate of women of Cuban heritage, 45.1 percent, remains the highest among Spanish American women where there are no children under 18, the rate continues to be above the rate for white women, 41.5 percent.

Another important facet of employment is the distribution of those working among various occupations. The data for 1975 show clearly that significant differences exist between the occupational distribution of whites and of Americans of Spanish origin that appear to put the latter in a disadvantaged position, inasmuch as income on the job is a function, among other things, of the level of skill involved and of the status of the job in the occupational hierarchy.

Table 4. **EMPLOYMENT OF EXPERIENCED SPANISH ORIGIN, WHITE AND BLACK WORKERS BY OCCUPATION ANNUAL AVERAGE, 1973 AND 1975**

Occupation	1973			1975		
	Spanish origin	White	Black	Spanish origin	White	Black
Total experienced workers (in thousands)	3,333	75,278	8,061	3,561	75,713	7,782
Percent distribution	100.0	100.0	100.0	100.0	100.0	100.0
White-collar workers	28.9	49.8	28.6	32.5	51.7	30.8
Professional, technical	6.5	14.4	8.5	7.8	15.5	9.4
Managers and administrators (except farm workers)	5.5	10.0	3.5	5.6	11.2	3.7
Sales workers	3.7	6.9	2.1	3.8	6.9	2.3
Clerical workers	13.2	17.5	14.5	15.3	18.1	15.4
Blue-collar workers	89.8	34.7	42.3	46.5	32.4	39.3
Crafts and kindred workers	13.0	13.9	8.8	12.8	13.4	8.9
Operative except transportation	24.3	12.5	17.5	21.6	10.9	15.8
Transportation equipment operatives	4.5	3.7	5.8	4.5	3.7	5.4
Nonfarm laborers	8.0	4.6	10.2	7.6	4.4	9.2
Service workers	15.8	11.7	26.4	16.5	12.3	27.2
Private household	1.8	1.1	6.3	1.8	1.0	5.5
Other service workers	14.0	10.6	20.1	14.7	11.3	21.7
Farm workers	5.6	3.7	2.7	4.5	3.6	2.7

Source: 1973 data: "Employment and Unemployment Among Americans of Spanish origin," by Roberta V. McKay, *Monthly Labor Review*, April 1974, Table 4, p. 13.
For 1975 data: Supplied by U.S. Department of Labor, Bureau of Labor Statistics.

The occupations examined here are in three major categories; the first is labeled white collar. In all four of the occupations comprising this category, the proportion of Spanish Americans is significantly smaller than the proportion of whites in those occupations. The occupations and the differentials involved are as follows:

1) Professional, technical, and kindred—The proportion of Spanish Americans in this occupation is 7.7 percentage points less than the proportion of whites.

2) Nonfarm managers and administrators—The proportion of Spanish Americans in this occupation is 5.6 percentage points less than the proportion of whites.

3) Sales—The proportion of Spanish Americans is 3.1 percentage points less than the proportion of whites.

4) Clerical—The proportion of Spanish Americans is 2.8 percentage points less than the proportion of whites.

The white collar category held 32.5 percent of the Spanish Americans employed in 1975 versus 51.7 percent of the employed whites.

The second major category is blue collar work. In two of the four occupations in the category, the proportion of Spanish Americans is significantly larger than the proportion of whites.

1) Operatives, except transportation—The proportion of Spanish Americans is 10.7 percentage points above the proportion of whites.

2) Nonfarm laborers—The proportion of Spanish Americans is 3.2 percentage points above the the proportion of whites.

Almost half (46.5 percent) of the employed Spanish Americans are in the blue collar category compared to 32.4 percent of the whites.

The third category is service workers. In one of the two occupations in the category, service other than private household, the proportion of Spanish Americans is 3.4 percentage points above the proportion of whites in that occupation.

To see how the occupational distribution is affected among the sexes, it is necessary to draw upon information gathered for an earlier year, 1970, and based upon the looser concept of Spanish heritage rather than Spanish

descent or origin. The proportion of Spanish American males is significantly smaller than the proportion of white males in three of the four occupations mentioned above in the white collar category—namely, professional, technical, and kindred; nonfarm managers and administrators; and sales.

The proportion of Spanish American males is significantly higher than the proportion of white males in two of the four occupations labeled blue collar—namely, operatives except transportation, and nonfarm laborers. In the service category, the proportion of Spanish American males is significantly larger that the proportion of white males in one of the two occupations previously mentioned, that is, service except private household. The proportion of Spanish American males who are farmworkers is also significantly higher than the proportion of white males. The situation for Spanish American women is patterned fairly closely to that for the men.

When the overall proportion for the Spanish American group is broken down by ethnic group, it appears that, in general, the occupational distribution of males of Cuban heritage (and of females too) is closer to the distribution of white males than is true for the other Spanish subgroupings. Males of Puerto Rican heritage were, more than the other groups, concentrated in semiskilled occupations, such as operatives except transportation and transportation equipment operatives, and in unskilled occupations, such as nonfarm laborers and service except private household—all of which are generally also low paying. The proportion of males of Puerto Rican heritage working in these jobs in 1970 constitutes 58.8 percent of the total employed, compared with 45.5 percent of the males of Mexican American heritage and 38.0 percent of males of Cuban heritage. The comparable figure for white males is 31.7 percent.

Comparison between occupational distributions for 1973 and 1975 provides some indication as to whether any lessening of the differential has occurred. Of course, the results of such a comparison do not necessarily indicate a trend, because only 2 years are involved. With this caveat, it still appears some progress has been made even in this brief period, for the proportion of Spanish Americans in white collar occupations rose from 28.9 to 32.5 percent, or 3.6 percentage points, and is particularly noticeable in professional, technical, and kindred and in clerical occupations. The proportion of Spanish Americans

Table 5. **OCCUPATION OF EMPLOYED PERSONS BY RACE, SEX, AND SPANISH HERITAGE, APRIL 1970**

Occupation Group	Total	White	Negro	Total	Primarily Mexican[1] Americans	Primarily Puerto Rican[2]	Primarily Cubans[3]
Total men (in thousands)	47,624	43,030	4,052	1,897	1,255	194	112
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Professional, technical and kindred	14.3	15.0	5.8	8.9	8.2	4.0	11.3
Nonfarm managers, and administrators	11.2	12.0	3.0	6.3	6.2	4.2	9.0
Sales	6.9	7.4	2.1	4.7	4.5	4.5	7.7
Clerical	7.6	7.6	8.1	7.6	7.0	12.0	8.9
Craftsmen	21.2	21.8	15.2	19.8	20.6	15.4	21.8
Operatives, except transportation	13.6	13.1	19.6	18.7	17.0	25.3	13.5
Transportation equipment operatives	5.9	5.6	10.0	6.5	6.9	7.0	5.2
Nonfarm laborers	6.6	5.7	15.8	10.1	11.2	7.1	6.7
Service, except private household	8.1	7.3	15.6	11.2	10.4	19.4	12.6
Private household	.1	—	.4	.1	.2	.2	.1
Farmworkers	4.5	4.5	4.4	6.2	8.0	.8	3.2
Total women (in thousands)	28,900	25,252	3,309	990	647	91	73
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Professional, technical and kindred	15.7	16.3	11.3	9.6	9.1	6.5	8.3
Nonfarm managers, and administrators	3.6	3.9	1.5	2.4	2.6	1.6	2.2
Sales	7.4	8.1	2.5	6.0	6.3	4.2	6.2
Clerical	34.9	36.9	20.7	30.0	29.9	30.8	28.9
Craftsmen	1.8	1.9	1.4	2.2	2.1	2.4	3.0
Operatives	13.9	13.6	16.1	23.7	20.6	40.3	32.3
Transportation equipment operatives	.5	.5	.4	.4	.4	.3	.4
Nonfarm laborers	1.0	.9	1.5	1.3	1.3	1.1	1.0
Service except private household	16.6	15.4	25.5	18.5	20.1	11.6	14.2
Private household	3.9	2.0	17.9	4.0	5.0	.9	1.9
Farmworkers	.8	.7	1.2	1.9	2.5	.1	1.7

[1] Persons of Spanish language or surname in five Southwestern States.

[2] Persons of Puerto Rican birth or parentage in three middle Atlantic States.

[3] Persons of Spanish language in Florida.

Source: "The Economic Situation of Spanish Americans," by P. M. Ryscavage and E. F. Mellor, *Monthly Labor Review*, April 1973, Table 4, p. 7.

in blue collar occupations fell from 49.8 in 1973 to 46.5 percent, or 3.3 percentage points. The decline is noticeable for operatives except transportation. In service occupations, the proportion actually rose slightly, rather than fell, from 15.8 to 16.5 percent. Among farmworkers, the proportion of Spanish Americans fell from 5.6 to 4.5 percent.

What should be the operational goal for judging parity of employment opportunity of Spanish Americans in relation to whites? It seems natural to turn to the occupational distribution of white males as a guide. A conceivable operational goal might be: If the distribution of Spanish Americans among occupations (males and females separately or, perhaps, combined) replicates, say, within one percentage point the proportion of white males in the same occupations, for practical purposes parity of employment has been reached between Spanish Americans and whites. In stating the goal in this way, it should be understood that the current occupational distribution of white males serves as a proxy for the occupational distribution of Spanish Americans that would result, presumably, if hindrances to employment due to sex, race, or ethnicity were eliminated.

Is such an assumption justified? A number of difficulties arise. In theory, at least, the occupational distribution of Spanish Americans might be even more favorable than that of white males if the hindrances noted were eliminated. In other words, the occupational distribution of white males does not necessarily represent the "rock bottom" for Spanish Americans as well. Elimination of the hindrances noted might release energies among Spanish Americans that could bring about an occupational distribution more favorable than is shown for white males. It is not evident, without further analysis, what such distribution might be.

On the other hand, it should be realized that even if hindrances to the achievement of personal vocational goals due to sex, race, and ethnicity were eliminated, other hindrances would continue to exist that would hasten the progress of some individuals or categories of individuals and lessen the progress of others, such as differences in family wealth and income, in social status, in the range of friendships than can be drawn upon to identify the available employment opportunities, and similar considerations.

On this basis it would seem that some portion of the existing differential between the occupational distribution of white males and Spanish Americans might remain, to the extent to which it is generated by factors exclusive of sex, race, and ethnicity. It is not immediately evident, without further analysis, to what proportion of the existing differential these remarks would apply.

Even if these complications are satisfactorily resolved, it will be necessary, quite apart from merely prohibiting discrimination on the basis of sex, race, and ethnicity, to identify and to spell out the specific steps that would make the occupational distribution of Spanish Americans more nearly approximate the distribution for white males.

One other point should be raised: In describing the occupational distribution above, it should be pointed out that the term "occupational" as used by the Census Bureau is quite broad. For instance, the occupation "professional, technical, and kindred" in fact includes many individual occupations. Even if the proportion of Spanish Americans in professional, technical, and kindred occupations as a whole is identical with the proportion of white males in the same category, the distribution of Spanish Americans among individual professional occupations, technical occupations, and kindred occupations may differ significantly from the distribution for white males. To make a truly meaningful comparison, one must decide how each census heading should be broken down in order to construct the operational goal. The answer is not immediately obvious without further analysis.

The above remarks relate to an operational goal for judging parity in employment only. Employment parity is only one aspect of economic parity; others include unemployment and income. An examination of unemployment would have to consider differences between whites and Spanish Americans with respect to the amount of unemployment, the number of people fully and partly unemployed, and differences in the length of unemployment. Achievement of economic parity for Spanish Americans may very well require the application of a number of operational goals that might or might not be applicable without appropriate adjustment to other minority groups whose circumstances differ in particular respects from Spanish Americans. The policies required to set such goals ought to be on the national agenda for the immediate future, if the quest for full equality of Spanish Americans is to be realized before the next centennial commemoration of 1776.


WOUNDED
KNEE
INDEPENDENT
OGLALA

THE BRAVE-HEARTED WOMEN

THE STRUGGLE AT WOUNDED KNEE

By Shirley Hill Witt

'The lineal descent of the people of the Five Nations shall run in the female line. Women shall be considered the progenitors of the nation. They shall own the land and the soil. Men and women shall follow the status of their mothers.' You are what your mother is; the ways in which you see the world and all things in it are through your mother's eyes. What you learn from the fathers comes later and is of a different sort. The chain of culture is the chain of women linking the past with the future.

As litany in every calling together of the Longhouse Iroquois people, these words are said in order to recall the original instructions given to humans at the time of our creation: 'We turn our attention now to the senior women, the Clan Mothers. Each nation assigns them certain duties. For the people of the Longhouse, the Clan Mothers and their sisters select the chiefs and remove them from office when they fail the people. The Clan Mothers are the custodians of the land, and always think of the unborn generations. They represent life and the earth. Clan Mothers! You gave us life—continue now to place our feet on the right path.'—The Iroquois Great Law of Peace (Kaioneregowah)

Anna Mae Pictou Aquash was born and raised on the Micmac reserve called Shubenacadie in Nova Scotia. Her sister says that life in Shubenacadie is much better than on the Western reserves and reservations in the U.S. and Canada: at Shubenacadie, *everyone* is on welfare. Since no one has a job—only pickup government jobs for perhaps 5 months out of the year for a few—having everyone signed up and receiving welfare is quite a social accomplishment for the bureaucracy.

Unlike so many Native children in Canada and the United States, Anna Mae was not removed from her family and shipped hundreds of miles away to a boarding school. She escaped the aching loss of family and she also avoided the indoctrination efforts of the boarding schools. Native children by the hundreds in both countries serve time for as many as 12 years in federal schools geared to their gradual and eventual assimilation of the Anglo way of life, the ultimate solution to the "Indian Problem."

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Anna Mae did not have to choose between being a secretary, a domestic servant, a hospital attendant, or a cosmetologist—the traditional range of options for boarding school girls. She did not view her future as a choice between being employed as a menial or living on a reservation where even those minimal skills are largely superfluous.

She had dreams to be educated someday and to get a job working with children, maybe as a teacher. To be a teacher of children is at the same time both the most prosaic and the most awesome of aspirations: for someone from Shubenacadie to aspire to an Anglo-certified teacher's degree was like seeking the Nobel Prize. But instead, Anna Mae Pictou dropped out of school in the 9th grade, perhaps because of the change from an all-Indian reserve school to a local mixed Indian and white high school.

In time, with now a husband and two daughters, life on the Micmac reserve became too oppressive, too devoid of options. An essential ingredient was in short supply: hope.

A friend explained how Anna Mae felt: "There isn't much hope in looking towards potato fields and blueberry fields for a proud people. She didn't want her children to suffer in life as she did. The way the world is made her suffer, because she was sensitive and had strong feelings."

There are traditional migratory patterns that trace the paths of Native Americans from their home communities to one city, and then perhaps to another city and another—and of course, back again. Boston is a funnel from Canada and much of the Northeast for those who do not go directly to New York City and Brooklyn. Anna Mae went south to Boston with her family when life at Shubenacadie failed to answer their needs. She got a job as a teacher's aide in a prekindergarten child care center for black children in the Roxbury area, even with her lack of education.

She became involved with the Boston Indian Center and was sent by the Center to Washington, D.C., at the time of the Trail of Broken Treaties when the U.S. Bureau of Indian Affairs building was taken over. The established media focused their attention on who they judged to be the leaders and organizers—that is, Native American males. Their cameras and tape recorders only grazed the faces of Martha Grass from Oklahoma or Ann Jock from Akwesasne or the many strong women who like Anna Mae Pictou breathed life into an idea.

The women who went to Washington expressed their purpose in this way:

> *We are the* gwen non gwa weh, *the Indian women of this continent. From the female side of life, we extend our life support to our children of these territories in North America. We have much work to do. Our position is with our people and nothing can stand in our way to fulfill our job: to tell the people of this earth of our survival and to expose the genocide being done to Native American nations by the U.S. Government. We must do this for we care for our children.*

Yet the love of all people for their children has not always been attributed to Native Americans by whites, nor has the Indian commitment to the survival of Indian children always been recognized. For Native Americans since the Pilgrims arrived, such assumptions have far too often led to the wholesale abduction of their children, to be raised by Anglos in their own image. Native Americans have seen no diminution of this fearsome practice.

Bernice Appleton, an officer of the Native American Children's Protective Council chartered in Michigan, observes, "There is a shortage of white babies for adoption, so since not too many whites want black babies, they are coming for the next—and that's Indian. These agencies are going into Indian homes and telling them their homes are unfit because they have two children, or three children, sleeping in one bed. . . . It isn't necessary for Indian children to have one bed apiece. I don't even think it's good for children to sleep apart. Our children learn sharing right from the start."

In Canada, children needing homes are removed from their communities and extended families. A 1975 report published by the American Indian Treaty Council Information Center states, "Often relatives are available to care for children, but they cannot get financial support [from agencies] because the children are related to them. However, the agencies have to pay the white foster parents for the children, often adding on additional subsidy because the children are Indian and are 'hard to manage'."

Anna Mae returned from her experience in the Washington portion of the Trail of Broken Treaties a renewed woman, dedicated and determined to share in the hemispheric struggle of Native Americans. "She had been in the struggle for a long time for her people," said Nogeeshik, who later became her second husband. He added:

> Many Micmac people knew that they could go to her for help, a place to sleep, money, or whatever she had. . . . She loved her children very much. It

was a great sacrifice for her to be away from them—they were very close—but she wanted change to come to Indian people right away. This is why she fought and struggled so hard, and if everyone did that, maybe her children would not have to go through the same difficult things that she was forced to. . . .

As an Indian person she wanted her people to be recognized by other Indian people who never heard of the Micmac. Her people had European contact long before Western tribes had. It is only through their diligence and tenacity they have been able to survive to this day. She realized that with the onslaught by whites, the Micmac were disappearing. Her people, the Micmacs, strongly maintain some of their cultural ties, and most important, their language. This is where her fight began. . . .

She wanted it known what a poor people the Micmac of Nova Scotia are with little jobs and work, discriminated against through law enforcement, education; the reality of what cluster homes produces; the people's shift from productive areas to poor areas where drinking and oppression became an everyday thing. That is why she was so strong in the efforts of the movement. She has had difficulty in trying to make other people aware of this. What she was saying in her efforts was that the Micmacs faced these problems 200 years ago and that she understood what the Western tribes were now faced with. In that way, she was years ahead of her times. She was able to see objectively a lot of the problems that the Western tribes are now facing.

And so, before long she went West, having returned her daughters to Shubenacadie, to their other "mothers," Anna Mae's sisters. Many tribal peoples consider a woman's sisters as natural mothers to her children. Such sharing of maternal duties allows for a wider range of activities on the part of any single "mother." In such cultures, it is assumed that others can love and nurture a child as much as the woman who bore it.

In the winter of 1973, the Second Battle of Wounded Knee began on the Pine Ridge reservation in South Dakota. Traditional Oglala leaders had organized themselves to oust Dick Wilson, the tribal chairman, who was accused by many of instituting one-man rule and oppressing all opposition.

In February of 1972 the traditional Oglalas asked for the assistance of the American Indian Movement, a loose-knit group of activists that included many Oglalas. In November 1972 AIM was banned from the reservation by Wilson. In February 1973 three tribal councilmen filed impeachment proceedings against Wilson for the fourth time since his election 10 months earlier.

Wilson called for assistance from U.S. Marshals and the FBI, who arrived in Pine Ridge in February 1973, shortly before the impeachment hearing was to begin. Wilson then postponed the hearing from February 14 to February 22. The hearing was held amidst charges that it was rigged; the impeachment motion failed. Wilson's opposition, several hundred strong, met immediately afterward to decide what to do.

Feeling that all legal avenues were now closed to them, the protestors proceeded to Wounded Knee to assert their right to democratic self-government. They intended to create a base from which they could negotiate with the Pine Ridge administration. By all accounts, none had any idea their stance would result in a situation which evolved into a full-scale paramilitary confrontation.

The Second Battle of Wounded Knee found Anna Mae among the many young and old women who shared a common denominator: the loss of patience. Regina Brave put it into words.

WE'RE TIRED!

We're tired of seeing our men driven by despair, turn to alcohol, commit suicide, or end up in penal institutions!

We've reared our children only to see them brainwashed by an alien system with a genocidal policy which destroys our language, customs, and heritage!

We're tired of seeing our brothers and sons go off to war only to come home and be slain by United States Government forces!

After 483 years . . . we're tired . . . we're damn sick and tired!

So, we're standing up next to our men. We're standing up and taking up the battle here and now to protect our young so their unborn can know the freedom our grandparents knew.

The future of our young and unborn is buried in our past. We are today who will bring the rebirth of spiritualism, dignity, and sovereignty!

We are Native American Women!

Throughout the siege of Wounded Knee women organized, planned, provided support and materiel, and, in effect, gave continuity to the endeavor. They travelled back and forth through the battlelines, backpacking in the food to sustain the AIM defenders. In Dakota tradition, they were called "Brave-Hearted Women." In the American media, these women were ignored. The cameras hummed and clicked upon the faces of male AIM members. And after the battle, the AIM men were arrested, neutralized, or eliminated by one means or another. The white male enforcement officers, blinded by their own sexism, failed at the time to recognize the power of the women, and that the heart and soul of the women would carry the movement foreward.

With so many males no longer functional, AIM more now than ever became a woman-run organization. One older woman observed, that, "It is sad how few men are involved in the movement. It's hard for just us little old ladies with our pop bottles [to sustain it]." The AIM offices would be run by women as they had at the start of the movement. One said, "we are here because there is work to do." Women, it is said, are less apt than men to draw

barriers between people; you are welcome if you want to help in the struggle.

The Wounded Knee aftermath continued like devastating seismic shocks bringing repercussions of violence and death. In a siege in July 1975 upon AIM members—mostly women and children—one Native man and two FBI agents were killed.

According to weeks of testimony at the 1976 Cedar Rapids, Iowa trial of two AIM members, a full-fledged military operation was launched that left the Pine Ridge Oglala Sioux Reservation a living hell while some 150 FBI agents ransacked homes and ran search parties through fields and woods. BIA police report that by late 1976 47 people had been murdered in this bleak poverty-stricken corner of South Dakota since Wounded Knee. Wilson's political faction acted out its burning hostility against AIM and the traditional Oglala people who support it with an unrelenting series of beatings, shootings, car "accidents," and other destruction which continues to this day.

Dino Butler, since acquitted of the charge of first degree murder of one of the FBI agents, tells another chapter in Anna Mae's life.

Anna Mae Aquash was arrested at Rosebud

Indian Reservation, South Dakota, on September 5, 1975. One hundred to one hundred fifty agents invaded Crow Dog's Paradise and Al Running's residence simultaneously. The FBI agents identified her immediately as Anna Mae Aquash and though there was no warrant for her arrest, they handcuffed her and placed her under arrest. She was transported to Pierre (S.D.) immediately where she underwent intensive interrogation for 6 or 7 hours, being questioned about the June 26, 1975, Oglala shootout between Native Americans and foreign Americans. She could not tell them anything because she was in Council Bluffs, Iowa, that day. The FBI agents made her the same offer they made me that day in Pierre after I, too, was arrested and transported from Al Running's home—"cooperate and live; don't cooperate—die."

Anna Mae described her encounter with the FBI agents. "While I was standing there with a group of women, waiting, I was being verbally harassed by some of the agents. They were implying that they had been looking for me for a long time and that they were very pleased that they finally found me."

Becoming Targets

Now that essentially all the male AIM members and supporters made prominent by the media, were effectively neutralized—in hiding, in jail, or dead—the mid-70s saw the targeting of women by enforcement officers and vigilantes. A foreshadowing of this occurred in the Northwest where Native peoples have struggled to preserve their traditional fishing rights.

"In Washington State," one of the embattled survivors explained, "women have had to stand in [the men's] place because we are supporting them and supporting our unborn. There have been issues, like fishing rights, when our men were put in jail and all that was left was women to go out and fish. Yet the women were still treated the same, with the same harassment from the police, being beat up and going to jail, even women with children."

Nor was death a stranger to the women along the banks of those rivers—sudden, violent death.

In Wagner, Sioux Falls, Custer, Gordon, Rapid City, and, of course, Pine Ridge, greater and greater pressure came down upon women as a new point of attack. Gladys Bissonette observed that, "Everytime women gathered to protest or demonstrate (peaceably), they always aim machine guns at us, women and children." With the male leaders made ineffectual, the AIM organization did not die. Nor did the greater movement for Indian rights, of which AIM has always been but a part. But as the Cheyenne people say:

A nation is not conquered
Until the hearts of its women
Are on the ground.
Then it is done, no matter
How brave its warriors
Nor how strong its weapons.

The women patriots who bore a heavy share of the task of physical and spiritual survival of their people through all the years would not now surrender. The list of Native women who have been harassed, jailed, beaten, stabbed, and shot grew long in this new campaign.

On February 24, 1976, the body of a young woman was found as it had lain for many days and nights along the highway north of Wanblee. The BIA contract coroner declared that death was caused by exposure; that is, natural causes. The FBI agents severed the hands from the body and forwarded them to Washington for identification. A week later the body was buried in an unmarked grave at the Holy Rosary Mission. By that time, however, the identity of the

young woman was known and communicated to family and then to friends. They insisted on an exhumation and a second autopsy. This time the autopsy performed by their own examiner read differently:

> On the posterior neck, 4 cm. above the base of the occiput and 5 cm. to the right of the midline is a 4 mm. perforation of the skin with a 2 mm. rim of abrasion surrounded by a 1.5 x 2.2 cm. area of blackish discoloration. Surrounding this is an area of reddish discoloration measuring 5x5 cm. This area is grossly compatible with a gunshot entrance wound.

On page 4 there is the sentence: "Removed . . . (from the brain) is a metallic pellet dark grey in color grossly consistent with lead."

March 14, 1976, dawned windy, flinging snow upon those who had come to bury Anna Mae Pictou Aquash. "Creation was unhappy," one woman said. Some women had driven from Pine Ridge the night before—a very dangerous act—"to do what needed to be done." Young women dug the grave. A ceremonial tipi was set up. Anna Mae's naked body was removed from the morgue's body bag. Her severed hands and their ten finger tips, also severed, were returned to her. The women clothed her in a ribbon shirt and jeans with a jean jacket enblazoned with the AIM crest and an inverted American flag on the sleeve. Beaded mocassins were put on her feet.

A woman seven months pregnant gathered sage and cedar to be burned in the tipi. Young AIM men were the pallbearers: they laid her on pine bows while the religious leader spoke the sacred words and performed the ancient duties. People brought presents for Anna Mae to take with her to the Spirit world. They also brought presents for her two sisters to carry back to Nova Scotia with them to give to the orphaned daughters.

Finding The Truth

The executioners of Anna Mae did not snuff out a meddlesome woman; they exalted a Brave-Hearted Woman for all time. The traditional leaders of Oglala released a statement about her death before the second autopsy was performed:

> We demand that a full investigation be conducted about the causes and circumstances of the death of Anna Mae Pictou Aquash. We do not believe she died of exposure and are certain foul play is involved. The way in which the BIA police and

the Federal Bureau of Investigation have handled this investigation makes it appear to be more of a coverup than an investigation into the death of still another Indian on Pine Ridge Reservation. If she was identified by her fingerprints, why did it take so long? Why was she buried before she was positively identified? Or, did the police and Federal and tribal authorities know who she was?

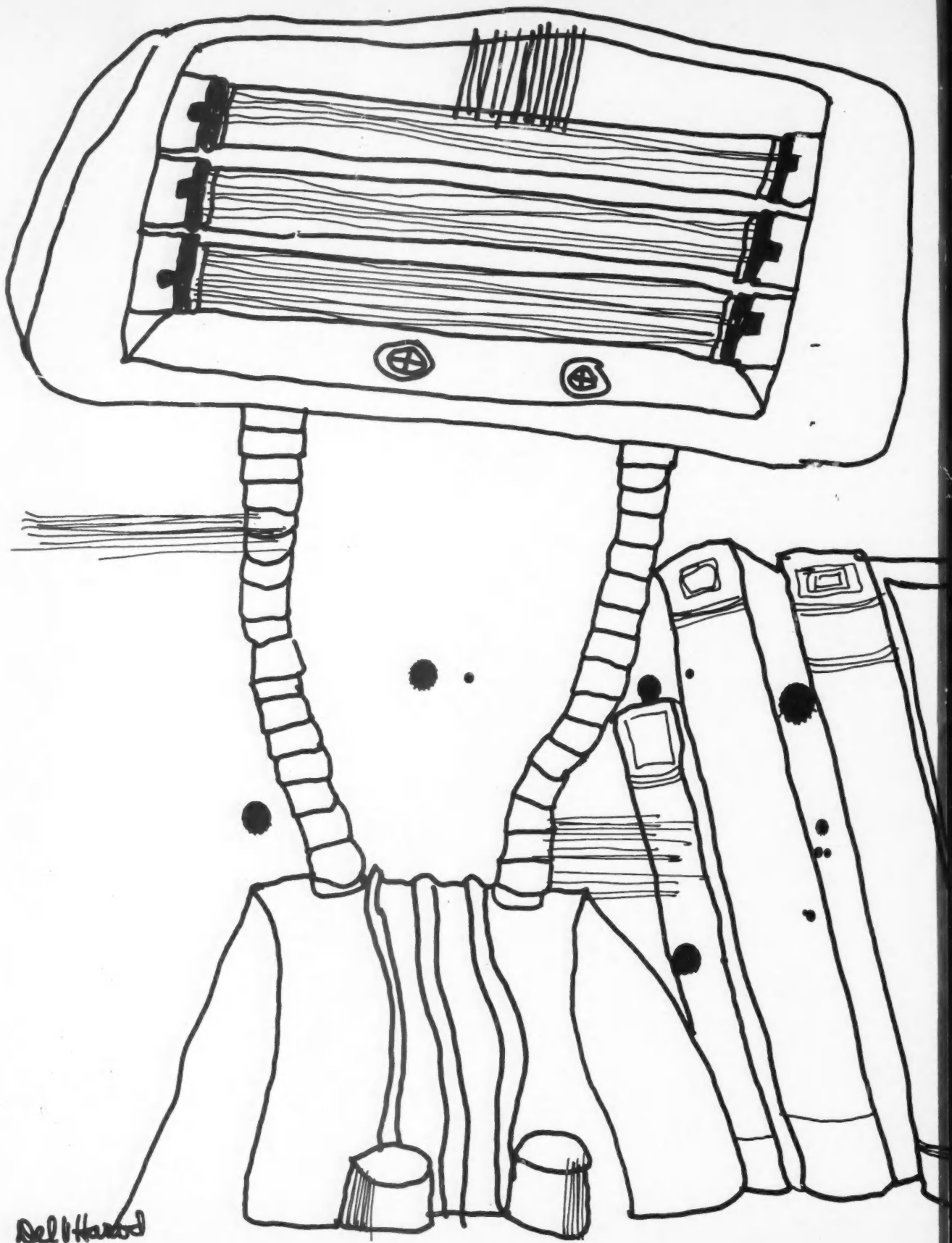
Anna Mae worked hard serving her Indian people and assisted in our efforts to shed the shackles of government paternalism. She is with us. In her blood in Oglala. We consider her a friend. So, therefore, we are concerned because we feel that her involvement as our ally probably brought her death. We are prepared to conduct our own investigation and we feel that a report from an independent coroner is essential.

Dr. Brown, the pathologist who conducted Anna Mae's autopsy, also provided the BIA and FBI with the information they knew about the death of Buddy Lamont, killed by Federal forces in Wounded Knee in 1973, and Pedro Bissonette, killed by the BIA police in November (sic October) of 1973. Therefore, we question Dr. Brown's independence and credibility. We want to know the truth about Anna Mae's death and the possibility of the government's involvement in it.

Anna Mae Pictou was respected and loved by the people of Oglala. We mourn her and we urge all law abiding citizens to demand the real truth about her death.

The brave-hearted women who remain to face the dangers of the Indian world have sadly been given a martyr, Anna Mae of Shubenacadie, Boston, Washington, St. Paul, Wounded Knee, Los Angeles, Oregon, and finally a frozen grave site on a ridge in Oglala. Among the Iroquois, it is the women who decide when the people will go to war, because, when the war is done, it is the women who weep. Will the brave-hearted women decide that, with Anna Mae's death, the war is over? Or will they decide with Lorelei Means who declares, "Hell, we're struggling for our life. We're struggling to survive as a people."

Anna Mae Pictou Aquash faces the sun's first light with the white, black, red, and yellow streamers flapping overhead on poles placed in the four sacred directions cornering her grave. The brave-hearted women have decided there will be war.


Del Harrod

READING & VIEWING

BOOKS RECEIVED

Black Separatism: A Bibliography compiled by Betty Lanier Jenkins and Susan Phillis (Westport, Conn.: Greenwood Press, 1976). Annotated bibliography documenting past and current status of the black separatism controversy. Review of literature includes historical and contemporary writings on the economic, political, and cultural aspects of separatism. Introductory comments by Kenneth B. Clark, Ralph Ellison, among others. *163 pp.*

The Rights of Candidates and Voters by Burt Neubrone and Arthur Eisenberg (New York, N.Y.: Avon Books, 1976). Examines the rights of candidates at every level of office from municipal school boards to the Presidency, including residency requirements, petitions for nomination, loyalty oaths, and campaign contributions. The guide explores rulings that effect voter rights, including tests, mail registration, and redistricting, and looks at the controversial Federal Election Act of 1974. One in a series of handbooks published in cooperation with the American Civil Liberties Union on the rights of U.S. citizens. *158 pp.*

A Welfare Mother by Susan Sheehan (Boston, Mass.: Houghton Mifflin Co., 1976). An intimate portrait of a Puerto Rican welfare mother and her family living in New York City. Introduction by Michael Harrington. *109 pp.*

Black-White Racial Attitudes: An Annotated Bibliography by Constance E. Obudho (Westport, Conn.: Greenwood Press, 1976). Annotations of articles and books on various aspects of racial attitudes of blacks and whites in the United States. Works included cover period from 1950-1974. *188 pp.*

Race First: The Ideological and Organizational Struggles of Marcus Garvey and the Universal Negro Improvement Association by Tony Martin (Westport, Conn.: Greenwood Press, 1976). Study examines the ideology of Marcus Garvey, leader and organizer of the Universal Negro Improvement Association. UNIA, a mass organization that flourished in the 1920s, was based on Garvey's belief that self-reliance would lead to the total emancipation of the black race from white domination. No. 19 in the series *Contributions in Afro-American Studies. 421 pp.*

The Democratic Party and the Negro: Northern and National Politics, 1868-92 by Lawrence Groosman (Chicago, Ill.: University of Illinois Press, 1976). History of the racial policy of the Democratic Party in the late 19th century; examines the party's evolving political attitude towards blacks in the quarter century between the Presidential elections of 1868 and 1892, why a metamorphosis took place, and its limits. Written from a white Northern

political perspective. (Includes tables). One in the series *Blacks in a New World. 212 pp.*

The Participatory Bureaucracy: Women and Minorities in a More Representative Public Service by Harry Kranz (Lexington Books, 1976). Examines the historical development of bureaucracy, methods of selecting bureaucrats, and the potential conflict with democratic theory. Author proposes model representative bureaucracy which would reflect the racial, ethnic, and sexual groupings in society. (Includes tables and appendices). *244 pp.*

Providing Safe Nursing Care for Ethnic People of Color ed. Marie Foster Branch and Phyllis Perry Paxton (New York, N.Y. Appleton-Century-Crofts, 1976). Essays on cultural health traditions and systems from Latin/Chicano, American Indian, Asian, and black perspectives, and new approaches and model curriculums to improve the quality of health care for people of color. *272 pp.*

Housing Equity and Environmental Protection: The Needless Conflict by Mary E. Brooks (Washington, D.C.: American Institute of Planners, 1976). Looks at the way in which environmentally protective actions have been and can be manipulated to reduce fair housing opportunities for low income and minority persons. Author concludes that environmental objectives can be met while guaranteeing that the present injustices and discriminatory practices confronting minority groups can be eliminated. Foreword by Margaret Mead. *136 pp.*

Public Policy Making in a Federal System ed. Charles O. Jones and Robert Thomas (Beverly Hills, Calif.: Sage Publications, Inc., 1976). This third volume in the series *Yearbooks in Politics and Public Policy* focuses on the Federal system as a laboratory for applying various methodological techniques to policy problems. Essays deal with problems of implementing and evaluating public policy in revenue sharing, air and water pollution, and social welfare. *288 pp.*

Women and the American Economy: A Look to the 1980s ed. Juanita M. Kreps (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1976). Articles on the effect of women in the labor force and their roles in the economic potential of the country, and major questions for the next decade. *177 pp.*

DeFunis v. Odegaard—Race, Merit, and the Fourteenth Amendment by Ivor Kraft (Sacramento, Calif.: Uncommon Lawyers Workshops, 1976). An essay on *DeFunis*, the landmark "reverse discrimination" case of the early 1970s declared moot by the Supreme Court. Author discusses racist implications in the use of the 14th amendment to defeat affirmative action and minority recruitment to the professions. (Includes tables of cases and glossary). *227 pp.*

PAPERS

Cultural Diversity and the American Experience: Political Participation Among Blacks, Appalachians, and Indians by John Paul Ryan (Beverly Hills, Calif.: Sage Publications, Inc., 1975). Analyzes the patterns of differences in the political behavior of three groups of Americans to determine how much diversity is actually present within the United States to warrant group analysis of individual political behavior. (Tables and appendices included). *64 pp.*

Tax Law and Political Access: The Bias of Pluralism Revisited by Robert L. Hobert (Beverly Hills, Calif.: Sage Publications Inc., 1975). Analyzes sections of the tax code pertaining to tax benefits and political activity. Author proposes recommendations for tax reform to remove discriminatory elements. *72 pp.*

New Left Ideology: Its Dimensions and Developments by James L. Wood (Beverly Hills, Calif.: Sage Publications, Inc., 1975). Documents shifts in New Left ideology, examining various aspects of radical and reform political consciousness, including educational reform and civil rights. *70 pp.*

PAMPHLETS

"If You Do Business in the Middle East . . . Remember Certain Practices Are Illegal," American Jewish Committee (New York, N.Y., 1976). Summarizes a wide range of Federal and State laws, regulations, and administrative practices affecting American corporations that comply with the Arab boycott. *24 pp.*

"Affirmative Action for Equal Employment Opportunity" Department of Labor (1976). Briefly explains the affirmative action programs administered by the Office of Federal Contract Compliance Programs. *4 pp.*

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